

6 STEPS TO GLOBALIZING YOUR RECORDS RETENTION SCHEDULE

EXECUTIVE SUMMARY

As organizations grow globally, records management becomes increasingly complex. Multi-jurisdictional companies must “remove the borders” from their records management schedules to support compliance with a wide range of international requirements.

However, harmonizing a host of country-specific requirements — as well as cultural, language, and geographic differences — is a daunting task.

This white paper provides a roadmap to globalizing your retention schedule using a six-step methodology:

- Evaluate your current domestic retention schedule
- Analyze your global recordkeeping environment
- Refine your classification scheme to include record categories unique to your international locations
- Perform legal research into global retention, privacy, and media requirements
- Determine your retention rule approach
- Implement the retention schedule across the organization

Implementing these six steps will help you construct a records retention schedule that is clearly documented, legally compliant, and ready to unroll worldwide.

THE CHALLENGE: HARNESSING A HOST OF GLOBAL REGULATIONS

The retention schedule is the foundation of a records and information management program. It defines the types of records that must be retained by an organization and their corresponding retention periods.

If properly researched and implemented, a retention schedule helps an organization comply with its legal and regulatory requirements. It also protects you when critical disposition decisions are being made.

You probably already have a retention schedule that addresses the requirements of domestic authorities (e.g. U.S. federal, state, and local jurisdictions). But if you're in charge of records management for a global corporation, research into domestic regulations is not enough. Unless your company has invested significant effort in researching the recordkeeping requirements of foreign countries, you may be out of compliance in those locales. And performing that research is no easy matter.

Without a globally compliant and operationally sound retention schedule, your organization is on shaky legal ground.

How to proceed?

In this paper, we describe six steps to globalizing your records retention schedule. Although every organization is unique and will have some exceptional needs, this methodology, along with a broader records management program where policies, procedures and tools begin to become harmonized, provides a solid foundation for any company to start with.

Following this methodology will help records managers and legal departments build compliant retention schedules that effectively stretch across multiple jurisdictions.

STEP ONE: EVALUATE YOUR CURRENT RETENTION SCHEDULE

Retention schedules come in many flavors. They should reflect how the business needs to organize, view, and use its records. Before beginning to globalize your current schedule, assess its accuracy, format, currency, and usability. There's no point in globalizing a retention schedule that's ineffective.

Ask these questions in your assessment:

1. **Is the retention schedule “functional” or “departmental”?** The schedule normally hinges around a business classification scheme or taxonomy of records. Historically, organizations have arranged the records series on their retention schedules by department or organizational entity. This often results in numerous schedules (one for every department), sometimes with the same record series appearing on multiple schedules, often with differing time periods depending on which department was designated as the “Office of Record.” In addition, departmental schedules tend to describe each records series in detail, using the terminology specific to a single department.

As the departmental structure of an organization is prone to frequent change, this type of system can be unwieldy, requiring significant time whenever an update to the schedule is performed. In addition, in an increasingly paperless recordkeeping environment, the level of specificity contained in a departmental retention schedule hampers the ability to apply the retention schedule to electronic records.

Functional retention schedules, in contrast, eliminate some of the limitations of departmental schedules, particularly the high-maintenance requirements and lack of consistency. A functional retention schedule organizes record series based on the record's *function*, not on the organizational entity that owns or manages it.

Individuals may need to refer to several functional categories on the schedule to identify all retention requirements for records within their organizational area. This type of schedule requires a higher initial learning curve, but the gains in ease of maintenance and consistency can prove a significant offset.

2. **Is the retention schedule media-independent?** The level of specificity in many traditional retention schedules precludes the ability to apply the records series to electronic records. The manner in which record series are described may need to be broadened and “de-papered” in order for the category to be useable in an electronic recordkeeping environment.
3. **Does your current schedule include all of your domestic business functions?** Before expanding your retention schedule to include international locations, ensure it includes records for all of your domestic businesses. Some of these same functions may exist outside the United States. Since you'll be starting with your current schedule, ensuring that it includes all your current business functions may eliminate a need to start from scratch in an international location.

4. **What's the current process for updating and approving the schedule?** Most organizations review and update their retention schedule every 1 to 3 years, with ad hoc updates in the interim as needed. Further, organizations typically implement an authorization process that may include approvals by the legal department, the tax department, and other key stakeholders.

