

Mobile Recording Requirements Checklist for Broker-Dealers

**SEC 17a-
3(a) & 4(b), (f), (l)**



**FINRA
2210 (b) (4)**

Financial firms increasingly use text and instant messaging for more efficient business communication with their clients while ensuring employees comply with relevant laws and regulations. Instant messaging apps like WhatsApp, WeChat, and Telegram are subject to record-keeping and call monitoring regulations enforced by the SEC and FINRA, which require all financial firms to record and archive text messages, including other electronic communications used for business purposes and be open to investigations if requested. Financial firms thus need to know the rules and regulations for monitoring and preserving business communications using text and instant messaging. Below is a checklist you can use to ensure compliance and what your firm should fix immediately.

SEC And FINRA Books and Records Requirements Checklist

The following is a checklist of some books and record requirements that broker-dealers must follow under the Securities and Exchange Act of 1934 (here referred to as SEC) and FINRA.



Maintain a record of all policies and procedures established for compliance.

SEC Rule 17a-3(a)(20): Communications Supervision Records requires firms to make a record documenting that they have complied with or adopted policies and procedures reasonably designed to establish compliance with applicable federal and SRO rules and regulations requiring principal approval of advertisements, sales literature, or other communications with the public.

Records must be retained for at least three years. In the first two years, the records must be stored in an easily accessible place per SEC Rule 17a-4(b).



Maintain originals and copies of all communications for at least three years, including emails and instant messages from broker-dealers. Firms must not allow electronic communication if they cannot meet these requirements.

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SEC Rule 17a-4(b)(4): Communications Relating to Broker-Dealer's Business As Such requires firms to keep Originals of all communications received and copies of all communications sent (and any approvals thereof) by the broker-dealer (including inter-office memoranda and communications) relating to its business as such, including all communications that are subject to rules of a self-regulatory organization of which the broker-dealer is a member regarding communications with the public. The term communications include sales scripts.

Records must be retained for at least three years. In the first two years, the records must be stored in an easily accessible place per SEC Rule 17a-4(b).

This requirement applies to:

1. All electronic communications relating to the firm's business, including emails and instant messages. This requirement also includes a firm's business-related external and internal electronic communications.
2. All electronic communications were received or sent through a member's or a third-party's platform or system.

Firms must be able to produce or reproduce captured electronic records on micrographic or electronic storage media, satisfying all the conditions outlined in SEC Rule 17a-4(f).

SEC Rule 17a-4(f): Electronic Storage Media and Micrographic Media states that The records maintained and preserved under SEC Rules 17a-3 and 17a-4 may be immediately produced or reproduced on micrographic media (microfilm or microfiche, or any similar medium) or electronic storage media (any digital storage medium or system) that meet the conditions outlined in SEC Rule 17a-4(f) and may be maintained and preserved for the required time on such media.

Following is the list of conditions that should be satisfied by the storage media:

1. If the broker-dealer plans to use an electronic storage media for the first time, notify its Designated Examining Authority (DEA) at least 90 days before its first use
2. Provide a representation to DEA that it satisfied conditions like they are stored in a non-rewriteable, nonerasable format, verifies the quality and accuracy, serializes the data and can download stored records and indexes.
3. Includes audit systems to identify changes made and when original and duplicates are input.
4. Access to Records and Indexes
5. Ensure the third party can provide access to records stored on the broker-dealer's electronic storage media

Other conditions include retrieval facilities, facsimile enlargements, storing duplicate copies of records, and indexing all information.



Communications records preserved under SEC Rules 17a-4(b)(4) must be kept where they belong in the first two years.

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SEC Rule 17a-4(l): Location of Office Records and Other Specified Records states that for the most recent two-year period, specified records (records made under SEC Rules 17a-3(g), 17a-4(b)(4) (communications) and 17a-4(e)(7)) must be maintained at the office to which they relate.

If an office is a private residence where only one associated person (or multiple associated persons who reside at that location and are members of the same immediate family) regularly conducts business, and it is not held out to the public as an office, nor are funds or securities of any customer of the firm handled there, the firm need not maintain records at that office, but the records must be maintained at another location within the same state as that office as the firm chooses.



Maintain all retail and institutional communications with all the information specified by FINRA Rule 2210(b)(4).

FINRA Rule 2210(b)(4): Communications with the Public; Approval, Review, and Recordkeeping requires to maintain all retail communications and institutional communications for the retention period required by SEC Rule 17a-4(b) and in a format and media that comply with SEC Rule 17a-4. Records must be retained for three years from the date of last use.

The records must contain the following:

1. A copy of the communication and the first and last dates of use of it use
2. The name of the person who approved the communication and the date of approval;
3. The name of the person who prepared or distributed the communication if the communication was not approved before first use.,
4. Information concerning the source of any statistical or other illustrations used in the communication
5. If no approval is required, the name of the member that filed the retail communication with the Department and a copy of the corresponding review letter from the Department.

For text message monitoring, call monitoring, and all other communication compliance-related activities, An enterprise secure messaging platform is a mission-critical tool all broker-dealer firms must have.

Intradyn provides robust archiving tools for the most popular instant messaging apps financial firms use nowadays for business communications. Intradyn WhatsApp Capture, for example, allows organizations to do WhatsApp message capturing, and archiving, meeting FINRA and SEC retention requirements. Intradyn's mobile Archivers are secure enterprise messaging solutions that enable employees to communicate collaboratively while meeting the required SEC communication compliance regulations.

Contact the Solutions Team to walk through the nuance so you can explore the solution that will fit your Firm's requirements and culture.

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