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**September 2009**

## Gleanings . . .

By Chip Kispert, Editor of The Beacon & Managing Director of Beacon Strategies, LLC

### ***Big Picture Versus Little Picture: Broker Dealer Technology Spending***



History has shown that broker dealers (BDs) tend to spend money in a silo. Typically, technology decisions that BDs make are on-demand, just-in-time choices, often restricted to the function or crisis at hand. Examples range from a small broker dealer moving from an excel spreadsheet to a commission system, a mid-sized BD buying a document imaging system for the home office, a large firm buying a compliance transaction / trend surveillance system, or any of them engaging a data aggregation solution. What very few BDs have done is leverage the spending that was associated with a silo-type solution deployment. By expanding the breadth of that projected cost across a more integrated solution, the cost of that project can provide both additional value and more consistent usage to both the front and back offices. More often that not, BDs have implemented disparate solutions that solve one issue at the expense of others, or offer a solution that is not usable across multiple business areas of the firm.

BDs, when looking at technology solutions, should begin with the end result in mind. One of my favorite clients, who also is a producer, tells his clients, "You have to have a plan." Likewise, BDs need a plan when it comes to evolving their infrastructures. That plan needs to incorporate - or at the very least, acknowledge - what leadership sees as their ideal end technology vision. We see our clients spending hundreds of thousands, if not millions, on solutions for their front and back offices. When we come into a consulting relationship, many times we observe technology deployed where producers and BDs are paying, individually, or in concert, for solutions that have not been configured to provide maximum efficiency. Data is one area where this is frequently an example. Today, the majority of firms only use their data to feed producer desktop client reports. Firms could, and do, use this same data for other uses like populating compliance surveillance engines. There are additional areas in which this data might be of use, such as marketing and trend analysis, but such integration is not often implemented. If a BD has a goal in mind, and a holistic plan, they can begin to integrate solutions that can improve productivity and profitability in the front and back offices.

Productivity and profitability are buzz words to BDs today. BDs can leverage their independent technology solutions into a firm wide solution package that can tie the front and back offices together, delivering a higher ROI for their technology spend. Our financial model supports this based on time and motion studies. The positive results are delivered through trickle down improvements in productivity and profitability that starts with the producer, moves through the home office, and ends with the BD final stage, where data has been properly accumulated, vetted and stored in secure logical formats for easy access. By building on automation and integration, organizational scalability will grow, while at the same time risk will be reduced. Currently, we are working with BDs as we put this methodology in place. Planning,

leveraging data, and integrating a firm-wide workstation, with specific front and back office deliverables, comprise the end-state goal for many of our clients. Research and experience have taught us that the firms that embrace the "end in mind" style of technology planning will be more viable BDs. Those that continue to follow the silo'ed approach will be at risk to survive.

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In this edition of The Beacon we are focusing on email systems. We reached out to most email surveillance systems and we are pleased that Kaulkin Information Systems, RedTail and SMARSH submitted articles. As always if you have questions please let reach out to us either through email or by giving us a call at 720-259-3865.

All the best,

Chip Kispert, *Editor*

[Learn More About The Leading Intelligence Source for Broker-Dealers](#)

## Is Your Legal House in Order?

Michael P.  
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### **Supreme Court eDiscovery Ruling Impacts Data Management Strategies for Businesses -- from Small and Medium Size Businesses to Fortune 500s**



In December of 2006, a few very critical changes to the Federal Rules of Civil Procedure (FRCP) were turned into law when the Supreme Court ruled that the collection-of and availability-to electronically stored

information (ESI) must be made available to litigants in civil court proceedings.

At that moment, the landscape for future litigation/arbitration and the manner in which businesses of all sizes handle data archives changed significantly.

The amendments to the FRCP, which are often collectively referred to as the eDiscovery Ruling, establish best-practices and processes related to ESI and point to the significance of ESI in the discovery process of civil proceedings. The eDiscovery Ruling goes on to identify various ways that information and archived data must be made available to counsels during discovery periods and emphasizes how technologies can play a critical role in determining adherence to the rulings or legal liability.

**Broad Impact Across Industry Sectors** The eDiscovery Ruling has impact across all business sectors, however, is particularly important for industries that are prone to litigation, consumer watch-dog groups and/or regulatory scrutiny.

Recent market research, such as the annual Socha-Gelbmann Electronic Discovery Survey, show that more than half of CIOs and information technology (IT) executives at most companies, do not even realize they and their company-employers could now be found guilty of "virtual shredding" simply as a by-product of the way they back-up or store information.