It's important to identify your current process as well as roles and responsibilities, since these may require modification as you globalize your retention schedule. For example, if you currently require an approval signature from a representative in your domestic legal department, this may need to be changed to a local country counsel with greater expertise with the rules and regulations of a specific jurisdiction.

How is legal research translated into retention regulations and considerations?

Organizations conduct and update the legal research that supports retention time periods in a number of ways. Often, the Records Manager subscribes to one or more services that provide pertinent regulatory citations. In other organizations, the legal department is responsible for this research. And in others, initial legal research and ongoing updates are performed by an external third party – a law firm, a legal research company, or a records management consulting firm. Whatever your current source, if they've traditionally focused on U.S. jurisdictions, they may not be able to provide the same quality of legal research in the international arena.

Before expanding your current retention schedule, take a hard look at it. There's no point in globalizing a schedule that's ineffective.

STEP TWO: ANALYZE YOUR GLOBAL FOOTPRINT

Once you've assessed and adapted your domestic retention schedule, it's time to tackle things outside the United States. The first step is developing an organizational map that provides a matrix view of your locations and associated business functions and defines the scope of required legal research.

The best way to create the map is in a table. Here's what to do.

1. In the first column, list each country in which you conduct business. You can break this down further by region or city as needed.
2. In subsequent columns, list each business function identified on your retention schedule — for example, Administrative, Sales and Marketing, Manufacturing, or Research and Development.
3. Place a checkmark in cells as appropriate to indicate which business functions are performed in which countries. It's useful to identify the number of employees per function in each country.

	Administrative	Manufacturing	Sales & Marketing	R&D
Austria	X (3)		X (13)	
Brazil	X (8)		X (21)	
Canada	X (10)		X (16)	
Chile		X (42)		
India		X (31)		X (62)

Figure 1: An organizational map defines which business activities take place in which country.

The next step is to identify all relevant policies, practices, and existing retention schedules in each location. To do that, you'll need to tap one or more key contacts in each location.

These contacts will help you gather information, coordinate review and implementation of the retention schedule down the line, and facilitate ongoing communication. You may wish to designate two levels of country contacts: one at a higher level with approval authority, and one to serve as a coordinator.

To facilitate information gathering, it's helpful to provide your contact a questionnaire like this:

1. Confirmation of the business processes per jurisdiction
2. Are there any recordkeeping policies, procedures, or directives currently in place?
3. Does the location have a retention schedule? If so, how was it developed? Was legal research conducted? If so, by whom?
4. What categories of records are currently retained? What are your current retention practices?
5. How are roles and responsibilities for records management currently assigned?
6. Does the legal department have a representative in the location? Is local counsel used?
7. Who will be the ongoing contact for records management?
8. Where are physical records managed and stored?
9. How are electronic records managed and stored? Is there an ECM system in place? If so, which one?
10. Does records destruction occur? If so, when and according to what authority?

With this information in hand, you can begin building a global retention schedule.

STEP THREE: BUILD THE GLOBAL CLASSIFICATION SCHEME

Once you've gathered information from each of your business locations on its current recordkeeping environment and retention schedules, you're ready to take the next step. It's time to expand or refine your corporate classification scheme to ensure it addresses all those records maintained by your organization's various locations.

This will require a thorough analysis of the information collected via the survey. Follow-up clarifications with your key contacts via conference calls or email will likely be required.

Merging processes and record series together or splitting series apart to form a homogenized model is more art than science; sticking to the design principles and rules agreed in step one makes this process easier and ensures that what you present back to the business is recognizable.

Once you have incorporated any needed changes into the retention schedule, you'll need to validate it with your key contacts across the business. If you're using a functional classification scheme, only those portions of the scheme that are applicable to a location should be distributed. There's no need for a country contact to review every record category related to every business function when his or her location may perform only a subset of the business functions identified by the retention schedule.

The classification scheme development is generally iterative, working from a strawman style model of the business through a process of drafting with business input; as you collaborate with the key contacts, you will find the need for continued refinement reduces over time to the point where the scheme is relatively stable.

Many of the business validation processes are made faster if you have undertaken a degree of research into the recordkeeping obligation (legal/regulatory) ahead of time; you may therefore consider the next step in parallel. Undertaking validation once the legal research is complete reduces the number of iterative reviews that may need to take place.

Once you've gathered information from each business location, you're ready to start building your global retention schedule.

STEP FOUR: CONDUCT LEGAL RESEARCH

Now that your retention schedule includes all of your business functions globally, you'll need to conduct legal research to ensure that retention requirements are identified for all geographies.

