



Bob Riley
Governor

STATE OF ALABAMA
STATE BANKING DEPARTMENT



John D. Harrison
Superintendent of Banks

August 28, 2009

MEMORANDUM

TO: Chief Executive Officers of all State-Chartered Alabama Banks
FROM: John D. Harrison, Superintendent of Banks
SUBJECT: Proposed Replacement of Record Retention Regulation No. 17

In accordance with §§5-2A-8 and 5-2A-9, Code of Alabama, 1975, the Superintendent of Banks, hereby gives notice of intention to adopt a proposed replacement of Record Retention Regulation No. 17. The proposed replacement Record Retention Regulation requires Alabama state-chartered banks to retain certain records for various appointed times. Any person wishing to comment on this proposed replacement Record Retention Regulation may file his or her comments in writing to the Superintendent of Banks, John D. Harrison, Alabama State Banking Department, PO Box 4600, Montgomery, AL 36103-4600, no later than October 5, 2009.

Section 5-4A-1, Code of Alabama, provides that "every bank shall retain its business records for such periods as may be prescribed by regulation adopted pursuant to §5-2A-9." The suggested retention periods in the enclosed proposed replacement Record Retention Regulation take into consideration both State and Federal requirements. The retention periods shown are minimum recommended time periods and nothing prevents banks from retaining records longer than the minimum period scheduled. It is also recognized that some of the records listed will not apply to all banks.

Requirements herein do not supplant any other record requirements such as but not limited to GAAP, ACH Network rules, and NASD. To the extent applicable, the State Banking Department will expect compliance with those requirements also. This regulation is not meant to replace or define the retention requirements of other regulatory agencies, or governmental authorities that have jurisdiction over the financial institution, and does not replace the institution's responsibility to create, implement, and maintain its own comprehensive record retention program, consistent with the institution's specific goals, objectives, and strategies.

PROPOSED

WHEREAS, Section 5-2A-8 of the Alabama Banking Code provides that the Superintendent of Banks may, with the concurrence of a majority of the members of the State Banking Board, promulgate reasonable rules and regulations;

AND WHEREAS, The Superintendent of Banks, with the concurrence of the State Banking Board has adopted this record retention regulation, as provided in Sections 5-4A-1 and 5-2A-9, Code of Alabama, (1975);

NOW THEREFORE, be it known that the Superintendent, with the concurrence of the State Banking Board, does hereby promulgate the following regulation:

STATE OF ALABAMA

STATE BANKING DEPARTMENT

FINANCIAL INSTITUTION RECORDS RETENTION REGULATION

PURPOSE:

To provide a schedule of minimum records to be retained by all financial institutions chartered by the State Banking Department (hereinafter SBD) and used for the regulation and supervision of institutions by the SBD. This regulation also provides additional guidelines which should be used to formulate an internal record retention program consistent with the needs of the individual depository institution.

TO WHOM THIS REGULATION APPLIES:

All financial institutions chartered by the SBD and their operating subsidiaries.

SPECIFICS:

The Superintendent herein adopts pursuant to §5-2A-9 of the Alabama Banking Code, a "Record Retention Regulation" which outlines minimum supervisory-related records and retention periods in accordance with §5-4A-1, Code of Alabama, 1975. Any regulation revisions will be sent to all state-chartered financial institutions under the supervision of the SBD. Requirements herein do not supplant any other record requirements such as but not limited to GAAP, ACH Network rules, and NASD. To the extent applicable, the SBD will expect compliance with those requirements also. This regulation is not meant to replace or define the retention requirements of other regulatory agencies, or governmental authorities that have jurisdiction over the financial institution, and does not replace the institution's responsibility to create, implement, and maintain its own comprehensive record retention program, consistent with the institution's specific goals, objectives, and strategies.

A financial institution should maintain its own record retention policy. The policy should provide for systematic, consistent disposal of obsolete and unnecessary records under the continuing authority from the board of directors. The policy should help prevent overcrowding of files and improve efficiency, as unnecessary records hamper locating of essential material and increase the cost of storing records.

PROPOSED

A financial institution should **periodically review and revise** its record retention schedule. Management should consider the following factors: changes in state and Federal reporting requirements; changes in institution services and/or products; changes in overall complexity; changes in consumer compliance requirements; technological advances; and changes in storage costs.

Records may be retained in various forms, including but not limited to, hard copies, photocopies, computer printouts or microfilm, microfiche, imaging, or other types of electronic media storage that can be readily reproduced into paper copies. Electronic records must be accurate, accessible and of such integrity to enable the SBD to determine the financial institution's financial condition and the substance and purpose of all transactions.

Please note that in the case of merged institutions, the surviving institution must maintain the records of the acquired institution in accordance with this regulation. Institutions acquiring assets of other institutions must maintain the records relating to the assets in accordance with this regulation.

Nothing herein shall be construed to create an obligation of an institution to anyone other than the SBD.

