

02-029

CHAPTER 101

Regulation #1

RETENTION OF RECORDS - FINANCIAL INSTITUTIONS

SUMMARY: On October 19, 1977, the Bureau of Banking promulgated Regulation #1 (Retention of Records - Trust Companies and Savings Banks), Regulation #2 (Retention of Records - Savings and Loan Associations), and Regulation #3 (Retention of Records - Credit Unions), which replaced regulations issued in February, 1961 that were printed in December, 1975. These regulations were promulgated to prescribe the minimum periods for which records in financial institutions must be retained. Since the promulgation of Regulations #1, 2, and 3, there have been many new products and services developed by the financial industry. Computerization of banking transactions has produced many other types of records. Because of these changes, retention schedules embodied in the 1977 rules have become somewhat outdated and do not specifically address a variety of new documents essential to comprehensive recordkeeping.

Throughout the last decade, many of the same types of products and services are being offered by all types of financial institutions. Therefore, in the interest of simplicity, the Bureau proposes to expand Regulation #1 retention schedule to include documents utilized by all types of financial institutions during the course of business and Regulations #2 and #3 will be repealed. Any such amendment or repeal shall not affect any action taken prior to such amendment or repeal.

I. AUTHORITY

Title 9-B MRSA Section 225 requires that all records of financial institutions be retained for such minimum periods as the superintendent may prescribe.

31 CFR 103 sets forth the retention of records requirements for financial institutions and credit unions as established by the Secretary of the Treasury.

12 CFR Part 749 addresses other recordkeeping requirements for federally insured credit unions subject to the supervision of the National Credit Union Administration.

II. PURPOSE

To classify records kept by financial institutions operating in Maine and to prescribe the minimum period for which these records shall be maintained.

III. DEFINITIONS

1. "Financial institution" means a financial institution as defined by Title 9-B MRSA Section 131(17-A), or a credit union as defined by Title 9-B MRSA Section 131(12-A).
2. "Media reproduction" means recording, copying, or reproducing records by any photographic, photostatic, microfilm, micro-card, miniature photographic, optical disk that is not erasable, or other process which accurately reproduces or forms a durable medium for so reproducing the original, the reproduction or copy, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding.
3. "Record" means all documentary material, regardless of media or characteristics, made or received and maintained by a financial institution in accordance with law or regulation or in the transaction of its official business.
4. D. "Deposit account" means a deposit account as defined in Federal Reserve Regulation D, "Reserve Requirements of Depository Institutions" (12 CFR 204) and members accounts of credit unions as defined in the National Credit Union Administration Rules and Regulations (12 USC).

IV. AUTHORIZATION AND LIMITATIONS

Financial institutions shall retain records for such minimum periods as prescribed by the following schedule, insofar as it does not contravene federal law. The Records Retention Schedule, which is contained in Section VI of this rule, is organized by function and is representative of those records utilized during the course of operation of a financial institution. All records may not be specifically addressed in this rule; financial institutions are encouraged, although not required, to supplement this schedule to meet their operational needs. All records, with the exception of those that are considered to be of a permanent nature, may be retained in media reproduction format for the periods of time designated in Section VI of this rule. Records designated for permanent retention must be held in original form.

V. FEDERAL REGULATIONS

It is recognized that the retention of certain financial institution records may be governed by federal rule/statute. It is further recognized that there may exist differences in scope and coverage between this regulation and federal rules governing retention of those records. All records of financial institutions shall be maintained in accordance with the Records Retention Schedule found in Section VI of this regulation insofar as such retention schedule does not contravene paramount federal law. Those records that are not addressed in Section VI of this regulation, and for which there is a retention schedule required under federal law, shall be retained for the period of time specified in said federal law.

VI. PERIOD OF RETENTION (IN YEARS UNLESS SPECIFIED OTHERWISE)

ACCOUNTING

Item	Period of Retention (years)
Accounts Payable	6
Accounts Receivable	6
ATM Machine Settlement	3
Branch Daily Statement	3
Branch Petty Cash Checks	6
Budgets	1
Canceled Checks	7
Cash Reserve Reports	2
Corporate Tax Returns, Tax Liability Calculations	7
Correspondent Bank Accounts Statements	6
Currency Orders & Shipments	1
FASB 91 Accounting Records (After termination of loan)	6
Fixed Asset Records – annual record of depreciation expense	7
Fixed Asset Records – detail of individual assets, including cost, method of depreciation, accumulated depreciation, net book value (After disposition/abandonment)	7
General Ledger Records	10
General Ledger Tickers & Transaction Reports	6
General Ledger Proof Sheets	2
Inactive/Dormant Account Records	10
Incoming Cash Letters	3 Months
Invoices from Vendors	6
Journal Entry Records	6
On line Transaction Reports	2 Months
Other Real Estate Owned (OREO) Records	6
Outgoing Cash Letters	3
Reconcilements of Bank (Due To/From)	6
Regulatory Reports/Call Reports	10
Semi annual Assessment Forms	3
Teller Overs & Shorts	3
Teller/Branch Proof Records	3
Trial Balance End of Year	6
Trial Balance Other than End of Year	2 Months

