




Powered by:



Your message read...

Send three and fourpence we're going to a dance!

No, we definitely said 'send reinforcements we're going to advance'...

...no you didn't ...yes we did!  #  # 

No matter how trivial it may seem at the time, the exact wording, phrase or original piece of paper will always be critical to settling an argument. Even if it's a misunderstanding, incorrect date or a poor signature, the original, or at least a verifiable copy, is absolutely essential. Now it's an enforceable rule. Non-observation of the latest FSA compliance regulations is potentially a big headache for every company involved in financial transactions today.

The FSA Rules state that: 'A firm should be able to access all records as promptly as necessary' and that includes 'taping of all conversations on both front and back-office telephone lines'.

MAJOR BREAKTHROUGH IN AFFORDABLE INFORMATION TECHNOLOGY

*Data, voice and paper can now be captured on one, uniquely affordable, fully integrated system. **Trinity FileVision***

If you're involved in financial transactions – you must read this:

One major issue faced by every company requiring FSA compliance is that transactions and dealings can take place using a variety of media; the only common denominator being a client's name. Phone calls, letters, emails, faxes, and even internet links can all be the basis of a contract – lose one and your company could be seriously compromised if a dispute should arise now, or even in the future.

FSA Compliance affects you if you are involved in call centres, either independent, or within the financial services sector including: Insurance companies, large IFA's, banks, building societies and finance houses. Betting and gaming companies, large travel and tour operators, or business process outsource companies not directly controlled by the FSA could also be affected by the problems described here. In other words virtually anyone who carries out transactional procedures by post, over the phone or via the internet.

RCM will be the buzzword

RCM (*Regulation and Compliance Management*) is the new 'must have' acronym that will be on every compliance officer's lips. It is now vital that every transaction or transactional communication is captured and stored regardless of the originating media. Such 'capture all' integrated systems are often bespoke and carry a very high price tag – often in excess of £250,000, and are frequently proprietary in nature. Now, affordable[♥], total file capture, storage and management is available using **Trinity FileVision**, a revolutionary **RCM** system – and the result of a joint collaboration between **FM Image Management**, **ccdata** and **GemaTech** that brings together proven digital, document and voice capture solutions in a single system that can capture all hard copy, electronic documentation and dual channel voice records and then provide ongoing access via a standard secure web browser.

The **Trinity FileVision** system will capture documents at the point of receipt. It also makes dual channel sound recording of all telephone conversations and will electronically capture any email or internet transactions that may occur. Every communication regardless of source is then fully accessible through a secure, customisable, web-based front end, eliminating time consuming searches of multiple data bases or differing applications. The entire system is fully secure and requires minimal operator training to ensure full compliance with FSA rules.

Marcus Holmes, system architect of Trinity FileVision said, "We are absolutely delighted with the system and we are very confident that our customers will rapidly see immediate benefits from their investment. The **Trinity FileVision RCM** represents security, peace of mind and best of all, enables users to become more efficient in the way in which customer questions and transactional queries are handled. Let's face it, happier customers equal more business."

For a personal demonstration of the Trinity FileVision System please contact sales@trinityfilevision.co.uk or call **0845 345 3333** for your complete RCM information pack or go online at www.trinityfilevison.co.uk to download further information.

[♥] systems are priced from as little as £80,000 for a 50-agent user package.

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Editor's Notes:

It's not just hype: The following notes are useful background information into why RCM is so essential to modern transactional business.

What would happen to you if you were unable to comply?

FSA Handbook

Market Conduct – Inter Professional Conduct

<http://www.fsa.gov.uk/vhb/html/MAR/MAR3.6.html>

March 2004

A *firm* should be able to access all records as promptly as necessary. Records should be kept in comprehensible form or should be capable of being promptly so reproduced. The *firm* should make and implement appropriate procedures to avoid unauthorised alteration of its records.

A *firm* should keep under review whether, and to what extent, to make and retain voice recordings of its front and back office telephone lines used for negotiating, agreeing, arranging and confirming transactions and for the passing of payment instructions.

If a *firm* undertakes oral confirmations of the transactions it executes or *brings about*, voice recordings of these conversations can constitute an adequate record of that confirmation..

The London Code of Conduct: For principals and broking firms in the wholesale markets

<http://www.fsa.gov.uk/pubs/additional/lcc.pdf>

First published June 1999

FSA Handbook

Conduct of Business - Advising and selling

<http://www.fsa.gov.uk/vhb/html/COB/COB5.2.html>

March 2004

Record keeping: personal and financial circumstances

A *firm* must make and retain a record of a *private customer's* personal and financial circumstances that it has obtained in satisfying COB 5.2.5 R. The record must be retained for a minimum period after the information is obtained, as follows:

- (1) indefinitely for a record relating to a pension transfer, pension opt-out or free-standing additional voluntary contribution (FSAVC);
- (2) six years for a record relating to a life policy, pension contract or stakeholder pension scheme;
- (3) three years in any other case.

