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Emily B Caudill
REGULATIONS COMPILER

1 Environmental and Public Protection Cabinet

2 Department of Public Protection

3 Office of Financial Institutions

4 (Amendment)

5 808 KAR 1:050. Retention of records.

6 RELATES TO: KRS 287.375

7 STATUTORY AUTHORITY: KRS 287.020 and 287.375 [~~287.011~~]

8 NECESSITY, FUNCTION, AND CONFORMITY: To prescribe those records

9 which banks must retain and to prescribe the period of time for which such records must

10 be retained.

11 Section 1. Definitions.

12 (1) "Record" means any books of account and other books of every kind,

13 journals, ledgers, statements, instruments, documents, files, messages, writing of every

14 kind, and other internal or other data and other information of every description, made or

15 received by a financial institution in the regular course of its business or otherwise,

16 regardless of the mode in which it is recorded.[~~For purposes of this administrative~~

17 ~~regulation, record shall be construed to mean any paper, book, photograph, film,~~

18 ~~reproduction, sound recording, tabulating card, data processing tape or disc, map,~~

19 ~~drawing or other document that has been prepared or received in the transaction of~~

20 ~~business.~~]

1 Section 2. Record Retention

2 (1) Banks shall retain records in accordance with the Record Retention

3 Schedule, dated July 1, 2006. [~~August 1, 1990, which is hereby incorporated by~~

4 ~~reference. A copy of the Record Retention Schedule may be obtained by writing to the~~

5 ~~Department of Financial Institutions, 477 Versailles Road, Frankfort, Kentucky 40601.~~

6 ~~The Record Retention Schedule can be inspected and copied at the Office of the~~

7 ~~Department of Financial Institutions on 477 Versailles Road during regular office hours,~~

8 ~~8 a.m. to 4:30 p.m., Monday through Friday.~~]

9 (2) Records required to be retained may be maintained in retrievable

10 electronic format.

11 (3) All records shall be retained for a period of time that is consistent with the

12 reasonable business practices for a financial institution.

13 (4) All records shall be retained for a period of time that is consistent with state

14 and federal laws or administrative regulations.

15 Section 3. Examination

16 All records required to be maintained under this administrative regulation or

17 applicable state or federal law must be readily available within a reasonable time period

18 upon request by the executive director for examination, investigation, or other

19 authorized purposes.

20 Section 4. Incorporation by Reference.

1 (1) The following material is incorporated by reference: The Record Retention

2 Schedule dated July 1, 2006.

3 (2) This material may be inspected, copied, or obtained, subject to applicable

4 copyright laws, at the Office of Financial Institutions, 1025 Capital Center Drive, Suite

5 200, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

John W Clay
1-12-06

FOR LaJuana S. Wilcher, Secretary
Environmental and Public Protection Cabinet
John W. Clay, Deputy Secretary

Date:

Christopher Lilly, Commissioner
Department of Public Protection

Date: 1/09/06

Cordell G. Lawrence, Executive Director
Office of Financial Institutions

Date: 1/9/06

I hereby certify that I have examined and approved this administrative regulation as to form.

Greg A. Jennings, General Counsel
Office of Financial Institutions

Date: 1/9/06

NOTICE OF PUBLIC HEARING
ADMINISTRATIVE REGULATION: 808 KAR 1:050
ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
DEPARTMENT OF PUBLIC PROTECTION
OFFICE OF FINANCIAL INSTITUTIONS

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 22, 2006, at 10:00 a.m. at the Office of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601. Any person interested in being heard at this hearing shall notify this agency in writing by Monday, May 15, 2006, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, then the hearing may be cancelled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, then you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until Wednesday, May 31, 2006. Please send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Greg A. Jennings, General Counsel, Office of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, telephone number (502) 573-3390, and facsimile number (502) 573-8787.

REGULATORY IMPACT ANALYSIS
AND TIERING STATEMENT

Administrative Regulation: 808 KAR 1:050
Contact person: Greg A. Jennings, General Counsel

(1) Provide a brief summary of:

(a) What this administrative regulation does:

It updates the retention schedule that all state-chartered banks are required to follow in the maintenance of records.

(b) The necessity of this administrative regulation:

The previous schedule is outdated and does not reflect the realities of banking and examination of the banks in today's business environment.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 287.375 requires the retention of records and authorizes the executive director to provide such a schedule.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

The amendment provides realistic clarity to this agency's regulatory jurisdiction in regards to the examination of banks and provides the banks an updated schedule.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

This amendment updates the retention of records schedule which was last modified in 1990, redefines the word "record", provides that banks are required to follow related corporate and tax law, and finally provides that records may be kept in electronic retrievable format.

(b) The necessity of the amendment to this administrative regulation:

The previous schedule was last modified in 1990 and does not reflect the realities of banking and examination of the banks in today's business environment.

(c) How the amendment conforms to the content of the authorizing statutes:

KRS 287.375 requires the retention of records and KRS 287.020 authorizes the executive director to promulgate administrative regulations.

