CFO.com

Applications | June 21, 2012 | CFO.com | US

Compliance, Meet Big Data

Or, how to settle a legal dispute in 35 seconds.
David Rosenbaum

Carter Malone, vice president, compliance, at investment banker Crews & Associates, never leaves his desk, not even for lunch.

Malone's job is to review the content and ensure the proper storage of all electronic communications that come in and out of Crews pursuant to Financial Industry Regulation Authority rules. "You have to retain electronic communications for six years at least," says Malone. "And FINRA rules require that you review 20% of the communications. I average about 80%. I don't want to miss something."

According to a recent *CFO* report, FINRA regulators are paying closer attention to broker-dealers than ever before, even as the Commodity Futures Trading Commission is "cracking down on broker-dealer accounting policies." The financial-services industry is intensely regulated, which is one reason why Malone is chained to his desk. The other is the sheer volume of information that streams across his screen.

Before he came to Crews in 2004, Malone worked at a small firm with 18 employees. There, he simply accessed the company's Exchange server and performed keyword searches for bad words. "For me," he says, "a key word is *guarantee*. I don't want to see that word. I can't have a salesperson, a stock broker, use 'guarantee' in a communication. The other big word is 'complaint.' If we receive a complaint from a customer, the salesperson is not supposed to communicate with that customer. The rule says the complaint has to go to the salesperson's supervisor and escalate to the compliance department."

As for data retention, at his previous job that meant burning e-mails and other communications to a CD. "It wasn't bad for 18 people," says Malone, "but when you get to 200 employees like Crews, it wouldn't be feasible."

At Crews, which provides underwriting and financial-advisory services to public, private, and nonprofit debt issuers, among other banking services, Malone needed more sophisticated IT. Every morning he fires up ZL Technologies's Unified Archive Compliance Manager tool and keeps it running all day, checking for noncompliant communications that run counter to company policies and could violate federal regulations.

Malone doesn't have to search for the bad words; the software extracts and highlights them. Using ZL's eDiscovery product that goes beyond keyword searching into concept searching (which exposes patterns that could signal fraudulent intent, such as the misspellings spammers use to confound spam filters or the coded communications conspirators tend to employ), Malone vets about 8,000 e-mails a day.

"Businesses are struggling with surging volumes of content," says Forrester principal analyst Brian Hill, much of it unstructured (such as Word documents, PDFs, e-mails, voice mails, video, and, increasingly, social-media inputs) and therefore inaccessible to traditional enterprise resource planning systems with their stored invoices and tables of numbers.

All that data, Hill says, can cause organizations to accumulate "digital landfills" that generate significant costs in storage, tax IT resources, degrade application performance, and clog up a company's information pathways, creating knowledge-management tangles. "It's difficult to access appropriate content," he says, if your company's information systems have become a digital dump site.

Hill suggests that in the age of Big Data, it's critical for companies to have policies for data disposal as well as retention. However, "disposal needs to be done in light of potential litigation concerns," he points out, and needs to be suspended if legal matters are pending. In 2010, for example, FINRA fined Piper Jaffray

$700,000 for its failure to produce requested e-mails.

There's a hard return on investment for businesses and CFOs, Hill says, in digging out from under the digital landfill by using new archiving and discovery technologies. These benefits not only include reducing IT costs and improving knowledge management, but they can also mitigate the risk of lengthy, costly forensic data reviews prior to and during lawsuits. "Preparing adequately for that alone can have a very significant ROI," says Hill.

Or, as Kon Leong, CEO of ZL Technologies, says, "As we enter the age of unstructured data, companies are at a crossroad. They have to get their arms around the digital monster. Companies without a plan for unstructured data take on a whole lot of risk. The Securities and Exchange Commission, health-care regulations, [and] the Federal Rules on Civil Procedure that weigh digital evidence equally with physical evidence are all requiring that everything be kept forever."

As daunting a task as that may seem, Leong tells a story about using his own technology to settle a dispute quickly: "We had a trademark. We saw a competitor use it. We sent them a [cease-and-desist] letter. They sent one back claiming they used it first. It took us 35 seconds to search through the archive for our earliest use of it. End of that argument. Took 35 seconds."

More important than that anecdote is Leong's larger point: "If you take the concept that unstructured data is the sum total of all human communications within an organization, it represents your corporate memory. If you can harness and extract value from that, you've gone from gathering unstructured data as a defensive measure for compliance, records keeping, and litigation support to an offensive position for competitive, strategic advantage."

There is a range of software providers offering products for searching and storing, archiving, and retaining Big Data, says Forrester's Hill. They range from large enterprise vendors such as Symantec, IBM, and HP Autonomy to smaller providers such as ZL Technologies. And, as is increasingly the case, their products are offered in both on-premise and software-as-a-service flavors, with the SaaS offerings lowering purchase and implementation costs and making this type of software more accessible to smaller businesses.

Crews & Associates's Malone further mitigates his company's risks by banning instant messaging for his salespeople, denying them voice mail, blocking web-based e-mail, and putting the kibosh on Facebook, even though, as Hill says, "broker-dealers would love to use Twitter, LinkedIn, and Facebook to communicate with clients." Hill cites Actiance as a provider that offers technological control over social-media communications, but stresses that "companies need to train people on the permissible use of social media. There needs to be a strong focus on policies."

For Malone, when it comes to policy, there's a simple rule: "I tell all employees that every time they write an e-mail, they should think about reading it in front of a jury."

That, says Malone, seems to sink in.