PROPOSED

SBD's Records Retention Regulation¹ for Financial Institutions

A. Financial Institutions' and their Subsidiaries' and Parent Companies' and their Subsidiaries' General Records

1. To be retained 4 years
 - a. Reports of Condition and Income (Call Reports) and records supporting all Call Report schedules
 - b. Annual, semiannual, or quarterly reports submitted to the Federal agencies (e.g. Call Reports, FR Y-6, FR Y-9, etc.) and records supporting the schedules contained therein
 - c. General ledger, subsidiary ledgers, and general ledger transaction reports and reconciliations with supporting vouchers and tickets (include the daily amounts of Federal funds bought/sold to each institution), and fixed asset records
 - d. Reconcilement of "due to" and "due from" bank accounts and supporting bank statements
 - e. Charged off asset/liability files and records
 - f. Annual budget
 - g. Internal asset classification report, watch list, and past due reports
 - h. Quarterly analysis of the adequacy of the allowance for loan and lease losses
 - i. Interest rate risk reports and supporting documents
 - j. Written customer complaints and related correspondence
 - k. Internal and external audit reports (including Directors' exams, audited financial statements, external auditor's management letters, internal and external information technology audit reports, risk assessment reports, audit report responses, loan review reports, and similar reports, including supporting working papers, as well as working papers for work performed by outside consultants)
 - l. Salary records for employees

¹ Records to be retained by Alabama state-chartered financial institutions and their subsidiaries, and non-bank affiliates for the regulatory and supervisory purposes of the SBD.

PROPOSED

- m. Director and employee training records
 - n. Daily overdraft reports
2. To be retained 5 years
- a. Suspicious Activity Reports (SARs) filed with the Financial Institutions Crime Enforcement Network (FinCEN) and any SAR-related supporting documentation
 - b. Currency Transaction Reports (CTRs) and supporting documentation, including exempt persons list
 - c. Monetary instrument log
 - d. Wire transfer log and supporting documentation
 - e. Monthly deposit statements for directors and executive officers
 - f. State and Federal tax records/returns
 - g. Independent reviews of Bank Secrecy Act/Anti-Money Laundering
 - h. Records of deposit liability accounts, including but not limited to savings accounts, demand accounts, certificates of deposit, Treasury, Tax and Loan deposit accounts, official checks outstanding, and supporting documents
 - i. Executive officer committees, minutes and packages
 - j. Documentation of responses to Section 314(a and b) customer information requests from FinCEN
3. To be retained "Life + 3 years"²
- a. Insurance records, policies, and supporting documentation
 - b. Confirmations of investment securities purchases, sales, calls, maturities, and supporting documentation, including but not limited to documentation for derivatives

² "Life +" means the life of the transaction plus a reasonable time period thereafter, with such time period being at least three years. The life of a transaction shall be the period during which it is reasonably expected that either party has ongoing affirmative duties with respect thereto.

PROPOSED

- c. Investment safekeeping receipts and supporting documentation
 - d. Loan files and similar lending agreements, including but not limited to letters of credit, lines of credit or factoring agreements (including supporting reports, documentation, and payment histories)
 - e. Other real estate owned and repossessed assets files (including supporting documentation and records)
 - f. Leases
 - g. All contracts w/service providers, including but not limited to brokers, computer securities, non-deposit investment products, cash handling, safekeeping, copier, legal services, etc., and due diligence reviews (when applicable)
 - h. Customer agreements, signature agreements, including but not limited to deposits, automated teller machines, credit cards, safe deposits, point of sale services, and remote deposit capture
 - i. Agreements for Federal funds lines or other borrowings and supporting due diligence reviews
 - j. Personnel files (including, but not limited to background checks, salary, other compensation, and training)
 - k. Records of any debt instruments (of the bank)
 - l. Internal investigation files (life of investigation)
 - m. Customer safekeeping records and receipts
 - n. Strategic and continuity plans
 - o. Benefit plan
 - p. Subpoenas
4. To be retained Life + 5 years
- a. Customer identification information and supporting documentation
 - b. Correspondence with any state or Federal regulator concerning adverse actions or threatened adverse actions, including but not limited to, IRS claims, financial information requests, HMDA notification, ADEM, etc.
 - c. Records of the financial institution associated with activities with the parent company and affiliates, including but not limited to trust preferred securities, borrowings, and stock issuances

PROPOSED

- d. Lawsuits, legal complaints, court action documents, arbitration documents, court case records, tax levies, garnishments, including any orders or final judgments, settlements, or other legal filings
5. To be retained Life + 10 years
- a. Administrative/Regulatory actions, orders, Board Resolutions, Memorandums of Understanding, and Cease & Desist orders, and related materials for life + 3 years
 - b. Merger, acquisition, divestiture, change of control applications and approvals
6. To be retained permanently
- a. Articles of Incorporation, Bylaws, Articles of Merger, or share exchange, conversion documents, copy of Charter, and FDIC insurance certificates, with all amendments to the foregoing
 - b. Minutes of meetings of stockholders/shareholders, board of directors, board committees, board appointed committees, along with copies of materials reviewed and/or presented and adopted including capital plans
 - c. Stock ledger and records pertaining thereto
 - d. Reports of Examination by the SBD

B. Financial Institutions' Trust Records

- 1. To be retained 4 years
 - a. Annual report of individual or collective trust assets and supporting documents
 - b. Journal sheets for accounting division and stock transfers with supporting documentation
 - c. Tax records/returns
- 2. To be retained "Life +5 years"³

³ With respect to trust records, "Life" means the life of the trust account.

PROPOSED

- a. Document files, including but not limited to, correspondence, cash management files, investment objectives, wills, proxy, and governing agreements
 - b. Fee schedules
 - c. Ledger records
3. To be retained permanently
- a. Trust committee and trust investment committee minute books with copies of materials reviewed and presented and adopted

Revised 06/23/09

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