Taping

- 48 Experience has shown that recourse to tapes proves invaluable to the speedy resolution of differences and disputes. The use of recording equipment in the offices of voice brokers and principals has become common; other means for monitoring 'conversations' are embodied within electronic broking systems now used in the markets. **The FSA expects taping by principals and brokers of all conversations by dealers and brokers** together with back-office telephone lines used by those responsible for confirming deals or passing payment and other instructions. Any listed firm which does not tape all front plus relevant back office conversations should review this management policy periodically and be prepared to persuade the FSA that there are particular reasons for them to continue with such an approach. This review should be repeated annually. Failure to tape will normally count against a firm if it seeks to use the arbitration process described in paragraph 120 to settle a dispute, or is the subject of a complaint.
- 49 When initially installing tape equipment, or taking on new clients or counterparties, firms should take the necessary steps to inform them that conversations will be recorded and to comply with the other relevant provisions of any telecom privacy legislation in force. **Tapes should be kept for at least two months, and preferably longer.** Experience suggests that, with the growing involvement of the private banking divisions within core principals in selling wholesale products to small investors, taping of all conversations by salesmen/account officers in these areas is in the interests of core principals. The longer tapes are retained the greater the chances are that any subsequent disputes over transactions or where advice has been given, can be resolved satisfactorily. **Tapes which cover any transaction about which there is a dispute should be retained until the problem has been resolved.** Management should ensure that access to taping equipment and tapes, whether in use or in store, is strictly controlled so that they cannot be tampered with.

And what happens if you don't comply?

Case 1

FSA fines ABN Amro Equities £900,000 for market misconduct

FSA/PN/053/2003
23 April 2003

The Financial Services Authority (FSA) has today fined ABN Amro Equities (UK) Limited (AAE) £900,000 for market misconduct and serious compliance failures. It has also fined Mr Michael Ackers, AAE's then joint Head of the UK Equity Trading Desk £70,000 for market misconduct.

Former FSA Principle 9 "Internal Organisation A firm should organise and control its internal affairs in a responsible manner, keeping proper records, and where the firm employs staff or is responsible for the conduct of investment business by others, should have adequate arrangements to ensure that they are suitable, adequately trained and properly supervised and that it has well-defined compliance procedures".

Case 2

FSA bans David M Aaron Ltd for widespread mis-selling of precipice bonds

FSA/PN/076/2004
1 September 2004

The Financial Services Authority (FSA) has banned David M Aaron (Personal Financial Planners) Ltd for the widespread mis-selling of precipice bonds to nearly 8,000 customers. This is the first time the FSA has banned a firm for mis-selling.

- failed to maintain adequate records; particularly of risk assessment meetings and sales records; and
- failed to ensure its staff observed FSA compliance regulations.

Prompted by publicity generated by the FSA's £2m fine on Lloyds TSB for sales of a precipice bond product, from September 2003 David M Aaron Ltd received a substantial number of complaints relating to both its marketing and sales of precipice bonds. Following decisions by the Financial Services Ombudsmen Scheme (FOS), David M Aaron Ltd placed itself into voluntary administration in December. It is now in liquidation.

Andrew Procter said:

"We have ensured that David M Aaron Ltd can never again function as a business and we are continuing to consider the roles of the individuals involved with the firm."

FSA Principle 7 provides that a firm must pay due regard to the information needs of its clients and communicate information to them in a way that is clear, fair and not misleading.

Case 3

FSA fines Carr Sheppards Crosthwaite £500,000 for compliance failings

FSA/PN/041/2004
20 May 2004

The Financial Services Authority (FSA) today fined Carr Sheppards Crosthwaite (CSC) Limited £500,000 for serious failings in its compliance function, leading to breaches of the FSA Principles and Rules. The failings arose because CSC failed to keep fully up to date with regulatory developments after the creation of the FSA. Most of the failings were identified by the FSA during the course of visits in July and August 2003.

CSC's positive and pro-active approach has meant that the FSA has been able to conclude the matter within 3 months of CSC being referred to the FSA's Enforcement Division. This reflects the prompt and effective response from CSC and its parent company, Investec plc, which undertook a specifically commissioned comprehensive review of CSC's compliance arrangements.

Andrew Procter, Director of Enforcement, said:

"If a compliance department is to be fully effective it needs to keep up-to-date with regulatory requirements and market developments. The creation of the FSA has led to important changes in the regulatory landscape with which CSC had failed to stay fully apprised. Senior management need to be fully engaged in their compliance functions to make sure that they are an up-to-date and effective safeguard which ensures the proper application of FSA Principles and Rules and the protection of consumers.

And finally:

The FSA is currently preparing for the extension of its statutory powers to include the regulation of:

- i) mortgage lending, sales (mediation) and administration (referred to below as ‘mortgage business’) from 31 October 2004; and
- ii) general insurance sales and administration (referred to below as ‘insurance mediation activity’) from 14 January 2005.

FSA also pushing their “Treating Customers Fairly” initiative **How do you show compliance?**

A typical **Trinity FileVision** screen grab showing how sound, image and email documents are displayed in one easy-to-read file directly to the operator. One click and the data is available regardless of format.

