



Website Archiving:

Fulfilling Compliance, Regulatory,
and eDiscovery Requirements

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With the vast amount of marketing and business communications prevailing online, organizations have reaped the benefits of the web as a marketing, sales and relationship-building channel.

Pressured by regulators like the FDA, FTC, and FINRA, an increasing number of industries are putting outstanding efforts into their record-keeping practices to comply with strict laws. Other organizations proactively archive their online publications for legal or eDiscovery purposes. Many more recognize the need to keep track of their website publications to compare marketing efforts over the years. Despite these various motivators, the need to invest in reliable archiving solutions for website content is widely evident and only growing.

This white paper covers specific record-keeping regulations governing key industries and provides recordkeeping advice to meet regulations and prepare records for eDiscovery. We hope this document serves as a starting point in empowering your business toward future success in compliance, litigation protection, and record retention.

Michael Riedyk

CEO, PageFreezer Software

Overview of Requirements

LEARN YOUR INDUSTRY COMPLIANCE RULES

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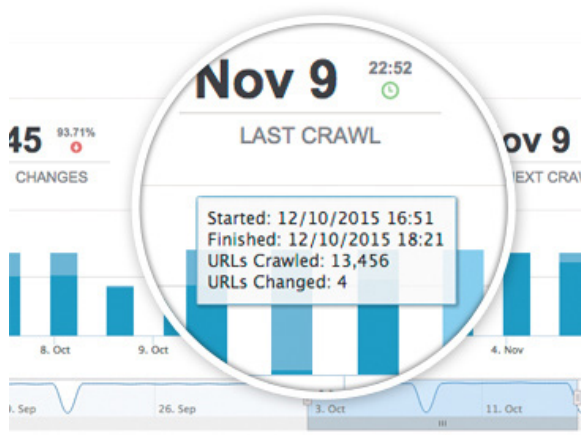
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Organizations across industries are challenged more than ever before by electronic data laws, and the need to comply with all of the various legal requirements are crucial.

Websites and social media are considered official company publications and means of communication, that can be used as authenticated legal evidence. It is necessary to take steps to ensure this information is archived regularly.



Below is an overview of the expectations and regulations concerning web archiving in key industries.

Financial Services

Requirements for records retention in the financial services industry have been established by regulators such as:

- The Securities and Exchange Commission (SEC)
- The Financial Industry Regulatory Authority (FINRA)
- The New York Stock Exchange (NYSE)

- The Federal Deposit Insurance Corporation (FDIC)
- The National Credit Union Administration (NCUA)

Financial companies must educate themselves concerning the associated and updated rules imposed by these regulators, for example:

[SEC Rule 17A-3 and 17SA-4 of the Securities Exchange Act \(SEA\)](#)

These laws require written retention policies, readily retrievable data, searchability of data, and storage of data off-site and on WORM media. It also requires third party access to electronic records for regulatory purposes. Rule 17a-4(b) requires broker dealers to preserve certain records for a period of not less than three years, the first two in an easily accessible place.

[FINRA Rule 4511](#)

FINRA Rule 4511 This law requires organizations to preserve records under FINRA and SEA rules, in a format that complies with SEA Rule 17-a. It also requires record preservation for six years.

[FINRA Rules 10-06 and 1139](#)

These laws focus on issues relating to FINRA members' use of social media, including record-keeping, supervision and responding to third-party posts and links.

Failure to comply with these regulations can result in hefty fines, bad publicity, and ultimately loss of business. For example:

- The SEC and NASD fined five brokerdealers a total of \$8.25 million for their failure to preserve email communications -- specifically for their violation of NASD Rule 3010, FINRA 3110, and SEC Rule 17a-4.

- Fidelity Brokerage was fined \$2 million by SEC and NYSE for similar offenses.

Regulation enforcement will increase as firms conduct more business online. It is imperative to have complete and exportable records of all online activity to expedite the resolution process.

Government Agencies

Government agencies across the country must comply with the Freedom of Information Act (FOIA), giving citizens the right to access certain government information spanning from written documents to photographs and more.

Known as Open Records Laws or Sunshine Laws across states, these laws determine the kinds of information subject to disclosure and outline the required disclosure procedures and formats for electronic methods. These laws [make web archiving essential to open government](#).

[Read more on Sunshine Laws/Open Records Laws by state](#)

Archiving websites and social media then is a must-have for government agencies across the country.

Legal

Websites and social media content have become increasingly accepted in the courts as

a form of evidence. Legal counsels and attorneys use this evidence in cases from trademark, copyright and intellectual property to matters like inadequate contracts or policies, workplace harassment and cyberbullying.

But not just any form of electronic records is acceptable. A case that demonstrates the need for archiving electronic records is the [AMEX V. Vinhnee case](#). The outcomes of the case highlight how electronic evidence is only admissible when data integrity and authenticity aren't in question, and how an ordinary website backup is not sufficient in the courts.

