

Regulation Overview

NYSE 446 Business Continuity and Contingency



NYSE 446 BUSINESS CONTINUITY AND CONTINGENCY OVERVIEW – requires NASD and NYSE members to develop business continuity plans that establish procedures relating business disruptions or emergencies. The SEC approval of these rules represents another important step to address the risks faced by market participants in the post-September 11 environment.

WHO IS AFFECTED BY NYSE 446?

All NASD and NYSE members.

WHAT ARE THE REQUIREMENTS OF NYSE 446?

Under the new rules, every NASD and NYSE member must develop a plan that addresses various aspects of business continuity, including data backup and recovery, mission critical systems, and alternate communications between the firm, its employees, and its customers. In addition, a member's business continuity plan must address how the member will assure its customers' prompt access to their funds and securities in the event that the member determines that it is unable to continue its business. Every NASD and NYSE member also will be required to disclose to its customers a summary of its business continuity plan (BCP) that addresses how the member intends to respond to potential disruptions of varying scope.

WHEN IS NYSE 446 LAW?

NYSE 446 came into effect August 5 2004.

WHAT ARE THE PENALTIES FOR NYSE 446 NON-COMPLIANCE?

Failure to comply with regulatory requirements can result in fines, imprisonment, possible civil litigation, and the risk of damage to reputation.

HOW DO FIRMS COMPLY WITH NYSE 446?

- NASD and NYSE member firms must develop and maintain a written BCP establishing procedures relating to an emergency or significant business disruption. Such procedures must be reasonably designed to enable organizations to continue their businesses in the event of a future significant business disruption to meet their existing obligations to customers. In addition, such procedures must address their existing relationships with other broker-dealers, and counter-parties. Member organizations must make such plan available to the SEC upon request.
- At a minimum, NASD and NYSE member firms must conduct a yearly review of their BCP to determine whether any modifications are necessary in light of changes to the organization's operations, structure, business or location. In the event of a material change, the organization must promptly update its plan.
- Each plan must, at a minimum, address, if applicable:
 1. Books and records back-up and recovery (hard copy and electronic);
 2. Identification of all mission critical systems and back-up for such systems;
 3. Financial and operational risk assessments;
 4. Alternate communications between customers and the firm;
 5. Alternate communications between the firm and its employees;
 6. Alternate physical location of employees;
 7. Critical business constituent, bank and counter-party impact;
 8. Regulatory reporting;
 9. Communications with regulators;
 10. How the member organization will assure customers prompt access to their funds and securities in the event the member organization determines it is unable to continue its business.
- Each member or member organization must disclose to its customers how its business continuity and contingency plan addresses the possibility of a future significant business disruption and how the member or member organization plans to respond to events of varying scope.
- Members and member organizations must designate a senior officer to approve the BCP, who shall also be responsible for the required annual review, as well as an Emergency Contact Person(s). Such individuals must be identified to the SEC by name, title, mailing address, email address, telephone number, and fax number. Prompt notification must be given to the SEC of any change in such designations.

WHAT DOES ZL TECHNOLOGIES PROVIDE?

ZL Technologies offers email management solutions for securing customer data during storage and communication through methods such as:

- Secure email archival
- Secure email messaging
- Secure document delivery
- Secure file collaboration
- Secure large file transfers
- Secure instant messaging

Companies may choose from a full suite of integrated modules, which reside on the ZL Technologies Email Management Platform, mixing and matching solutions to meet individual requirements. To protect the private information of consumers, ZL Technologies uses the most advanced and strongest data encryption technologies available including FIPS 140-2 compliant cryptographic algorithms such as AES and 3DES. The ZL Technologies platform also allows clients to select encryption settings, key lengths, and algorithms. With such an encryption system in place, companies subject to SB 1386 would avoid the costs of notifying customers and managing media damage control in the event of a security breach. Deployed individually or in concert, ZL Technologies email management modules act to complete an existing BCP compliance initiative within a firm and can provide a complete, unified email management solution.

ZL Technologies provides an all-in-one solution, which stores data on virtually any non-rewriteable device library, jukebox, etc. (CD-R, DVD-R, and magneto optical disc, et al). ZL Technologies automatically generates a comprehensive and hierarchically searchable index for headers, message body, size, and attachments. 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.

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

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