AUDIT/SECURITY

Item	Period of Retention (years)
Abandoned Property Reports	10
Audit Reports External	10
Audit Reports Internal	6
Audit Workpapers Internal	6
Documentation Relating to Fraud, Embezzlement	Permanent
Security Audio/Video Tapes (Not Used as Evidence)	2 Months

CORPORATE RECORDS

Item	Period of Retention (years)
Bank Owned Property Contracts/Leases, Deeds, Mortgages, (After disposition/abandonment)	10
Board/Committee Minutes	Permanent
Bylaws	Permanent
Canceled Stock & Bond Certificates & Expired Options	7
Charter	Permanent
Contracts and Leases (Expired)	7
Dividend Reports	Permanent
Examination Reports/Regulatory Agreements	Permanent
Insurance Claims (After Settlement)	7
Insurance Policies (Expired)	3
Licenses & Permits (After Expiration)	7
Litigation	Permanent
Proxies	6
Stock Transfer Records	Permanent
Stockholders Certificates (Unissued)	Permanent
Stockholders Register	Permanent

CORRESPONDENCE

Item	Period of Retention (years)
Attachments, Garnishments, Liens, Levies	6
Date of Death Notification	6
General Correspondence	3
Letters of Appointment	6
Name & Address Change Forms	6
Subpoenas	Permanent

Registered Mail:	
Registered Mail Record (Incoming & Outgoing)	3
Returned Mail (Excluding Promotional Material)	1
Return Mail Register	6
Return Receipt Cards	3

CUSTOMER SERVICES

Item	Period of Retention (years)
Broker's Confirmations & Invoices	6
Cash/Returned Items	3
Foreign Currency Draft Log	6
Night Deposit Contracts & Logs	2*
Receipt Books	2
Repurchase Agreements	2*
Safekeeping Records & Receipts	6*
Safety Deposit Records	6*
Securities Buy/Sell Orders	6
Travelers Checks Records	2
Wire Transfers	6

DEPOSIT SERVICES

Item	Period of Retention (years)
Certificates of Deposit	6*
Club Accounts	3*
Collections Items	3
Debit and Credit Adjustment Tickets	6
Deposit Rate Sheets	6
Deposit/Withdrawal Tickets	6
Overdraft Reports	6 Months
Paid Items	6
Signature Cards	6*
Statements (Copies of periodic)	6
Stop Payment Orders	1
Truncated Checks	6
Undeliverable Statements & Canceled Checks	6
* After date of final activity in account	

HUMAN RESOURCES

Item	Period of Retention (years)
Benefit Plans:	
Pension Annual Reports	40
Pension Plan Description	40
Profit Sharing Plan Description	7
Profit Sharing Plan Records	7
Payroll Records:	
Authorization of Deductions (After Termination of Employee or Cancellation/Revision of Deductions)	1
Time Cards	6
Garnishments	6

INVESTMENTS

Item	Period of Retention (years)
Bonds:	
Amortization Records	6
Confirmations	1
Correspondence	2
Safekeeping Receipts	2
Brokers' Securities:	
Brokers' Securities	2
Brokers' Statement	2
Report of Lost or Stolen Securities	3
Safekeeping Advice	2
Taxpayer ID Number	5
Commercial Paper:	
Brokers' Advices	2
Purchase Orders	2
Remittance Advices	2
Investment Certificates:	
Certificates	7
Full Paid Share	7
Interest Accrual Records	7
Interest Remittance Advices	7
Investment Purchase Orders	2
Miscellaneous Maturities	3
Safekeeping Receipts	2
Securities Register	10

Mortgage Backed Securities:	
Buy & Sell Agreements	3
Commitment Letters	3
FHLMC/FNMA Loan Files	7
GNMA Certificates	7
Interest Accrual Records	7
Monthly Remittance Reports	7

