

NOTICE OF FINAL RULEMAKING

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS AND INSURANCE

CHAPTER 4. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS

– FINANCIAL INSTITUTIONS

ARTICLE 2. BANK ORGANIZATION AND REGULATION

R20-4-201. Articles of Incorporation

A licensee shall deliver to the Director a copy of each amendment to the licensee’s articles of incorporation within 30 days after the amendment is filed with the Arizona Corporation Commission. Before delivery to the Director, an officer of the licensee shall certify the copy delivered in compliance with this Section, in writing, signed by the certifying officer, attesting to the completeness, accuracy, and authenticity of the certified copy.

R20-4-202. Bylaws

A licensee shall deliver to the Director a copy of each amendment to the licensee’s bylaws within 30 days after the amendment is adopted. An officer of the licensee shall certify the copy delivered in compliance with this Section, in writing, attesting to the completeness, accuracy, and authenticity of the certified copy.

R20-4-206. Bankers Blanket Bond Coverage -- A.R.S. § 6-188

A. Each bank shall carry at least the following basic blanket bond coverage:

Banks with Deposits of:		Amounts:	
Less than \$25,000,000			\$300,000
25,000,000	to	35,000,000	350,000
35,000,000	to	50,000,000	450,000
50,000,000	to	75,000,000	550,000
75,000,000	to	100,000,000	700,000
100,000,000	to	150,000,000	850,000
150,000,000	to	250,000,000	1,200,000
250,000,000	to	500,000,000	1,700,000
500,000,000	to	1,000,000,000	2,500,000
1,000,000,000	to	2,000,000,000	4,000,000
2,000,000,000	to	5,000,000,000	6,000,000
5,000,000,000	to	20,000,000,000	9,000,000
Over 20,000,000,000			10,000,000

B. Each bank shall supplement the bankers blanket bond coverage with at least a \$2,000,000 excess fidelity bond.

R20-4-207. Capital Obligations

- A.** An applicant for a Director's order of approval to issue a capital obligation shall submit the following documents to the Director and shall not issue any capital obligation before the Director issues the order of approval. The required documents are:
1. A certified copy of the resolution adopted by the Board of Directors, or a certified copy of the unanimous written consent of the Board of Directors, authorizing the sale of the capital obligation;
 2. A copy of the agreement underlying the capital obligation;
 3. A copy of the note or debenture intended to represent the capital obligation; and
 4. A copy of the prospectus, if any, proposed for use in the sale of the capital obligation.
- B.** Each document evidencing a capital obligation shall:
1. Bear on its face, in bold face type, the following: This obligation is not a deposit and is not insured by the Federal Deposit Insurance Corporation.
 2. Have a maturity provision that either:
 - a. Gives the obligation a maturity of at least five years, or
 - b. In the case of an obligation or issue that provides for scheduled repayments of principal, gives an average maturity of at least five years. The restriction on maturity stated in this subsection does not apply to any obligation that otherwise meets all the requirements of this rule if the Director determines that exigent circumstances require the issuance of the obligation without regard to any restriction on maturity. The provisions of this subsection do not apply to mandatory convertible debt obligations or issues.
 3. State expressly on its face that the obligation:
 - a. Is subordinated and junior in right of payment to the issuing bank's obligations to its depositors and to the bank's other obligations to its general and secured creditors, and
 - b. Is ineligible as collateral for a loan by the issuing bank, except as provided in A.R.S. § 6-354.
 4. Be unsecured.
 5. State expressly on its face that the issuing bank may not retire any part of its capital obligation without the Director's prior written order of approval, and the prior written consent of the Federal Deposit Insurance Corporation.
 6. Include, if the obligation is issued to a depository institution, a specific waiver of the right of offset by the lending depository institution.
 7. State that, in the event of liquidation, all depositors and other creditors of the bank are to be paid in full before any payment of principal or interest is made on a capital obligation.
- C.** No payment shall be made under an optional right of payment reserved to the bank without the separate authorization of the Director. The Director may grant that authority in the initial order of approval or in a later order of approval.

