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DATA RETENTION, PRIVACY, DATA PROTECTION AND INFORMATION SECURITY

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Legal and Technical Aspects of Data Retention/Electronic Archiving

- Whether a Single Window is operating in the paper or electronic environments, the importance of keeping accurate records cannot be understated
- Data Retention or electronic archiving of documents and data is considered one important part of an overall robust information security program
- The information security protections in the NSW, such as authentication, access control and auditing, apply to both electronic data archiving (as well as to the archiving of paper documents)

Sources of Data Retention Requirements

- International Laws
- Regional Law (e.g., European Union)
- International Recommendations – *UN/CEFACT*
- Domestic Laws
- Domestic Regulations and Policies
- Agreements among government ministries
- Memoranda of Understanding (MOU) with Trade Participants

Legal Considerations for Determining Retention Periods

Data retention and destruction schedules should be based on:

- Purposes for which the documents were created
- Uses of the documents and information
- Appropriate policies to protect personally identifiable information (PII), trade sensitive, etc.
- Policy for what data is to be made publicly available
- Policy for what data is to be shared among government agencies

Electronic Archiving – Audit Logs and Backup Tapes

- Auditing should be established for the NSW to log specified trade transactions and those related to system and security issues
- Information security best practices require that audit logs are maintained online for an appropriate period of time such as 30 days so that transactions and events can be reconstructed readily if necessary
- Audit logs should be copied onto backup tapes periodically, such as daily or weekly
- The backup tapes are maintained offsite at a secure location; data for audits must be readily available

Security Considerations for Electronic Archiving

- Documents retained for a short period (six months), current secure technologies must be employed to preserve such electronic data
- Additional factors may need to be considered for documents maintained for longer periods (20 years)
- Current technology may become obsolete and electronic documents stored on “old” media may not be easily accessible
  - Media degrades
  - Support for older software versions
  - Encrypted data and encryption keys changing over time

Electronic Archiving and Data Destruction

- Information security protocols will need to be put in place to assure that the stored electronic documents are not compromised or changed
- Backup tapes must be stored in a secure location with stringent controls over their physical and electronic access
- There should be an affirmative obligation for data custodians to periodically review the data and information their custody to ensure that it is actually destroyed when the data retention period has expired
- Data must be destroyed by professionally acceptable means

nformation To Be Protected

- ns and related government data
- as trade-sensitive data
- ential business information
- forcement data
- ation related to national security
- ally identifiable information
- (based on legal requirements)