# E-mail retention a must after Morgan Stanley case

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Banks and broker-dealers are obliged to retain e-mail and instant messaging documents for three years under U.S. Securities and Exchange Commission rules. But similar requirements will apply to all public companies from July 2006 under the Sarbanes-Oxley corporate reform measures.

At the same time, U.S. courts are imposing increasingly harsh punishments on corporations that fail to comply with orders to produce e-mail documents, the experts said.

Where judges once were more likely to accept that incompetence or computer problems might be to blame, they are now apt to rule that noncompliance is an indication a company has something to hide.

"Morgan Stanley is going to be a harbinger," said Bill Lyons, chief executive officer of AXS-One, a provider of records retention software systems.

"I think general counsels around the world are going to look at this as a legal Chernobyl," he said.

Wednesday's $1.45 billion verdict against Morgan Stanley in West Palm Beach, Fla., was the product of just such a negative ruling on e-mail retention, which is also expected to form the backbone of the Wall Street firm's appeal.

Other cases have also resulted in rulings on e-mails.

Full Story [2].

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