

Digital Media & Data Privacy Law

Stop Faxing

I've long thought that sending faxes was a pretty silly means of communication. Don't send me a fax. I don't want it. At some point I'm hoping that even my kids' doctor's office will get dragged into the 20th century and drop their insistence on faxing. In the meantime a pdf will be fine, thanks. In addition to the many reasons faxes are antiquated and annoying, the SEC has just provided us another reason to avoid them: they encourage violations of Reg. S-P!

The Rule

Reg. S-P's Safeguards Rule requires that every broker-dealer registered with the SEC adopt policies and procedures reasonably designed to:

1. insure the security and confidentiality of customer records and information;
2. protect against any anticipated threats or hazards to the security or integrity of customer records and information; and
3. protect against unauthorized access to or use of customer records or information that could result in substantial harm or inconvenience to any customer.

The Allegations

Craig Scott Capital, LLC, a broker-dealer in Uniondale, New York, had written

But let's get to the faxes. As last month's [administrative order](#) sanctioning Craig Scott Capital says:

From January 20, 2012 until approximately June 2014 (the "Relevant Period"), CSC used email addresses other than those with the Firm's domain [name--@craigscottcapital.com](mailto:--@craigscottcapital.com) – to electronically receive more than 4,000 faxes from customers and other third parties. These faxes routinely included sensitive customer records and information, such as customer names, addresses, social security numbers, bank and brokerage account numbers, copies of driver's licenses and passports, and other customer financial information. During the Relevant Period, Taddonio and Porges, CSC's principals, as well as other CSC employees and registered representatives, also used their personal (i.e., non-Firm) email addresses for matters relating to the business of CSC. CSC did not maintain and preserve either these faxes or this email correspondence as required by Section 17(a) of the Exchange Act and Rule 17a-4 thereunder.

The problem was the same as with all faxes: nobody wants them. They want emails instead. So when the firm set up an electronic faxing service, they added an extra step in the communication chain, and routed the faxes to email addresses. While they should

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have sent those faxes to email addresses with the firm's domain name, thousands went to personal email addresses instead. Those personal email addresses were outside the firm's communication management system, and the data in the faxes was unprotected.

The violations of Reg. S-P and Rule 17a-4 have cost Craig Scott Capital a \$100,000 penalty and left the firms' principals subject to cease-and-desist orders.

A Three-Step Data Security Plan^[1] for Your Business

1. Have a good reason for the communication methods your firm uses. Do you have a plan for your faxes? Can you protect the integrity of the data they contain? If not, quit it with the faxes.
2. Keep your business in front, and party in the back. Are you using personal emails for your business? Can you protect the integrity of the data they contain? If not, quit it with the personal emails and save them for your fantasy jai alai league. They are a terrible idea.
3. Re-read your data security procedures. Do they have actual blank spaces that will leave you exposed later? Fill those, and then look for your other problems, which you surely have.

^[1] This is an incomplete plan. You need way more than this plan.