(d) How the amendment will assist in the effective administration of the statutes:

The amendment provides realistic clarity to this agency's regulatory jurisdiction in regards to the examination of banks.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

All state-chartered banks will be required to follow this new retention schedule.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment:

This regulation merely provides an updated schedule for the retention of records for banks. Banks are already required to follow the 1990 retention schedule that was previously adopted. There should not be any negative impact on the banks due to the amendments made to the retention schedule.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: None

(b) On a continuing basis: None

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

The existing budget already provides the necessary funding to be used for the implementation and enforcement of this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

No increase in fees or assessments will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

No fees or assessments will be established or increased to implement this administrative regulation.

(9) TIERING: Is tiering applied? (Explain why tiering was or was not used)

The regulatory requirements are applicable to all state-chartered banks and, accordingly, tiering does not apply.

SUMMARY OF MATERIAL INCORPORATED BY REFERENCE

808 KAR 1:050 Retention of Records

I. **Administrative**

1. **Accounting and Audit**

a) Internal audit work paper increased from 2 years to 5 years to comply with Bank Secrecy Act.

b) Accrual and bond amortization records changed from "after period" to "after maturity" to clearly indicate when record is to be retained.

c) Internal audit reports increased from 2 years to 7 years to meet escheat law requirements.

d) Bank call reports reduced from 15 years to 5 years to meet Bank Secrecy Act requirements.

e) Bank examiner reports reduced from permanent to 5 years to meet Bank Secrecy Act requirements.

f) Daily reserve computation changed to cash reserve computation to accurately reflect correct name.

g) Difference in accounts records changed to reconcilement in accounts records to accurately reflect correct name.

h) Directors' examination reports are reduced from permanent to 5 years to comply with Bank Secrecy Act.

i) Earnings and dividend reports to supervisory agencies are deleted since these reports are not necessary for examination.

j) Escheat records are reduced from 6 years to 5 years to comply with the Bank Secrecy Act.

k) Charge off records (overdrafts and loan losses) are moved to this section from corporate with the record period reduced from 15 years to 7 years to meet state escheat requirements.

l) Attachment and garnishment of debts is added to this section from the corporate section with the record period and reduced from 7 years to 5 years to meet Bank Secrecy Act requirements.

2. **Capital**

This section is deleted since OFI has determined that for the purpose of bank examination it is no longer necessary to retain these records.

3. **Corporate**

a) Annual reports, corporate bylaws, incorporate papers, minutes of directors' meetings, stockholders' meetings, and committees of the board, records of bank's executive officers, and shareholders' indebtedness to the bank's correspondents and records of loans to executive officers, directors, principal shareholders and officers are deleted since this record is no longer necessary for the purpose of bank examination.

b) Attachment and garnishment of records moved to Accounting and Audit (see above).

c) Charged off records (overdrafts and loan losses) moved to Accounting and Audit (see above).

d) Court case records reduced from 6 years to 5 years to comply with Bank Secrecy Act requirements.

e) Records of banks' executive officers, directors, principal shareholders, and officers are added and assigned a 5 year record retention to comply with Bank Secrecy Act requirements.

f) Records of outside business interests of bank's executive officers, director, principal shareholders are reduced from 6 years to 5 years to comply with Bank Secrecy Act requirements.

g) Power of attorney is added to this section and assigned 5 years retention to meet Bank Secrecy Act requirements.

4. **General Ledger**

No changes made to this section.

5. **Insurance**

Blanket bond reduced from 15 years to 5 years to meet federal requirements.

II. Collections and Contracts

Obsolete and uncalled for collections are deleted since these records are no longer needed for bank examination.

III. Correspondent Banking

Drafts, draft register, resolutions, signature cards, trial balances are reduced from 10 years to 5 years to meet federal requirements.

IV. Customer Service

a) Evidence of compliance with Regulation E is increase from 1 year to 2 years to meet bank examination schedule.

b) Night depository agreement is changed from closing to surrender to accurately reflect bank operations.

c) Safekeeping records and receipts amended to include collateral records and the record retention is reduced from 15 years to 5 years to be consistent with other records.

d) Series E Bond reports changed to United States Savings Bonds (purchased and redeemed) since banks buy and redeem different series of government bonds.

e) Evidence of compliance with Regulation CC, Regulation P, and Bank Secrecy Act is added with a 2 year retention requirement to meet bank examination schedule.

f) Lock box service records are added with retention of 2 years to meet bank examination schedule.

g) Utility payment records and wire transfer debit and credit entries are deleted since these records are no longer needed for bank examination.

V. Safe Deposit

a) Access tickets, contracts and signature cards, court orders and other records, forced entry records, power of attorney, records or reports of contents of opened boxes, and record of sale to satisfy lien are all amended to 5 years to meet Bank Secrecy Act compliance.

b) Receipts for delivery of will, burial, plot deeds, and insurance policies are deleted since these records are no longer needed for bank examination.