R20-4-209. Notice of Permanent Closing of Banking Office

A bank may close fewer than all of its banking offices. Before closing any office, a bank shall deliver a letter to the Director specifying the banking office it plans to close and the closing date. The bank shall ensure that the Director receives the letter at least 10 days before the closing date. Closing the banking office shall terminate the bank's authority to maintain that banking office on the date of the actual closure.

R20-4-211. Application for a Banking Permit

- A. Before an application is filed, the representatives of the potential applicant shall meet with the Director to discuss capitalization, location, and management of the proposed bank.
- B. After the meeting required by subsection (A), persons who wish to proceed with the application process shall submit an application in the form the Director prescribes. The applicant shall support the application with sufficient information to enable the Director to make a determination.

R20-4-214. Preservation of Records

- A. Every bank shall keep its corporate and business records as originals or as copies of the originals made by reproduction methods that accurately and permanently preserve the records. Copies complying with this subsection, when satisfactorily identified, have the same evidentiary status as an original. A bank may keep its records as electronic records if the bank can generate all information and copies required by this Section within the timeframe set by the Department for examination or other purposes.
- B. A bank shall keep its corporate and business records for the period required by this Section. These periods are measured from the date of the last entry or final action date. A bank shall have and comply with its own record retention schedule that is consistent with this Section. A bank may comply with this Section by complying with a preemptive federal regulation, even if the federal regulation requires a shorter retention period than is listed in this Section. This Section does not prohibit record retention for longer periods than these state-required minimums for any reason, including a retention period established by preemptive federal law or regulation. Likewise, this Section does not prohibit a bank from keeping any type of record not required in subsection (D).
- C. Beginning on the effective date of this Section, corporate and business records of a bank operating in the state of Arizona are classified, and their retention periods are prescribed, according to the schedule in subsection (D). Retention periods are listed in subsection (D) using the notations, acronyms, and abbreviations listed in this subsection (C).
 - 1. A numerical designation refers to a period of years unless a shorter period of time is specified in the schedule.
 - 2. “AC” means after closure.
 - 3. “ACH” means automated clearing house.
 - 4. “AE” means after expiration.
 - 5. “ALC” means after last contact.
 - 6. “AP” means after paid.
 - 7. “ATD” means after termination date.
 - 8. “CTR” means a cash transaction report required by the Federal Bank Secrecy Act.
 - 9. “FDIC” means the Federal Deposit Insurance Corporation.
 - 10. “FHA” means the Federal Housing Administration.
 - 11. “FHLMC” means the Federal Home Loan Mortgage Corporation.
 - 12. “FNMA” means the Federal National Mortgage Association.
 - 13. “GNMA” means the Government National Mortgage Association.
 - 14. “IRS” means the United States Department of the Treasury’s Internal Revenue Service.
 - 15. “M” means months.
 - 16. “P” means the bank shall keep the record permanently.
 - 17. “PMI” means private mortgage insurance.

18. “SAR” means a suspicious activity report required by the ~~federal~~ Federal Bank Secrecy Act.

19. “TTL” means a treasury, tax, and loan account maintained by a bank.

20. “UCC” means the Uniform Commercial Code as it is in effect in Arizona.

D. Retention Schedule

1. Accounting and Auditing

a.	Accrual and bond amortization	3
b.	Audit report	6
c.	Audit work papers	3
d.	Bank call, income and dividend report	5
e.	Bill, statement, or invoice – paid	7
f.	Budget work papers	2
g.	Collateral vault “in-and-out” ticket	1
h.	Daily reserve computation	1
i.	Earnings report	7
j.	Expense voucher or invoice	7
k.	Financial statement	7
l.	Interoffice reconciliation	1
m.	Interoffice transaction	1
n.	Periodic statement for account owned by bank	2
o.	Reconcilement of deposits – due to bank	2
p.	Reconcilement register – due from bank	2
q.	Return and cash item register	1
r.	Service contract	2
s.	Treasury tax and loan account	2
t.	Unclaimed property record	5

