From the Author’s Desk…
My Thoughts

I’ve been in many beautiful bank buildings with the offices and boardrooms dressed in solid cherry. I have had business luncheons in their private dining rooms with magnificent views, duck under glass, and of course, the silk suits. Can you imagine the bankers silent horror knowing that I, in my own silk suit, was about to see their basement? Can you imagine their embarrassment until I assure them, “this isn’t bad” or when I let them know “it looks like the rest of banks I’ve been in”. I don’t tell them that I am thinking “time for the hardhat and hip boots!” The ice is broken when the executive knows that when it comes to recordkeeping their bank is in the same boat as many other banks, and perhaps theirs is even in better shape.

After twenty plus years it really hasn’t changed much. Even though bankers know the importance of a good record retention program, not to mention the fact that it is the law, it’s still the project that is all the way on that “back burner”, or more like it, under all that paper.

I have been in this business since 1985 and in banking since 1980. I honestly think I have seen it all as far as storage rooms go. I really don’t wonder why the typical records area is in the condition it is, because I know how much time and energy it takes to have an understandable yet workable program. Putting together and implementing a safe, sound and compliant record retention program is very confusing and time consuming. There are so many laws to keep up with, and so many records, that it’s difficult for a person, doing the job part time, to do it all.

When I started doing this work, I found it challenging to say the least. My very first experience was with a bank that was 108 years old and they had records dating that far back! The old records, their logs and minutes in calligraphy, were really interesting and actually quite beautiful even though they carried a very distinct and unpleasant musty smell. “They” say, times were so simple then, yet when it comes to recordkeeping I would venture to guess that some record rooms were the same then as many are today. Then I ask myself ”why did I pick this career?” the answer is “no one wants to do it and by nature I love a challenge”. But the most important reason to me is when I visit one of my clients or someone who has bought the guide and I see how much good has come due to the retention schedule that I have created. That’s when I know that all my hard work, the long hours, short weekends and sleepless nights, has ultimately succeeded. I have created something that will allow a bank the opportunity to purge its records and save hundreds, if not thousands of dollars a year. Some people think that this is boring. Not really. Bank record keeping and its many laws are definitely challenging and when you are in it as deeply as I am, it is far from boring.

Record keeping may be costly, but banks will pay the price for keeping records they should have gotten rid of many years before. The nightmare of unnecessary litigation is second
only by the inability to find the records sequestered in a timely and efficient manner when they are needed immediately. The worse case scenario is being in court and explaining that you can’t find the records that you need. That is about as bad as not being able to produce records for your friends and mine, the regulators. Many records are required by law to be “easily accessible” and, if they are not, the bank is “non-compliant”.

Many banks choose to send their records off-site for storage. They choose to outsource the boxes to get them out of the bank because there is a space issue. As we all know, “out of site is out of mind”. In the long run it may be more costly than you think. Looking at it more closely may make you realize “off-site” is not that big of a bargain. Sure, it only costs pennies per box to store them, but those pennies do not include locating the record or retrieving the box. Then more money is added into the equation when hourly wages of the banks own employees is increased due to research time. Time equals money.

Knowing what you have stored inside the box is another dilemma. Many times the departments packing the boxes put records into the same box that have different retention periods. For example, if you have a box that contains records with retention periods of one year and records with retention of five years, not only do you open yourself up for litigation, but you also are wasting money by keeping the record in the box and taking up space. So the bottom line is that you are responsible for records that you should not have retained in the first place. You have to produce them, if you have them.

If you store the records in your bank, even in a part of the bank that is less than “prime space”, you will still be spending an average of $25.00 per year, per box. You must consider the cost of time, space, upkeep, insurance, utilities, shelving and boxes when deciding to keep records for a longer period time on the assumption that you “may need them”. Look at the individual record from an historical point of view. Does it have any legal, fiscal or archival value? How many times in the past did you have to refer to it? You should analyze the expense of retention before you decide to keep the records “forever”. Forever is for corporate records like charters, incorporation, general ledger and the like. Litigation files are only five years after the termination of the litigation, loan files, once paid are only five years. Could the banks money be wasted on unnecessary record retention or wisely spent on something more productive?

Look on the internet at the FDIC site, among others, and read the cease and desist orders that are put on banks for non compliance regarding record retention requirements. I am not saying this is the only way that a bank gets itself in trouble, but it is a contributing factor. You really need to concentrate on keeping your records for the minimum retention period that is required by law and dispose of outdated records as soon as it is “legally possible.”

Records listed in the schedule section of this guide come from many sources and this is where it gets a little confusing. Sometimes a law is written only for a national bank and there is nothing written or even similar for a state or federal bank. Therefore the retention period listed, though specific to a national bank, is the suggested retention period for all
banks.

If your bank wants to lower retention on records that are listed in the Schedule section you should contact your legal counsel for approval.

If records are listed more than one time, this means they are typically used in more than one department simultaneously. In this case, use the longest retention.

Please take some time to review the Statutes and Regulations Section and the Statute of Limitations, in the Indiana Laws area of the Statutes and Regulations section. This is critical information for you to be familiar with.

**Reality…**

Records are to serve immediate business needs. The only reason a record is needed after two audits is because the law or a lawyer says so, after that time there is no reason to retain the record. The former is a requirement, the latter, a detriment, depending on the litigation.

It is not unusual for bank personnel to not be familiar with the laws regulating retention. Many bankers tend to be conservative and will want to retain, on a permanent basis, records that have little or no legal, fiscal or archival value. In turn, money is spent on retention that could be used for other projects. Some records should not be retained beyond six years and laws state this. Your bank's legal staff should be consulted prior to attaching a “permanent” or enacting a longer retention period than stipulated in this schedule. When retention periods are lengthened, other than for litigation or historical reasons, your bank is open for litigation that may have been avoided.

Following the recommendations will demonstrate to regulatory agencies that every effort has been made to follow the law and adhere to the requirements prescribed by regulators. Regulatory agencies believe in the importance of a quality retention program, and they encourage all banks and corporate fiduciaries to establish and review their record retention program on a regular basis. A good record retention program is proven to be a safe and sound business practice.

This guide is also intended to assist the banks in their demonstration to all regulatory agencies, that it is the banks utmost priority to obey all of the laws regarding the retention of bank records and to dispose of obsolete records in a timely and efficient manner.

Many statutes and regulations, state, national or federal, apply to the banking industry. The retention of the records listed in the Schedule section of this guide are pursuant to Indiana and the government's law.

Some laws are specifically directed towards state, federal and/or national banks. It is suggested that you retain records for the time periods recommended. You are cautioned
not to lower any retention period(s) that is (are) restricted by law. In addition to the statutes and/or regulations, FRC has gathered information from clients and their experience with the need of a record.