

# Mobile Communications: Compliance and Productivity Guide

Ensuring compliance and  
productivity in a world  
of digital change.



# The Rise of Mixed Environments.

Global financial institutions are quickly becoming mixed device environments for mobile business communications and application strategies.

Mobile devices and new collaboration tools are making it difficult for organizations to manage compliance complexity while keeping the workforce productive. In some organizations, employees use personal devices to communicate for work purposes. Others use work-issued devices, and some use a mixture of both.

Workers in today's fast-moving environment prefer to use devices of their choice, along with the latest mobile applications including text messaging and collaboration platforms. Prohibiting their use can frustrate employees, but prioritizing productivity without a sound archiving strategy can put you at risk.



**So, how do you  
achieve the right balance  
between productivity  
and compliance?**

# What Workers Want: Instantaneous Communication, From Anywhere

Texting in the enterprise continues to grow.

**300%**

Increase in traffic volumes of  
business texting for 2018.<sup>1</sup>

**23  
BILLION**

Text messages  
sent each day  
worldwide.<sup>2</sup>

**78%**

of organizations  
in the U.S. had BYOD  
activities in 2018.<sup>3</sup>

**70%**

of employees keep their  
phones “within eye  
contact” at work.<sup>4</sup>

1. AT&T Market Survey, January 2018

2. SMS Eagle, 2017

3. Frost & Sullivan, 2018

4. These are the top workplace killers, CNBC, 2016.

5. U.S. Enterprise Mobility Decision Maker Survey, IDC, 2016

# Mobile Communications Tools Make Compliance More Complex.

Compliance is a top concern when it comes to enterprise mobility.<sup>5</sup>

A key challenge facing companies seeking to adhere to the changing regulatory landscape is a lack of investment in recordkeeping and supervision processes.

In the past, many firms kept their legacy archiving platforms, which were created when financial regulation was less complex and at a time when email and letter were the only form of written communication.



Today, firms are accustomed to using a plethora of increasingly sophisticated communication tools—such as mobile text messaging, Slack, and Microsoft Teams—both internally with their teams and externally with their clients. This mishmash of tools leads to greater complexity and a higher volume of data to process and monitor. Many financial services firms, especially multinational firms, do not have the technological ability to meet the Securities and Exchange Commission (SEC) and Financial Conduct Authority (FCA) regulatory requirements and standards under FINRA, Markets in Financial Instruments Directive II (MiFID II), General Data Protection Regulation (GDPR), and the CCPA.

# Compliance and Productivity: The Best of Both Worlds.

Recordkeeping and data privacy requirements differ across geographies when it comes to electronic communications related to text messaging.

## In the U.S.

### **FINRA Regulatory Notice 17-18:**

Firms need to capture and archive SMS/text and instant messaging per this notice, which provides further guidance on the rules governing social media and text-message communications for member firms. FINRA's guidance clarifies the rules that govern the use of personal devices for business communications. The notice also reminds firms of the recordkeeping, supervision, and content requirements for such communications.

### **SEC Rule 17a-4(b)(4):**

Firms must keep records of all electronic business communications (including text and instant messaging), supervise, and produce reporting to meet compliance and e-discovery obligations. They must also train and educate their advisors regarding the distinction between business and personal communications.

## In the U.K.

### **MiFID II:**

This requirement regulates the monitoring and storing of business transactions in the financial services industry for up to seven years. The FCA has handed out at least 13 fines for reporting offenses since the first MiFID regulation came into force in 2007, including:

- An FCA fine levied to a *global investment bank* **£34.3m** for failing to comply with MiFID II
- A **£27.6m** penalty brought against *another investment bank* for failure to “provide accurate and timely reporting” of their transactions



# GDPR Requirements Are at Odds With MiFID II

Financial institutions often hold on to data longer than necessary. This creates greater exposure for companies that are considering litigation. With GDPR (and other data privacy regulations), much greater care needs to be taken with respect to how long organizations can hold onto personal data.

## Key articles of GDPR include:

- Under **GDPR Articles 15, 16, 17, 18, 20, and 21**, data subjects have more expansive rights regarding how companies process their data. These rights include: (1) the right of access to their data, (2) the right to rectify their data, (3) right to erasure of their data, (4) right to restrict processing of their data, (5) right to move their data from one processor to another, and (6) the right to object to the processing of their data.
- Under **Article 30** organizations are required to keep records of data processing activities which include (1) name and contact details of controller, (2) purpose of processing, (3) description/category of data, (4) categories of recipients, (5) transfers to third countries, and (6) general description of the organizational or technical measures.
- Under **Chapter 5 of the GDPR**, controllers and processors must have in place a mechanism to provide adequate protection of personal data when transferring EU citizens' data outside of the EU. For transfers into the U.S., this can occur through self-certifying under the EU-U.S. Privacy Shield Framework, employing European Commission approved standard contractual clauses, or using binding corporate rules.

The bigger the company, the greater the challenge it faces from GDPR. The first step is to confirm which systems contain personal data. The scale of this task cannot be underestimated: Large global banks can have more than 150,000 different IT systems across multiple regions.

# Compliance and Productivity: Get The Best of Both Worlds

Smarsh can bring together the best of both worlds with an archiving solution for your electronic communications that delivers true compliance and productivity.

It's time to get on top of mobile communications. Every organization would be well-suited to start with a mobility assessment in order to explore how employees are exchanging valuable business content on mobile devices.

To develop a proactive capture and archiving strategy for a sound compliance program, IT, legal, and supervision teams must collaborate to give their workforce a clear set of rules around approved devices and mobile applications. In addition, use policies must outline which employees are allowed to use corporate and/or personal devices, how they can be used, and how information will be collected.

This balance means being able to capture and archive all types of modern mobile communications data, while still satisfying the full range of compliance requirements.

**Smarsh is the ONLY archiving and discovery solution that seamlessly captures mobile content directly from leading mobile carriers.**

# Embrace Productivity, Manage Complexity

## Here's How

### Capture

Reliably collect and retain all relevant communications and empower your organization to drive business forward while strengthening compliance.

- **80+ supported channels**
- **Comprehensive, API-driven capture**
- **Contextual capture and automatic indexing**

### Reveal

Search, identify, and manage risk within your data. Focus on the real regulatory, legal and other risks that are impactful to your business.

- **View content in native context**
- **Fast, granular search**
- **Automated, policy-driven review queues**

### Respond

Produce, package, and deliver specific content for regulatory reporting and e-discovery requests. Meet regulatory requirements head on, make informed decisions, and experience.

- **Store context in a search-ready state**
- **Apply policies and tag content immediately upon ingestion**
- **Multiple formats and options for export**
- **Comprehensive and customizable reporting**



# Smarsh Offers One Platform to Support **all Mobile and Collaborative Communications**



With Smarsh, a full range of message types is covered by our capture capabilities in a single archive. Content is automatically indexed upon ingestion into the archive and stored in a compliant, search-ready state.

The archive is equipped with a full set of capabilities to enable your compliance team to be more efficient, more productive, and to scale as your business grows. With direct carrier relationships, mobile content is directly captured from the carrier network. API-driven, automated ingestion enables threaded message indexing within the archive so conversations can be easily supervised and viewed in proper context.



# See Compliance. Not Complexity.

Visit our website to learn how Smarsh can help you find that perfect balance of productivity and compliance.



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**Ready to bring compliant productivity to your organization?**

Get started today.

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