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Morgan Stanley Settles Email Charges

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Morgan Stanley will pay \$12.5 million to settle a regulator's charges that Morgan Stanley Dean Witter repeatedly failed to provide emails and erroneously claimed the emails were lost during the Sept. 11, 2001, terrorist attacks.

The Financial Industry Regulatory Authority said the emails were sought by claimants in arbitration hearings with the firm as well as regulators from October 2001 through March 2005. Morgan Stanley had said the destruction of email servers at the World Trade Center resulted in the loss of all pre-9/11 email.

However, the firm was able to restore millions of those messages because of back-up tapes stored elsewhere. Subsequently, Morgan Stanley Dean Witter "later destroyed many of the pre-9/11 emails it did possess," said FINRA, by overwriting most of the tapes and allowing employees to permanently delete emails.

"The integrity of our process demands that brokerage firms comply with their obligations to search diligently for, and provide in a timely way, information and documents required in arbitration proceedings and regulatory investigations," said FINRA enforcement chief Susan Merrill.

Morgan Stanley -- which neither admitted nor denied the charges -- is paying \$9.5 million to two groups of customers who filed arbitration claims against the firm. FINRA estimated "several thousand" customers could be eligible for payment. The company was also fined \$3 million for failing to provide pre-9/11 emails and updates to a supervisory manual.

FINRA is the merged regulatory arms of the National Association of Securities Dealers and the New York Stock Exchange.


In addition, FINRA is requiring Morgan Stanley to have an independent consultant the regulator approves "to review the firm's procedures for complying with discovery requirements in arbitration proceedings" involving its retail brokerage operations.

The NASD filed its case in December after Morgan Stanley refused to settle it. At the time, the firm called the NASD's settlement demands "disproportionate and unprecedented."

The settlement isn't Morgan Stanley's first regarding document retention. The firm in 2005 paid \$15 million to settle a civil lawsuit with the Securities and Exchange Commission over failure to produce tens of thousands of emails during probes of conflicts of interest among Wall Street analysts and other issues between late 2000 and mid-2005.

Shares of Morgan Stanley were recently up \$1.20, or 1.9%, at \$64.17.

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