Regarding of eDiscovery, most state rules are based on principles of the [Federal Rules of Civil Procedure \(FRCP\)](#), and [Federal Rules of Evidence \(FRE\)](#) which state that information must be produced if requested for litigation purposes. Businesses are required to take necessary steps to preserve relevant data for litigation needs, even if this means pausing electronic data deletion systems.

Not taking proactive measures to keep records of digital assets like websites can lead to huge consequences; heavy fines, tainted brand and public relations nightmare, costing substantially more time and capital to resolve. For example, Fortune 1000 corporations spend about \$1.8 million per case on eDiscovery needs, and up to \$30 million a year.

It's safe to say that investing in proactive measures to prevent litigation and prepare for eDiscovery needs is far more cost effective, and no longer optional.

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FINRA Rule 4511	<p>This law requires organizations to preserve records under FINRA and SEA rules, in a format that complies with SEA Rule 17-a. It also requires record preservation for six years.</p>
FINRA Rules 10-06 and 1139	<p>These laws focus on issues relating to FINRA members' use of social media, including record-keeping, supervision and responding to third-party posts and links.</p>
Government Agencies	
Open Records/ Sunshine Laws - Freedom of Information Act (FOIA)	<p>These laws determine the kinds of information subject to disclosure and outline the required disclosure procedures and formats for electronic methods.</p>
Legal	
Federal Rules of Civil Procedure (FRCP) Federal Rules of Evidence (FRE)	<p>These laws require organizations to produce specific information if requested for legal purposes.</p>

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OPTIONS FOR RECORD RETENTION

Should you need to access the history of your web presence, how easily and confidently would you be able to do so? How difficult would it be to produce non-refutable records from a specified date? And most importantly, would you be able to view the content (including links, rich media, feeds, etc.) just as it appeared when created? Let's explore some of the ways in which organizations manage this requirement.

Server Backup

Server backups are expected to provide adequate protection but the technology can't keep up with the web's evolving technologies. Databases influence website content, and are constantly changing; so for historical web pages to be valid, companies must continually backup their databases in addition to website components. These backups can be cumbersome, expensive and inefficient. Above all; most server back-ups simply do not meet the standards of data integrity and authenticity that are required by the Federal Rules of Evidence for use in court.

CMS Revision Control

What about Content Management Systems (CMS)? Many of these systems have revision control built into the application, but this technology isn't powerful enough to restore the pages in a comprehensive form as if they were live. Modern online content is dynamic and complex, often pulling data (such as

Flash or AJAX content) from outside the CMS's database. A webpage reproduced through CMS revision history will not be truly admissible in court, unless it bears a digital timestamp and signature. Needless to say, Content Management Systems are not a viable option for organizations interested in a strong records retention policy.

Website Archiving

Archiving is the most effective solution to the problem of maintaining perfect historical web records. An enduring web archive is created by capturing a digital snapshot of the web content, independent of specific databases or technologies. That means the webpage can always be viewed in its original form to deliver the same user experience, meeting regulation requirements for authentic copies.

Effective website archives use digital signatures on each page, proving the archived pages have not been altered over time. They also offer time stamps that provide evidence of the exact time the page was archived. And for eDiscovery purposes, website archiving guarantees your ability to locate specific pages using search technologies.

The PageFreezer Solution

PROTECT YOUR RECORDS

START ARCHIVING YOUR WEBSITE & SOCIAL MEDIA WITH PAGEFREEZER

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PageFreezer is a leader in the website and social media archiving industry. We have been helping over 600 Government Agencies, Fortune 500 Enterprises, Financial Service Firms and other major clients archive all their online content since 2010.

Ensure Compliance

Archiving online content for regulatory compliance, litigation protection or marketing purposes can be complex both technically and from a legal point of view. You need to ensure that your archive is complete, secure and legally admissible. PageFreezer offers a solution that archives any Website, Blog, Facebook, Twitter to meet regulations across industries, so you can feel confident your content is captured at the level and quality it needs to be.

Archive Changes Automatically

Freezing the web doesn't have to be a chore. PageFreezer offers an enterprise-class SaaS solution, built to support even the most complex website, blog, Twitter, Facebook, Google+, YouTube, LinkedIn or Instagram account.

You get more than just a daily snapshot of your website or social media activity. You can easily customize set-up options such as real-time archiving to capture every change made to your site during the day. With PageFreezer, you get perfect archives of ALL your web content — without any of the hassle.



Experience Previous Versions of Your Website, Live

Screenshots won't cut it. Archives should be interactive and useful, not just a virtual filing cabinet of files. With PageFreezer, you can re-experience your website anytime as though it were live, and it's as easy as browsing. We capture every file and element on your website and provide tools to live-replay any past version of your site.

Your archives are fully clickable, searchable, and playable. You can click links, play video or audio, and view the pages exactly as they originally appeared — even if they contained complex web elements.

Don't let an audit, lawsuit or information request damage your organization. Start protecting your web and social media records. Contact PageFreezer today and ensure you know who said what, when.