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INTRODUCTION

Registered securities firms are required to have records that accurately reflect their business activities, financial affairs and client transactions. Firms must also have records that demonstrate compliance with the laws, rules and regulations that govern their business activities. In determining the appropriate retention period for their records, firms should consider all laws, rules and regulations that apply to their business operations including, for example, securities, anti-money laundering, privacy, e-commerce, registered plan provisions, tax, estate or trust laws.

Generally, records are not prescribed to be in any particular form but must be accurate, secure and readily accessible.

The applicability of privacy laws to records is a critical consideration, both in the safeguarding of the records and their subsequent destruction.

This guide aims to help IFIC members identify elements to consider as part of an effective record retention program subject to the nature of a firm's operations.

REGULATORY FRAMEWORK

The CSA expects registered securities firms to have policies and procedures that address the maintenance, safeguarding and destruction of its records.

Pursuant to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, registered securities firms are generally required to keep records 7 years from the date of the creation of the record. Firms subject to IIROC or MFDA rules are also expected to comply with record requirements set out in IIROC Rule 3800 Dealer Member Records and Client Communications and Rule 3220 Record Keeping, and MFDA Rule No. 5 Books, Records and Reporting.

Exceptions to the 7-year retention period include, but are not limited to:

- National Instrument 33-109 *Registration Information*, which requires registration records to be kept for 7 years after the individual ceases to be registered by the firm or ceases to be a permitted individual with the firm.
- National Instrument 45-106 *Prospectus Exemptions*, which requires that 45-106F9 – Form for Individual Accredited Investors, be kept by the issuer for 8 years after the distribution date.

OTHER CONSIDERATIONS

In determining the appropriate record retention period and storage medium for records, firms should consider the applicable regulatory requirements as well as other relevant considerations such as:

- prudent business practices;
- risk management considerations;
- limitation periods that may apply;
- privacy laws and the firm's privacy policy;
- contractual obligations with service providers or vendors;
- business continuity plans to create, protect, backup and recover records;
- the merits of different storage mediums (physical, digital or electronic); and
- durability of records and the continued availability of the technology used to maintain the record.

KEY REGULATORY RESOURCES

IIROC Rule 3800 Dealer Member Records and Client Communications and Rule 3220 Record Keeping
<https://www.iiroc.ca/rules/3000>

MFDA Rule No. 5 – Books, Records & Reporting
<https://mfda.ca/policy-and-regulation/rules/mfda-rules/#r5>

MSN-0035 Recording and Maintaining Evidence of Client Trade Instructions (2013)
<http://mfda.ca/notice/msn-0035/>

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations (NI 31-103) and Companion Policy to NI 31-103
https://www.bcsc.bc.ca/Securities_Law/Policies/Policy3/Group/?group=31%20103

National Instrument 33-109 Registration Information
https://www.bcsc.bc.ca/Securities_Law/Policies/Policy3/Group/?group=33%20109

National Instrument 45-106 Prospectus Exemptions
https://www.bcsc.bc.ca/Securities_Law/Policies/Policy4/Group/?group=45%20106

ADDITIONAL RESOURCES

Generally Accepted Recordkeeping Principles ©2017 ARMA International, www.arma.org.
https://cdn.ymaws.com/www.arma.org/resource/resmgr/docs/Generally_Accepted_Recordkee.pdf
<https://www.arma.org/page/principles>