

Email Guidance

- Registered investment advisers are generally required to maintain all email, including all attachments, relating to investment recommendations; purchases and sales of securities; receipt, disbursement or delivery of funds or securities; marketing and investor communications.
- Advisers are not required to maintain email that does not relate specifically to these business activities, such as personal email or non-business-related email between staff (e.g., lunch plans). However, if an adviser determines to delete email that is not required to be maintained, it should:
 - Establish a process to clearly distinguish such emails at the time they are created/received from emails that are required to be maintained;
 - Establish controls to ensure that required emails are not destroyed;
 - Monitor and test such controls and compliance with email retention policies regularly.
- Required emails must be maintained for at least five years.
- Emails that are needed to document/substantiate performance calculations must be maintained for five years from the end of the fiscal year during which the adviser has published or disseminated such performance information.
- All email and other electronic records must be maintained in such a way as to ensure they are secure from unauthorized access, theft or destruction.
- Email should be stored/archived in a way that permits easy location, access and retrieval of any particular record.
- Compliance and/or supervisory staff should have the ability to search, review and monitor employee email to ensure compliance with applicable policies and procedures.
- Must be able to promptly produce email when requested by SEC staff (generally within 24 hours).
- SEC exam staff may request email containing certain key words or terms, by date or date range and/or by employee. Archival/storage systems should accommodate such requests while satisfying the prompt production standard. It may be wise to run sample/mock requests to anticipate actual SEC requests.
- Any email that is protected by attorney-client privilege should be marked/labeled accordingly at the time it is created/received. Advisers should be prepared to provide a privilege log for all such emails, if requested by SEC staff. SEC staff may not be willing to accept delays in email production to allow advisers time to review for attorney-client privilege after such email is requested.