VI. Security

a) Camera surveillance is changed to surveillance log and photographic record to accurately reflect today's technology utilized by banks.

b) Evidence of compliance with Reg. P is deleted and moved to Customer Service (See above).

c) Records showing law enforcement officers who advise on operation of security devices are deleted since these records are no longer needed for bank examination.

VII. Taxes

The records in this section are no longer needed for bank examination are therefore have been deleted from the record retention schedule.

VIII. International

a) Cable copies of foreign money transfers changed to copes of wire transfers (foreign and domestic) to accurately reflect transfer of money in today's society.

b) All records have been amended in this section to be held for 5 years in order to meet Bank Secrecy Act requirements.

IX. Investments

a) Bond ledger, brokers' statements, and safekeeping records and receipts have been changed from 6 years to 5 years in order to be consistent with the Bank Secrecy Act.

b) Credit information used to evaluate public and investment securities to be retained until sold or matured. Previously the information had to be held only when the securities were sold. This change accurately reflects how a bank handles securities.

X. Demand Deposit Accounts and Now Accounts

a) Checks Paid, Deposit Tickets, Dormant Accounts, after escheated, Resolutions, Signature Cards, Statements Customers, Stop Payment Orders, ATM and ACH items electronic transactions and Charged-Off overdrafts retention period changed to 5 years to accurately reflect requirements of the Bank Secrecy Act.

b) Record of currency transactions more than $10 million is deleted since this is duplicative requirement already set forth in this schedule.

c) Undelivered statements and canceled checks deleted since these are not required for bank examination purposes.

XI. Loans

a) Applications approved (5 years), credit files (6 years), overdraft loan agreement (6 years), resolutions (6 years), federal reserve form G-3 (3 years), federal service form T-4 (3 years), federal reserve forms U-1, U-2, U-4, U-5, U-6, report on loans secured by stock after credits are terminated (3 years), federal reserve form X-1 (6 years) statement of account (10 years), court case records, after cased closed (6 years), FHA insured and loans and mortgages (6 years) are changed to 2 years to meet bank examination cycle.

b) Charged off loans (15 years), loan transactions debits and credits (1 year), foreclosure records (15 years), evidence of compliance with Community Reinvestment Act (6 years), are changed to 5 years to meet federal requirements.

c) Appraisal forms, collateral cards or register, disclosure records, hypothecation agreements, rebate receipts, record of currency transactions over $10,000, and insurance tickler, are deleted as either duplicative of other requirements or no longer necessary to be maintained for bank examination.

XII. Official Bank Checks, Money Orders, Certified Checks and Bank Drafts

The records required to be retained in this section have been changed to 5 years in order to be consistent with the Bank Secrecy Act.

XIII. Operations

a) Registered or certified mail records (3 years), return receipt cards (3 years), and over and short reports (2 years) are changed to 1 year to meet state bank examination schedule.

b) Cash tickets (6 years) and currency shipment log books (3 years) are changed to 2 years to meet bank examination schedule.

c) Cash transaction report over $10,000 deleted as duplicative of requirement already found in this schedule.

XIV. Personnel

This section is deleted since it is no longer a requirement for bank examination.

XV. Time, Savings, and Club Accounts

a) Certificates (10 years), taxpayer id number (6 years), 1099 forms (6 years), dormant accounts (6 years), statements (10 years), IRA account records (10 years), resolutions (10 years), and signature cards (10 years) are changed to 5 years to meet federal requirements.

b) Deposit tickets and coupons are changed from 10 years to 2 years to meet bank examination cycle.

c) Cancelled passbooks, customer statements, power of attorney, records of currency transactions over $100,000, and wire transfer debits and credits are deleted as either unnecessary for exam purposes or duplicative of requirements already found in this schedule.

XVI. Trust

a) Bond ledgers (6 years), brokers' purchase and sales confirmations (7 years), brokers' statements--corporate (7 years), receipts or disposition records for cancelled stock certificates (15 years), signature files (7 years), transfer journals (15 years), accounting for other fiduciaries and decrees of receipts and releases settling their accounts (15 years), advices of payment (15 years), appraisals of real and personal property (10 years), authorizations, directors and approvals (15 years), brokers' statements--personal (15 years), buy and sell orders (6 years), cash ledger sheets (15 years), cash vouchers (6 years), coupon collection record (6 years), federal nominees information return form 1087 (7 years), investment ledger (10 years), journal sheets (10 years), legal opinions and related correspondence (10 years), security ledger sheets (10 years), trust check register (6 years) and probate trust vouchers (6 years) are changed to 5 years to meet federal requirements.

b) Correspondence, corporate and personal (3 years), paid dividend checks (6 years), tax returns (15 years), federal and state estate tax returns (15 years), federal gift tax returns (15 years), paid bills (6 years), real estate mortgage documents (7 years), receipt for assets delivered (7 years), rent collection (6 years), and safekeeping records and receipts are change to 2 years to meet examination cycle.