2. Administration

a.	Articles of incorporation or association, bylaws or other record of organization	P
b.	Bankers blanket bond-record showing compliance	5AE
c.	Bank examiner’s report	7
d.	Capital note issuance and transfer record	P
e.	Depreciation record – office equipment	3
f.	Dividend check and register	7
g.	Dividend check – outstanding	P
h.	Expired policy insuring the bank	3 AE
i.	FDIC assessment base, record	5
j.	FDIC certificate	P
k.	Insurance policy number, record of premium paid and amount recovered	3 AE
l.	Legal proceedings when completed	5
m.	Minute book of:	
	i. Meetings of the board of directors	P
	ii. Meeting of committees of the board of directors	P
	iii. Shareholders’ meetings	P
n.	Postage meter record book (from date of final entry)	1
o.	Real estate documentation	5 ATD
p.	Report to directors	3

q.	Stock issuance and transfer record	P
r.	Required report to supervisory agency	3
s.	Tax controversy or proceeding when completed	7
t.	Tax record not material to any controversy	7
u.	Voting list and proxies	3

3. Collections

a.	Collection payment record	1
b.	Collection receipt – carbon	1
c.	Collection register	1
d.	Coupon cash letter – outgoing	1
e.	Coupon envelope	1
f.	Customer file copy	1
g.	Incoming collection letter	1
h.	Incoming contract or note letter	1

4. Customer service

a.	Broker account holder – identification	5
b.	Broker’s confirmation	3
c.	Broker’s invoice	3
d.	Broker’s statement	3
e.	E-Bond application	2
f.	E-Bond sold or redeemed – record	2
g.	E-Bond transmittal letter	2
h.	Lock box daily receipts	1
i.	Night depository agreement	1 AC
j.	Night depository daily record	1
k.	Safekeeping record and receipt	5
l.	Securities buy order and sell order	3

5. Data processing (management information systems)

a.	Back-up data (for reconstruction) daily, end of month, quarter, or year	1
b.	Disaster recovery program	P
c.	Film copy of every IRS financial reporting form	6
d.	Program change	P
e.	System, program and procedure manual	P

6. Deposits

a.	Account opened and account closed	1
b.	Certificate of deposit purchase record	7
c.	Check paid, withdrawal slip, and other debits to account	7
d.	Club account check register	1
e.	Club account coupon	1
f.	SAR – for suspicious transaction under \$10,000	5
g.	CTR – for transaction exceeding \$10,000	5
h.	Customer authorization, resolution, and signature card	6 AC
i.	Deposit account record needed to reconstruct	7
j.	Deposit and other credits	7
k.	Dormant account – after closed or escheated	7 ALC
l.	Form 1096 and 1099 reports to IRS	7
m.	Individual retirement account record	7

n.	Interest check or other record of interest payment and reports	7
o.	Internal management reports:	
	i. Large balance	1
	ii. Overdraft	1
	iii. Public funds	1
	iv. Service charges	1
	v. Stop payment	1
	vi. Uncollected funds	1
	vii. Unposted item	1
	viii. Zero balance	1
p.	Ledger card	5 AC
q.	Power of attorney document	7 ATD
r.	Receipt for statement held at customer's request	1
s.	Record showing compliance with the following federal regulations. The state retention period applies unless, and until, it is preempted by federal law:	
	i. Regulation CC, Expedited Funds Availability Act	2
	ii. Regulation DD, Truth in Savings Act	2
	iii. Regulation E, Electronic Funds Transfer Act	2
t.	Returned statement and cancelled checks	6
u.	Statement	6
v.	Stop payment order	6 AE
w.	Document used to request and receive Tax Identification Number	6
x.	Transaction journal	6
y.	Trial balance	6

7. Due from banks

a.	Advice from correspondent bank	1
b.	Bank statement	1
c.	Draft – original	7
d.	Draft register or copy	1 AP
e.	Duplicate check – information and documentation pertaining to issuance	7
f.	Reconcilement register	1

8. Due to banks

a.	Account opened and account closed – reports	1
b.	Advice – copy	1
c.	Incoming cash letter memo for credit	1
d.	Incoming cash letter for remittance	1
e.	Reconcilement register (TTL)	2
f.	Reconcilement verification	1
g.	Resolution	2 AC
h.	Signature card	6 AC
i.	Trial balance (fiche)	7
j.	Undelivered statement, reconstruction available from bank records	1
k.	Undelivered statement, reconstruction not possible	7

