



## Email archiving in Sweden

### The key laws that affect your business

Email is a primary source of documentation for many organizations and it has taken on an increasingly critical role in corporate litigation and court cases.

The need to archive all email correspondence is growing in importance because companies are realizing that being in a position to retrieve an old email could save them thousands of dollars (euros) in legal fees and fines as well as their credibility.

Today, more than ever before, legal and compliance issues are driving the case for email archiving. Email archiving legislation is complex and varies greatly from country to country. Unless companies are well versed in compliance and email compliance law, the various regulations affecting email can be a minefield.

This document provides an overview of the archiving legislation in your country.

#### Laws regulating archiving, who should archive and the penalties involved

##### **Accounting Act (SFS 1999:1078)**

All Swedish companies, irrespective of the number of employees of the company, have an obligation to archive accounting information under the Swedish Accounting Act.

Accounting information shall be archived as

- (i) documents;
- (ii) microfiche; or
- (iii) in other forms which may be read, listened to, or otherwise understood only with technical devices (mechanically readable media).

Hence, mechanically readable media, such as emails, may be used to fulfil the archiving requirement under the Accounting Act. Material containing accounting information that the company has received from any other party, shall be archived in the condition of the material as received by the company. In other words, emails received by the company containing accounting information must be archived in the form of emails. Also, material containing accounting information produced by the company itself, shall be archived in the condition of the material at the time the accounting information was completed.

All forms of media used to archive accounting information shall be easily accessible. They shall be archived up to and including the tenth year following the expiry of the calendar year in which the accounting year was closed.

Anyone who intentionally or negligently violates the archive requirements under the Accounting Act may under certain conditions be liable to a fine or sentenced to imprisonment.

##### **Public Records Act (SFS 1990:782)**

Under the Swedish Public Records Act, all public authorities and legal entities (such as corporations, economic associations and trusts) where a municipality has a controlling interest<sup>1</sup> are under an obligation to archive *inter alia* all public documents (irrespective of medium) originating from its operation. Under Swedish law, public documents have an extensive meaning and include emails received by such legal entities as referred to above. Under certain conditions, outgoing emails shall be considered public documents. The Public Records Act stipulates that the archives shall be preserved and kept in order to provide for

- (i) the right to access public documents;
- (ii) the administration of justice's and the public administration's need for information; and
- (iii) the need for research.

<sup>1</sup> E.g. holds more than one-half of the voting rights in the legal person

The Public Records Act does not stipulate a general archiving period for the public documents. However, under certain circumstances the documents may be deleted. The requirements for such deletion, storage and organisation of the archives are set forth in the National Archives' and the local municipalities' regulations.

The Public Records Act does not set forth any penalties for not complying with the archiving obligation. However, supervision is carried out by national archive authorities to make sure that the undertakings comply with their obligations.

## GFI MailArchiver

GFI MailArchiver is used by thousands of administrators to comply with the various pieces of legislation that cover email archiving. GFI MailArchiver provides a secure central storage for all company email while allowing fast and easy access to old and deleted email if required.

Using the auditing functionality, management can access any email that is requested for eDiscovery/email compliance purposes and provide a guarantee that these emails have not been tampered with – a major requirement in corporate litigation cases.

With GFI MailArchiver, companies can also rest assured that they can:

- Reduce reliance on cumbersome PST files and manage and reduce mailbox quotas on Microsoft Exchange server
- Access and manage all archived email from anywhere in the world using their web browser
- Retrieve old and deleted emails on demand – with full thread and conversation
- Use advanced email search and 'Saved Search' capabilities

More information about GFI MailArchiver can be found at <http://www.gfi.com/mailarchiver/>.

