

IT'S A NEW FORM OF ENERGY



## More E-Mail Problems, More Fines For Morgan Stanley

The financial services firm paid millions to settle SEC charges that it destroyed E-mails and failed to cooperate with investigators.

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May 15, 2006

URL: <http://www.informationweek.com/story/showArticle.jhtml?articleID=187202749>

Morgan Stanley's E-mail mess cost the company more money last week. The financial services firm agreed to pay \$15 million to settle Securities and Exchange Commission charges that it destroyed E-mails and failed to cooperate with SEC investigators looking into Wall Street business practices.

The SEC last year charged that Morgan Stanley was unable or unwilling to produce copies of thousands of E-mails relevant to the wider investigation, thereby violating federal laws that require regulated securities brokers to hand over certain records and documents to the commission upon request.

In 2002, the SEC found Morgan Stanley wasn't complying with rules governing E-mail retention and fined the company and four other firms \$8.3 million.

Morgan Stanley agreed to pay the latest fine without admitting or denying the SEC charges. "We are pleased to have this matter behind us," a spokesman says.

### After the bubble burst

The E-mail crackdowns stem from the SEC's post-dot-com-bubble investigation into the relationship between equity research analysts and investment bankers. The commission alleged that analysts often hyped the shares of companies from which bankers at the same firm were seeking lucrative underwriting deals and other business--and it was looking for E-mail to prove it. The SEC also investigated allegations that brokers improperly steered lucrative tech IPO allotments to top customers, shutting out the general public.

As part of the probes, the SEC between 2000 and 2004 asked Morgan Stanley to hand over copies of E-mail it believed to be relevant. But "Morgan Stanley did not search diligently for

### E-Mail Woes

**1997**

Plaintiff in a racial discrimination suit filed against Morgan Stanley claims colleagues were sending E-mails that included derogatory comments about minorities.

**2002**

SEC fines Morgan Stanley \$1.65 million for lax E-mail storage.

**2004**

backup tapes containing responsive E-mails until 2005," according to an SEC statement released last week. "Morgan Stanley's repeated production failures and misstatements prejudiced two major investigations," says Antonia Chion, associate director of the SEC's division of enforcement.

Part of the problem, the SEC maintains, is that Morgan Stanley "delayed loading millions of E-mails into its E-mail archive database ... and [delayed] searching them for responsive E-mails." The SEC also alleges that the company deliberately overwrote backup tapes containing data it had requested "despite repeated representations to the commission and the staff that all overwriting had ceased in January 2001." The SEC maintains that, in overwriting tapes, Morgan Stanley destroyed at least 200,000 E-mails that would have been relevant to its investigation of Wall Street practices.

Late last year, Morgan Stanley fired the architect of its E-mail database, IT manager Arthur Riel. In an ongoing civil suit against Morgan Stanley, Riel says the firm made him a scapegoat. Riel also claims he was fired because tests he performed on the system uncovered E-mails that would have been embarrassing to senior company officials, including CTO Guy Chiarello. E-mails introduced in Riel's case show Chiarello asking tech vendors for tickets to high-profile sporting events and other perks (see "[Morgan Stanley Muddles Through An E-Mail Mess](#)," March 27).

Last week's SEC settlement also requires Morgan Stanley to "adopt and implement policies, procedures, and training focused on the preservation and production of E-mail communications." Morgan Stanley's spokesman declined to specify what changes the firm would be making to its E-mail systems and processes to comply with the SEC's requirements. SEC officials didn't return calls. The final terms of the settlement are subject to court approval.

Morgan Stanley is hit with \$54 million sexual harassment suit. In an internal follow up, IT manager Arthur Riel uncovers a number of racy E-mails. Riel is fired and, claiming whistle-blower status, files his own \$10 million suit against the company.

#### 2005

Florida jury orders Morgan Stanley to pay financier Ron Perelman \$1.45 billion in damages following a disputed business transaction. Presiding judge calls Morgan Stanley's failure to produce relevant E-mails "an act of bad faith."