9. General

a.	Address change order	1
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b.	Affidavit from customer including affidavit of loss, forgery, or non-use of cashier's check	1
c.	Writ of attachment or garnishment	5
d.	Attachment, release	5
e.	Armored car receipt	1
f.	Check book order	1
g.	Check book – receipt	1
h.	Court order memorandum record	5
i.	Notice of Protest	1
j.	Vault record – opening and closing	1
k.	Wire transfer debit entry and credit entry	7

10. General ledger

a.	Daily statement of condition	3
b.	General journal – if byproduct of posting the general ledger	3
c.	General journal – if used as book of original entry with description	3
d.	General ledger	5
e.	General ledger ticket – debit and credit	2

11. International department

a.	Broker account holder – identification	5
b.	Cable copy	7
c.	Cable requisition	7
d.	Collection paid	1
e.	Correspondence	2
f.	Draft	7
g.	Foreign collection register	6
h.	Foreign draft application	6
i.	Foreign draft – carbon	2 ATD
j.	Foreign exchange remittance sheet or book	6
k.	Foreign financial account – record	7
l.	Foreign mail transfer application	6
m.	Foreign mail transfer – carbon	2 ATD
n.	Foreign outstanding cash	2
o.	Foreign payment – incoming	2
p.	Letter of credit application	2
q.	Letter of credit ledger sheet	7
r.	Transfer outside of the United States in excess of \$10,000 – record	5

12. Investments

a.	Bonds	
	i. Amortization record	6
	ii. Confirmation	3
	iii. Safekeeping receipt	2
b.	Broker's securities	
	i. Broker's invoice	3
	ii. Broker's statement	3
	iii. Report of lost or stolen securities	3
	iv. Safekeeping advice	2
	v. Taxpayer identification number	5

c.	Commercial paper		
	i.	Broker's advice	2
	ii.	Purchase order	2
	iii.	Remittance advice	2
d.	Mortgage-backed securities		
	i.	Buy-and-sell agreement	3
	ii.	Commitment letter	7
	iii.	FHLMC and FNMA loan file	7
	iv.	GNMA certificate	7
	v.	Interest accrual record	7
	vi.	Monthly remittance report	7

13. Loans. A bank shall keep each loan record listed for the period required by this subsection. These periods are measured from the date of final activity. A bank shall have and comply with its own record retention schedule that is consistent with this subsection. A bank may comply with this subsection by complying with a preemptive federal regulation, even if the federal regulation requires a shorter retention period than is listed in this subsection. This subsection does not prohibit record retention for longer periods than these state-required minimums for any reason, including a retention period established by preemptive federal law or regulation. Likewise, this Section does not prohibit a bank from keeping any type of record not required by this subsection.

a.	All loans – general		
	i.	Application for loan approval	6
	ii.	Appraisal	6
	iii.	Borrower's financial statement	6
	iv.	Charge-off record	10
	v.	Charged off note	10
	vi.	Collateral file	6
	vii.	Correspondence	6
	viii.	Credit file- all documentation	6
	ix.	Credit report	6
	x.	Daily proof and record	6
	xi.	Loan committee minutes	P
	xii.	Miscellaneous loan reports including new loan journal, paid loan journal, past due report, and transaction journal as original entry	6
	xiii.	Other documentation for reconstruction of loan	2
b.	Commercial loans		
	i.	Application for loan denied	12 M
	ii.	Bill of sale	6
	iii.	Borrowing resolution	3
	iv.	Business annual report (fiscal or year end) – after date of report	3
	v.	Business cash-flow analysis report – after date of report	3
	vi.	Business tax return – after date of return	6
	vii.	Commitment letter	6
	viii.	Copy of mortgage note or deed of trust	6
	ix.	Evidence of insurance	6