No longer can an IT team simply re-use or record-over archived data on a regular basis. Instead, a formally demonstrable regimen of business rules, processes, workflow and document management is now expected of all companies. Information (documents, e-mails, communications, etc.) now must be archived for a reasonable period of time and accessible to counsels on both sides of the table during discovery stages of litigation or arbitration.

**New Sheriff in Town** While it is clear that the eDiscovery Ruling opens the door for adverse impact on companies that might be sued or involved in legal situations. The good news is that the Supreme Court has also given fairly straight-forward guidelines as to how businesses can protect themselves and become less at-risk by "policing" their own database technologies, e-mail platforms, workflow/business process management techniques and various IT archiving strategies.

While the eDiscovery Ruling and the resulting tasks for CEOs/CIOs and IT teams may seem like a grim cloud of Big Brother scrutiny, the better news is that technology solutions such as Software-as-a-Services/Cloud Computing (SaaS-Cloud) offer eDiscovery support at affordable costs and with significantly more flexibility than traditional enterprise software - particularly for small-to-medium enterprises (SMEs).

Obviously, Fortune 500 behemoths are able to prepare and defend against these concerns with their large IT budgets and armies of IT staffers. In addition, the eDiscovery rulings have little impact on companies that have already given ample consideration to risk mitigation from a legal perspective as these businesses likely already have technology road-maps and best-practice strategies in place.

Companies finding themselves on the outside-looking-in can quickly catch up; however, great care should be taken in planning and implementation. The devil truly is in the details and challenges will continue to be squarely placed on SMEs to plan and police properly. A fairly straight-forward area to concentrate on as a first step is e-mail archiving.

**Cost is Not the Issue -- Team Approach is Critical** Given new technology platforms such as SaaS-Cloud and outsourced solution services, IT costs are no longer the critical factor in enterprise process management and should not be a limiting factor for eDiscovery compliance particularly for e-mail considerations. Instead, the fundamental aspect of preparation, planning and implementation for eDiscovery, just as with most other business challenges, is teamwork.

Executive, Legal, Operations, IT and possibly even Board members all need to be active in mapping out strategies and ensuring proper rollout of best-practices. In fact, many companies who begin to look at their operations for eDiscovery find that their IT and other teams also quickly realize that many areas of their business would experience significant productivity gains through better data management, workflow and business process management.

To that end, Kaulkin Information Systems (KIS) has taken a fresh look at data management risks and has built eDiscovery best-practices into its KISTrack® SaaS-Cloud technology platform. KISTrack applications modules for document imaging (TrackFile), collaboration/compliance audits (TrackFlow), e-mail messaging (TrackMail), database integration (TrackBatch) as well as electronic transactions (TrackCash).

As an example, the KISTrack TrackMail module is unique in the market for a number of reasons including:

- Active e-mail surveillance using a customizable "user managed" lexicon library
- Automated workflow notifications of suspected violations
- Resolutions Manager utility that automates compliance processing with full audit-ability
- Support for both inbound and outbound messages as well as all attachments
- Optical-character-recognition (OCR) engine for sophisticated search and retrieval
- Monthly service as opposed to annual or 2-year enterprise software contract commitment

So, while the effort to address eDiscovery is not minimal, the task affords an opportunity to take a step back and look at your business from a broader perspective. For a quick return on investment (ROI) e-mail might be a great place to start.

### [Learn About Kaulkin Information Systems . . . .](#)

## Decisions When Reviewing Email Archive Solutions

Brian  
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Technologies



One of the core components of a successful advisory firm in the modern age is an Email archiving and retention system that allows both a convenient and a compliant method of retaining, retrieving and reporting on email correspondence

with clients. The challenge then becomes finding an email system that 1) integrates with your other core applications, 2) is convenient to use and 3) is built to meet regulatory requirements.

When evaluating one's options for Email solutions, most if not all of an advisor's considerations will hinge in some way upon questions of integration, convenience or compliance. One of the more common questions is whether or not you will still be able to use the external email client (Outlook, Thunderbird, etc.) that you are accustomed to for your day-to-day email activity. Other important considerations include:

- Does the solution under consideration allow you to send emails from within your contact management system? Related to this question, is email correspondence between you and your clients automatically linked to client records within your contact management system, allowing you to see those points of contact without having to switch between applications?
- My broker/dealer requires me to use a specific archival service. Does this email solution include a forwarding option which would allow me to meet the requirements of my broker/dealer?
- My office uses a Microsoft Exchange Server. Will this email solution provider work with me to insure that we are still able to utilize Exchange Server?

Your office will likely have more questions when considering a switch to an Email solutions provider, which you should definitely have addressed prior to making a move.

