

# Regulation Overview

CSA NI 31-103



## **NATIONAL INSTRUMENT 31-103 (NI 31-103):**

Modeled after the U.S. Federal Rules of Civil Procedure (FRCP), which governs court procedures for civil lawsuits, the NI 31-103 is a set of regulations proposed by the Canadian Securities Administrators (CSA), involving records management. All Canadian financial institutions are required to adhere to the new rules set forth by NI 31-103 at the close of the 2008 fiscal year. The e-mail record keeping requirements are intended to protect investors, improve market efficiencies, and reduce risk in the Canadian market.

## **WHO IS AFFECTED BY NI 31-103?**

All members of NASD and NYSE. Primarily broker-dealers, registered representatives, and those individuals that trade securities or act as brokers for traders are subject to the regulations. Organizationally, these include: banks, securities firms, stock brokerage firms, and financial institutions that deal in the trading of securities of any type that are governed by the SEC. These include any entities that fall under the jurisdiction of the National Association of Securities Dealers (NASD) as well.

## **WHAT ARE THE REQUIREMENTS OF NI 31-103 RELATED TO RECORDS MANAGEMENT?**

The NI 31-103 contains ten parts with numerous subdivisions which are broken into individual rules of conduct. Part V, Division 4, Sections 19 and 20, and Division 6, Section 26, cover much of the rules and specific procedures pertaining to record keeping and compliance. These rules carry the most concern for companies, requiring detailed understanding within the organization of records retention policies, the type of data that exists, and where it resides. Institutions are expected to not only maintain and control all electronic records, but also be able to quickly and comprehensively search the amassed archive to produce requested data within time frames set by NI 31-103. As of December 1, 2008, companies must demonstrate compliance by accurately maintaining records and emails detailing business activities and communications. The regulation requires that companies retain records related, but not limited to, documents that:

- Provide audit trails for client instructions and orders, and each trade transmitted and executed
- Identify all transactions between the firm and its clients
- Permit creation of account activity reports for clients
- Permit timely creation and audit of financial statements
- Permit determination of the firm's capital position
- Demonstrate compliance with all company policies and procedures, internal control procedures, and firm's capital and insurance requirements

Division 4, section 20, mandates that registered firms keep their records in a durable form that can be promptly provided to the regulator for a period of two years. After two years, records are permitted to be kept in a manner that can be provided in a "reasonable" amount of time. A company must maintain activity records for seven years from the date of the act and relationship records for seven years from the date the person or company ceases to be a client or partner of the firm. Finally, Division 6, Section 26, requires all registered Canadian firms to establish, maintain, and enforce a system of controls and supervision designed for compliance with securities legislation and to manage the risks associated with its business.

## **WHEN IS NI 31-103 LAW?**

NI 31-103 was effective at the close of 2008.

## **WHAT ARE THE PENALTIES FOR NI 31-103 NON-COMPLIANCE?**

Any financial firms publicly registered in Canada found to be noncompliant could be subject to multi-million dollar fines and/or criminal indictments. Without a successfully deployed solution in place, these companies may be responsible for exorbitant storage and e-discovery costs in addition to these non-compliance penalties.

## **WHAT DOES ZL TECHNOLOGIES PROVIDE FOR COMPLIANCE WITH NI 31-103?**

ZL Technologies' Compliance Platform provides a comprehensive set of tools for small and large business to comply with the demands of NI 31-103 related to electronically stored data, including:

- Retention policy management
- Global search and retrieval
- Comprehensive audit trails and activity reports
- IM and Bloomberg capture
- Automated Tagging
- Pre- and Post-review supervision

**zCompliance:**

ZL Technologies' advanced search with proximity and context sensitivity matching allows companies greater granularity of searches according to use within sentences, paragraphs, and whole documents. Simultaneous cross-alias searching easily prevents multiple searches of the same user, reducing time and resources spent in the event of a pressing audit. ZL Technologies also provides a full auditor application, which enables internal or external auditors to capture specific mails and generate an annotated thread for tracking the entire review lifecycle. The quick summary for lexical analysis and compliance Analysis for reviewers provides easy summarization of compliance review logs, frequency and occurrences. Additional advantages with ZL Technologies are optional performance enhancements, data compression, data encryption, attachment staging and management, and a parallel mail system for disaster response.

**zDiscovery:**

ZL Technologies zDiscovery Manager provides a complete solution for early case assessment, culling, preservation orders, and the overall eDiscovery process, delivering industry leading functionality and performance. ZL's ability to search hundred or millions of files in seconds makes risk management, compliance, corporate investigations and litigation searches fast and efficient. And with ZL's new Discovery Manager, businesses can use ZL as a one-stop solution that obviates the need for making additional purchases of ediscovery review tools. ZL delivers the proven scalability and robustness needed for even the largest customers.

Key Features in ZL UA's zDiscovery Manager include:

- **Automated Legal Hold:** the ability to automatically apply legal holds on mails that are considered potentially relevant.
- **Early Case Assessment:** the ability to organize and tag emails as related to a specific case or issue and mark them for review.
- **Complete Audit Trail:** avoid heavy court sanctions by proving every action taken on a mail from time of ingestion to deletion.
- **Attorney Client Privilege:** ensure that privileged mail is not inadvertently produced.

**WHAT ELSE DOES ZL TECHNOLOGIES PROVIDE?**

ZL Technologies offers email and file management solutions for customer data during search, discovery, supervision, storage, and retention management through modules such as:

- Email archiving and capture
- Mailbox optimization and de-duplication
- Global search and export
- e-Discovery, legal holds, and production
- Automated policy categorization and tagging
- Records management, retention management
- File archiving and optimization

The flagship product of ZL Technologies, ZL Unified Archive, offers an integrated platform to manage email and files for regulatory compliance, legal discovery, storage management, and content surveillance. Other integrated ZL applications include encrypted email, attachment management, and secure file transfer and collaboration. ZL's GRID-based Email Management Platform, originally developed for deployments of half a million mailboxes, lies at the heart of ZL UA, providing scalability and flexibility unmatched in the industry. ZL incorporates next-generation technology and advanced capabilities such as the GRID, sub-second search, 100% email capture, litigation support, email surveillance & enforcement, and many others.

**ABOUT ZL TECHNOLOGIES**

Established in 1999, ZL Technologies, Inc. (ZL) provides cutting-edge enterprise software solutions for email archiving, regulatory compliance, litigation support, corporate governance, content management, file archiving, and secure email. ZL's flagship product, the Unified Archive, offers comprehensive email and file archiving and management for companies using Lotus Notes/Domino, Microsoft Exchange, Bloomberg, and others. The suite provides a highly flexible framework that is fully scalable, enabling organizations of all sizes to meet legal discovery, compliance, and storage management requirements. With a proven track record and an impressive list of clients, including Walgreens, Bank of New York Mellon, Pacific Life, and Morgan Keegan, among other top global institutions, ZL has emerged as the premier provider of email archiving and compliance solutions. For more information, please visit [www.ZLTI.com](http://www.ZLTI.com)

**To learn more about how ZL Technologies can help you take control of your data, call us at 408.240.8989 or visit us online at [www.ZLTI.com](http://www.ZLTI.com)**