	x.	Guaranty	6
	xi.	Letter of credit	6
	xii.	Participation agreement	6
	xiii.	Promissory note	6
	xiv.	Purchase and sale agreement	6
	xv.	Security agreement	6
	xvi.	Title documentation	6
	xvii.	UCC filing	6
c.	Consumer loans		
	i.	Application for loan denied, including adverse action notice	25 M
	ii.	Collateral record	6
	iii.	Hazard insurance record	6
	iv.	Invoice	6
	v.	Life and disability insurance record	6
	vi.	Overdraft loan agreement	6
	vii.	Promissory note and modification agreement – copy	6
	viii.	Title documentation	6
	ix.	UCC filing – copy	6
d.	Real estate loans		
	i.	Assignment of escrow	6
	ii.	Assumption	6
	iii.	Commitment letter	6
	iv.	Copy of deed of trust or mortgage note, as it may have been modified	6
	v.	Escrow analysis record	6
	vi.	Evidence of any FHA or PMI insurance required	6
	vii.	Hazard insurance	life of loan
	viii.	Proof of insurance excluding hazard	6
	ix.	Sales contract	6
	x.	Settlement sheet	6
	xi.	Survey	6
	xii.	Title documentation	6
e.	Construction loans. In addition to the documents specified in subsection (d), a bank shall keep a record for a construction loan as specified in this subsection:		
	i.	Certificate of occupancy	6
	ii.	Construction progress report	6
	iii.	Contractor's cost breakdown	6
	iv.	Disbursement documentation	6
	v.	Inspection report	6
	vi.	Residential construction specifications and material list	6

14. Official checks and drafts

a.	Affidavit, bond, indemnity agreement, other documentation supporting the issuance of a duplicate check or draft	7
b.	Bank draft	3
c.	Cashier's check – cancelled	7
d.	Cashier's check register – copy	7

e.	Expense check – cancelled	7
f.	Expense check register – copy	7
g.	Expense voucher or invoice	7
h.	Money order – bank or personal	7
i.	Money order register – copy	7
j.	Official check outstanding	P

15. Personnel Records

a.	Attendance record, and time card	3
b.	Authorization for payroll deduction	2
c.	Department of labor report	5
d.	Disability record	5
e.	Employee record and personnel folder	5
f.	Employment application	3 AT
g.	Insurance record	2
h.	Payroll check	2
i.	Pension fund record	10
j.	Profit sharing fund record	10
k.	Rejected employee application	2
l.	Salary ledger or electronic data processing printout	4
m.	Salary receipt	2
n.	W-3 reconciliation of income tax withheld from wages	3
o.	W-4 withholding exemption certificate	3
p.	Wage and tax statement record (W-2)	7
q.	Wage differential documentation (Fair Labor Standards Act)	3

16. Registered mail

a.	Marine insurance book	3
b.	Record of incoming and outgoing registered mail	1
c.	Return receipt card	3

17. Safe deposit vault

a.	Access ticket or card	6
b.	Court order and correspondence	6
c.	Delivery of will, burial plot deed, insurance policy – receipt	6
d.	Forced entry record	6
e.	Lease or contract – closed account	2 AC
f.	Ledger record of account	1
g.	Opened box contents – record and report	7
h.	Rent receipt – copy	1
i.	Sale to satisfy lien – record	7
j.	Signature card, authorization, and resolution	6 AC

18. Tellers

a.	Mail teller envelope	3 M
b.	Teller's balancing recap or recap book	1
c.	Teller's cash ticket – original and carbons	1
d.	Teller's cash shipment record	1
e.	Teller's exchange ticket	1
f.	Teller's machine tape	1

19. Transit, proof, and clearing

a.	ACH entry	6
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b.	Advice of correction to deposit	2
c.	Clearinghouse settlement sheet – recapitulation of checks delivered to the clearinghouse or federal reserve	2
d.	Record of items processed	6
e.	Proof machine tape or other record	2
f.	Receipt for transit letter	1
g.	Return item letter	5