LOANS

Item	Period of Retention (years)
NOTE: Unless otherwise indicated, all loan records are to be kept for the time period indicated AFTER the date of final activity.	
General:	
Charge Off Records	10
Charged Off Notes	10
Loan Application File Denied	25 Months
Loan Officer Committee Records	6
New Loan Journal	6
Overdraft Loan Agreements	6
Paid Loan Journal	6
Payment Tickets	6
Periodic Customer Statements	6
Rate Sheets	6
Transaction Journal As Original Entry	6
Transaction Journal By Product of Post	2
W 9's	3
Commercial Loans:	
Approved Loan File	6
Applications	6
Appraisals	6
Bill of Sale	6
Borrowing Resolutions	6
Business Annual Reports (Fiscal/Yr End) (After date of report)	3
Business Cashflow Analysis (After date of report)	3
Business Income/Expense Statements (After date of statement)	3
Business Tax Returns (After date of return)	3
Commitment Letters	6
Committee Presentations	6
Correspondence	6
Declaration of Value (Transfer Tax Form)	6

Disclosure Records	6
Evidence of Insurance	6
Guarantee	6
Memos	6
Mortgage Deed (Copy of)	6
Personal Financial Statements (After date of statement)	3
Promissory Note	6
Purchase and Sales Agreement	6
Security Agreement	6
Supporting Corporate Documents Certificate of Good Standing	6
Supporting Corporate Documents Corporate Vote	6
Title Opinion	6
Consumer Loans:	
Approved Loan File	6
Applications	6
Collateral Records	6
Commitment Records	6
Correspondence	6
Credit Report	6
Disclosure Statements	6
Evidence of Compliance with Fair Credit Reporting Act Resolution	6
Hazard Insurance Records	6
Invoices	6
Life & Disability Insurance Records	6
New Account Setup Records	6
Promissory Note And Any Modification Agreements - Copy of	6
Records of Credit Transactions	6
Title - Copy of	6
UCC Filings - Copy of	6
Real Estate Loans:	
Approved Loan File	6
Application	6
Appraisal	6
Assignment of Escrow	6
Assumption Letters	6
Commitment Letters	6
Correspondence	6
Credit Report	6
Deed	6
Disclosure Records	6
Escrow Records	6
FHA Insurance Certificates	6
Good Faith Estimate	6

Hazard Insurance	Life of Loan
Promissory Note & Any Modification Agreements – Copy of	6
Proof of Insurance Excluding Hazard	6
Sales Contracts	6
Settlement Sheet	6
Survey	6
Title Documentation	6
VA Loan Guarantee	6
Verification of Deposit	Life of Loan
Verification of Employment	Life of Loan
Construction Loans:	
Approved Loan File:	
All Relevant Documents from Real Estate Loan File as Listed Above, Plus Any of the Following:	
Certificate of Occupancy	6
Construction Progress Reports	6
Contractors Cost Breakdown	6
Disbursement Documentation	6
Inspection Reports	6
Residential Construction Specifications & Materials List	6
Credit Card Loans:	
Consumer File:	
Approved Loan File:	
Application	6
Correspondence	6
Credit Reports	6
Disclosure Statements	6
Records of Credit Transactions	6
Merchant File:	
Approved Loan File:	
Application	6
Site Inspection	6
Credit Report	6
Merchant Agreement	6

TRUST DEPARTMENT

Item	Period of Retention (years)
Accounting Records:	
Budget Work Papers	4
Expense Checks	6

Expense Sheets	4
General Ledger	10
Paid Bills, Statements, Invoices	6
Reconcilements	3
Tax Work Papers	10
Administration:	
Appraisal of Real and Personal Property	10*
Correspondence, Important and/or Controversial	10*
Correspondence, Routine and Memorandums	3*
Decedents Personal Records Deliver/remaindermen	0
Decrees or Receipts and Releases	10*
Fee Records and Supporting Data	2*
Intermediate and Final Accounts	10*
Judgements, Court Orders, Legal Opinions, etc.	10*
Paid Bills After paid	3
Real Estate Insurance Policies After expiration	1
Real Estate and Mortgage Documents	10*
Receipts for Assets Received or Delivered	10*
Records of Asset Tax Costs	10
Scholarship Grants After distribution	5
Summary Cards, Original Instruments, Agreements and Amendments, Letter of Appointment	10*
Synopsis Sheets	3*
Investments:	
Annual Reports Common Trust and Pooled Funds	10
Common Trust/Pooled Fund Valuations	10
Common Trust/Pooled Fund Workpapers	7
Investment and Administrative Committee Minutes	10
Investment Orders (Tickets) and Brokers Confirms	7*
Investment Review and Related Material	3*
Routine Correspondence and Memoranda (After date transaction or closing)	2
Summary of Annual Account Activity	10*
* After termination of fiduciary responsibility	
Internal Operations:	
Abandoned Property Reports After date filed	10
Asset Trial Balances	10
Brokers Monthly Statements	6
Canceled Trust Checks	10
Cash and Asset Blotter	7
Cash Dividend, Stock Dividend, Split and Bond Interest Proof, Maps, Claims	5
Copies of Cash and Assets Statements	10
Copies of IRS Forms (1087, 1099, etc.) and Supporting Papers	4
Daily Posting and Proving Media for Cash and Assets	7
Duties Ticklers, Check Lists, Other Internal Records	3