Redtail's Email Archiving & Retention service offers advisors:

- **100% Email Retention** - All messaging that you send or receive through your mailbox is automatically archived into two separate data stores to provide complete archive redundancy.
- **Redtail CRM Integration** - For Redtail CRM users, email correspondence between clients is dynamically linked to client records, providing a simple interface for viewing email activity with a single click. Daily email activity can be handled using the external email client of your choice or using Redtail's Webmail interface.
- **POP3 or IMAP4 Accounts** - Redtail Email provides the option to all users to use their email accounts how they want. The available IMAP4 interface allows you to have server-based folders attached to your mailbox. This means you can access all email in all subfolders from any computer or from the available Webmail interface.
- **Regulatory Compliance** - Redtail Email was specifically built to meet or

exceed SEC/FINRA email archiving regulations.

## [Learn More About RedTail Technologies . . .](#)

### Four keys to email surveillance

by Ken  
Anderson,  
Smarsh senior  
director of  
communications

Are your email surveillance policies effective and being enforced with consistency? Do your procedures require an inordinate amount of time and energy, and are other areas of the operation neglected or underserved as a result?

For broker-dealers, email archiving technology must help your compliance department effectively meet SEC and FINRA compliance obligations. It should also introduce more efficiency into the process. These goals are not mutually exclusive.

Whether you have an in-house or outsourced email archiving and compliance solution in place, keep these four keys in mind to help achieve both effectiveness and efficiency in email surveillance.

**Your email supervision procedures should not be dictated by the limits of your technology.** One administrator using simple flagging functionality for your entire organization's email archive may be all that your solution allows. Might be fine for some, but not all firms or policies fit this mold. Save time and strengthen effectiveness with a solution that is customizable to your firm and its policies, not the other way around.

Have email review mirror your organizational structure. For instance, you may want to assign appropriate message review duties to individual OSJ's, and limit the permissions granted to each (for example, your New York compliance reviewer only reviews the email traffic of his or her branch office).

**System intelligence is relative.** Your system should be "intelligent" enough to identify and avoid common maladies of the review process. Has your search produced hundreds of emails sent and received with only a miniscule percentage truly meriting scrutiny? Eliminate these false-positive search results by creating flag exceptions for language in disclaimers or auto-classifying known research report email addresses or frequent flyer travel deals.

**Systemize, automate and test your system.** Translate your review policy into saved search criteria that can be run automatically. Replacing the good intentions of your personnel with systematic precision is a valuable element of policy enforcement. But make sure that your system also enables you to search your archive ad hoc (with whatever criteria you choose).

In an audit scenario, you may be asked to produce data from your archive with a one-time search. Test your system or your service provider and make sure that requested data can be produced accurately and quickly. Too many horror stories circulate in which compliance officers were operating with false peace of mind. Records were requested and were inexplicably unavailable, weren't produced with any urgency or were available only for an additional charge.

**Document, document, document.** Your solution needs to document EVERYTHING. Every action taken within the system. Dates, times, inspectors. This audit trail serves as evidence of email review - an illustration of policy enforcement. It also fosters accountability among multiple managers tasked with message review.

Can the data from your comprehensive auditing system be quantified and produced? Beyond the value this may serve in an audit scenario, it can also help you evaluate the effectiveness of your procedures. Do system reports suggest that you should be

utilizing a separate lexicon of problematic keywords and phrases for one group versus another? Fine-tune your policies with empirical data.

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- Smarsh is the managed service leader in secure, innovative and reliable email-archiving solutions for message compliance and records retention, proactive litigation readiness and mail server data management. Founded in 2001, the company has built its trusted reputation by handling the sophisticated archiving and compliance needs of the financial services industry.
- Smarsh offers an integrated suite of hosted technology solutions for message archiving (instant messaging, Bloomberg, social media), email encryption and data-leak prevention, email hosting, customer relationship management and compliant website design and hosting.
- Smarsh's proprietary email classification engine, the Virtual Compliance Officer®, sets the standard for efficiency in email surveillance and helps compliance teams identify and mitigate risk.
- The SaaS (software as a service) delivery model enables clients to eliminate IT infrastructure costs and minimize operating burden, while benefiting from Smarsh's expertise and experience in hosting large volumes of mission-critical client data. Customizable solutions fit the needs, budgets and technological infrastructure of any firm and are matched with unrivaled customer support and service.

[Learn More About SMARSH ...](#)

## Editorial Calendar

Our monthly calendar and the subject matter we will cover in 2009:

- **February** - Forms Management & Account On-Boarding
- **March** - Imaging Systems
- **April** - Compliance
- **May** - Data Aggregation
- **June** - Marketing Tools
- **July** - Client Relationship Management
- **August** - Commission Processing
- **September** - Email Surveillance
- **October** - Financial Planning
- **November** - RIA Reporting
- **December** - Training
- **December II** - Best of . . .

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