20. Trust department administration

a.	Appraisal of real or personal property held as a trust asset	3 AC
b.	Correspondence	3 AC
c.	Decree or receipt and release	3 AC
d.	Fee record and supporting data	3 AC
e.	Intermediate and final account	3 AC
f.	Legal documentation including judgment, court order, and legal opinion	3 AC
g.	Paid bill	3 AP
h.	Real estate insurance policy	1 AE
i.	Real estate and mortgage document	3 AC
j.	Receipt for asset received or delivered	3 AC
k.	Record of asset tax cost	3 AC
l.	Summary card, original instrument, agreement and amendment, and letters of appointment	3 AC
m.	Synopsis sheet	3 AC

21. Corporate trust

a.	Bond registration journal	3 AC
b.	Bond – cancelled	7
c.	Indemnity bond	P
d.	Certification	2
e.	Coupon envelope	6 M
f.	Coupon – cancelled	6 M
g.	Customer receipt	7
h.	Dividend and coupon record	3 AC
i.	Dividend and interest disbursement check and list	3 AC
j.	General ledger ticket	2
k.	Legal paper	P
l.	Copy of cancelled stock certificate, original returned to customer	1
m.	Stock registration journal	3 AC
n.	Stock transfer memo	1
o.	Stock transfer receipt	1
p.	Tax return	3 AC
q.	Transfer – supporting papers	3 AC
r.	Transfer journal	3 AC
s.	Transfer tax waiver	3 AC
t.	Trust ledger – corporate	7

22. Personal trust

a.	Record of previously discharged fiduciary		
	i.	Accounting	3 AC
	ii.	Decree	3 AC

	iii.	Receipt and release	3 AC
b.		Accounting – recorded	3 AC
c.		Advice of payment – securities department regarding bond and coupon collection	3 AC
d.		Appraisal	
	i.	Real property	3 AC
	ii.	Personal property	3 AC
e.		Asset delivery receipt	3 AC
f.		Authorization	
	i.	By co-fiduciary	P
	ii.	By consultant	P
g.		Approval	5
	i.	By co-fiduciary	P
	ii.	By consultant	P
h.		Broker’s statement	7
i.		Buy and sell order	7
j.		Cash documentation	
	i.	Customer cash and asset statement	7
	ii.	Cash and security journal	7
	iii.	Cash trial balance	1
k.		Common trust fund annual report	10
l.		Correspondence	
	i.	Transfer letter	3 AC
	ii.	Claim letter	3 AC
m.		Coupon collection letter	7
n.		Court accounting and petition	7
o.		Daily transaction journal	6 M
p.		Debits and credits – daily	1
q.		Documentation necessary to support account decision	3 AC
r.		Tax Documentation	
	i.	Federal estate tax return	10
	ii.	State estate tax return	10
	iii.	Tax-related work papers	10
	iv.	Federal gift tax return	10
s.		Fee calculations and supporting data	1
t.		Income tax return	
	i.	Federal	3 AC
	ii.	State	3 AC
u.		Inventory	3 AC
v.		Investment review and related material	3 AC
w.		Minutes	
	i.	Investment committee	P
	ii.	Trust committee	P

23. Other personal trust records

a.		Legal opinion	3 AC
b.		Correspondence related to legal opinion	3 AC
c.		Paid bill	7
d.		Review and recommendation	3 AC
e.		Safekeeping record and receipt	3 AC

f.	Security ledger sheet	P
g.	Trust check	10
h.	Trust entry – original	3 AC
i.	Trust or agency agreement – original	3 AC
j.	Vault withdrawal and deposit ticket	7
k.	Will – certified copy	P
l.	Work papers supporting tax return	7

24. Trust Investments

a.	Annual report	
	i. Common trust fund	10
	ii. Pooled fund	10
b.	Valuation	
	i. Common trust fund	10
	ii. Pooled fund	10
c.	Minutes	
	i. Investment committee	P
	ii. Administrative committee	P
d.	Investment order and broker's confirmation	3 AC
e.	Investment review and related material	3 AC
f.	Correspondence	3 AC
g.	Summary of annual account activity	3 AC

25. Wire transfer

a.	Incoming wire log	1
b.	Outgoing wire log	1
c.	Transmission record	7
d.	Wire transfer request	7

R20-4-215. Trust Business

Each bank authorized to conduct trust business under their banking permit shall comply with the applicable requirements of R20-4-808 through R20-4-816.