Fee or Commission Ledgers	5
General Correspondence and Memoranda	3
Paid Bills	6
Proxies	2
Registered/Certified Mail Receipts	7
Rights Offerings, Tenders, Exchanges, Reorganizations, Name Changes, etc.	5
Trust Check Registers and Stop Payment Orders	6
Vault Deposit and Withdrawal Tickets	10
Vault Entry Logs	6
Worthless Securities Original Document	Permanent
Employee Benefit/Corporate Trust:	
Canceled Bond/Coupons/Supporting Transfer Papers Return to Issuing Corporation and Retain or Cremate and Retain Certificate of Cremation	Permanent
ERISA Annual Reports	3
Inventory Record	10*
Letters of Transmittal/Receipts of Transfer	10*
Pension Payment Authorization	10
Pension/Profit Sharing Allocation Reports	7
Transfer Logs for Cancellation/Reissue of Certificate	10*
Written and Telephone Logs with Monthly Recaps	10
Taxes:	
Federal/State Estate Tax Returns and Related Papers (After Account Closed)	7
Federal/State Gift Tax Returns	7
Federal/State Income Tax Returns and Work Papers	7

BASIS STATEMENT

I. FACTUAL AND POLICY BASIS OF THE RULE

In 1977, the Bureau of Banking promulgated Regulations # 1 (Retention of Records – Trust Companies and Savings Banks), #2 (Retention of Records – Savings and Loan Associations), and #3 (Retention of Records – Credit Unions) which prescribed minimum periods for which records in financial institutions must be retained. Since that time, many new products and services have been developed by the financial industry. Additionally, many of the same types of products and services are being offered by all type of financial institutions. This rule is being expanded to include documents utilized by all types of financial institutions and updated to include records generated by new products and services.

Statutory basis found in Title 9-B MRSA Section 225 gives the Superintendent the authority with which to promulgate this rule.

II. RESPONSE TO COMMENTS

Pursuant to the provisions of Maine's Administrative Procedure Act, a draft of Chapter 101 (Reg. #1) was promulgated on or about June 17, 1992 and comments were solicited for a period extending until July 17, 1992.

Comments were received from the Maine Bankers Association (MBA) on behalf of its member banks, Bar Harbor Banking and Trust Company (BHBT), Key Bank of Maine (KEY), and Saco & Biddeford Savings Institution (SACO).

MBA and KEY commented that the rule would require records with a "permanent" record retention requirement be retained as an original document, without regard to technological gains made in recent years to electronic document storage and retrieval systems; i.e. image processing, optical disk storage, etc. The Bureau agrees that significant improvements have been made in these types of systems in recent years. However, these various technologies are too recently developed to accurately determine the "shelf life" of documents stored using these methods. Therefore, records with a permanent retention schedule must be retained in original form as proposed.

KEY and SACO both expressed concern over the nature and volume of records required to be maintained permanently and provided suggested retention periods for some of those records. As a result, all records which were required to be maintained permanently were reviewed and most were changed from a permanent retention schedule to a finite retention period.

SACO questioned a 6 year retention period for business annual reports, cashflow analyses, and tax returns. The Bureau recognizes the voluminous nature of these documents and agrees that a shorter retention period is adequate. Therefore, the retention period for these items was shortened to 3 years.

SACO also requested clarification of "Depreciation schedule - fixed asset records". Accordingly, in addition to a reduced retention period, this category was renamed "Fixed asset records" and was split into two categories with more descriptive terminology. Financial institutions are encouraged to consult their income tax advisors regarding the retention period for fixed asset records, as records may need to be retained for longer periods in some instances.

MBA requested parity between this record retention rule and the FDI Act at Section 21, stating that the "FDIC allows records such as microfiche or other technological storage of the item for permanent retention". The coverage of Section 21 extends only to checks, drafts, or similar instruments drawn on, deposited to, or sent for collection by banks. The proposed retention schedule for these records would permit the use of technological storage; therefore, no change was deemed necessary.

BHBT commented that the rule did not specifically address record retention of electronic transactions, other than ATM machine settlements. A review of the

various documents specified in the rule indicated that adequate primary or secondary records are required to be retained to allow for the reconstruction of electronic transactions. BHBT also commented that the retention schedule for security tapes is longer than necessary. In response, the retention period for the tapes has been shortened from 6 months to 2 months.

EFFECTIVE DATE: January 1, 1993