Identifying legal obligations across a maze of international jurisdictions is a significant undertaking. You can choose to handle this internally or seek support from a law firm, a records management consulting firm, or a research vendor. For a comprehensive discussion of the pros and cons of each approach, see the Fontis International white paper titled *6 Critical Questions to Ask When Identifying Enterprise Recordkeeping Requirements* (fontisinternational.com/key-considerations).

With a global retention schedule in hand, conduct legal research to ensure that records retention requirements are identified for all geographies.

Regardless of who conducts your legal research, keep in mind the scope of the initiative. It may not be necessary to research all retention regulations for a specific country if the business functions performed there are limited.

In addition, remember that you shouldn't limit research strictly to records retention regulations. Other areas that should be included in your research efforts are:

- Statute of limitation time periods
- Privacy regulations and how they relate to an organization's ability to transmit information across borders
- Media requirements that may govern whether records may be retained in a media other than paper
- Storage location requirements.

The compilation of the legal research will likely lead to modification of the classification scheme either because the law tells you to keep certain records that have been overlooked during the functional review or (more likely) because the law seems to aggregate record series differently.

Keep in mind that the research will need to be refreshed on a regular basis. Decide on a mechanism to house the research that allows for easy reference and update.

STEP FIVE: DETERMINE YOUR RETENTION RULE APPROACH

After legal research has been conducted, you should have specific retention requirements in hand for all the records defined in your schedule. The rules that you set for your organization should be a reflection of your interpretation of the law or regulation, your appetite to risk and your business need.

There are three primary approaches for assigning retention time periods.

1. **The “one size fits all” approach** results in one single retention schedule that applies to all of the organization’s records, regardless of where they are retained. To comply with the law, the longest retention time period would need to be selected for each record series on the schedule.

Your retention schedule can take a one-size-fits-all approach, a country-specific approach, or a combination of the two.

Although there’s simplicity in this approach, it results in the over-retention of many records. For example, there’s a retention requirement in the Ukraine of 75 years for certain personnel records. This is a significantly longer time period than those for similar records in other countries. Yet the one-size-fits-all approach would require all such records to be retained for 75 years, across all countries.

2. **The “country-specific” approach** results in a separate retention schedule for each country, with retention requirements defined on a country-by-country basis.

Although this approach addresses the potential over-retention issue identified above, the maintenance of multiple retention schedules may not be possible given limited records management and legal resources.

3. **The “exception” approach** is a combination of the above methodologies. In the exception approach, an organization starts with a one-size-fits-all retention schedule and assigns a retention period that covers all countries. However, if there are countries with excessively long retention requirements, rather than lengthen the retention to the longest time period, a country variance would be defined.

This approach ensures that unique country requirements are identified yet cuts down on the complexity of maintaining an individual retention schedule for each jurisdiction. It is also recommended practice, particularly when implementing a model like the “exception approach” to reflect this in your over arching global records management policy.

All three approaches have merit. The key is to choose the one that best fits your company’s unique requirements and balance of resources.

STEP SIX: PLAN YOUR IMPLEMENTATION

Like any policy, a retention schedule benefits your organization only if it's consistently implemented. Here are a few key factors to consider when implementing yours.

- 1. Training.** A training program should be developed to help individuals across the organization understand how to read and interpret the retention schedule and apply it to the records they manage. As part of this training, it's critical to mention the organization's legal hold process, which suspends the record disposition in the event of litigation, audit, or investigation.
- 2. Communication.** A communication strategy should be developed that includes general awareness messages as well as methods to address change management requirements. The concept of a records retention schedule may be foreign to some of your staff, so it's worthwhile to address any objections or cultural stumbling blocks before you try to implement it.
- 3. Effective date.** The effective date of the retention schedule may need to be adjusted for each country. Staggering effective dates can ensure that training has been provided across all locations and that all staff members understand their obligations to comply with the retention policy.
- 4. Availability.** Ensure that the Retention Schedule is available – this is imperative for systems managing records as well as all users across the organization.
- 5. Translation.** Although it can be costly, consider translating your retention schedule for higher-risk countries or those countries where misinterpretation is likely.
- 6. Variances.** Although country-specific variances will be identified on the retention schedule, there may be some instances where a specific business cannot comply with the retention schedule. This may be the case, for example, with some electronic information management systems that cannot easily separate and delete data with different retention requirements.
- 7. Change Management.** Ensure a long term change management strategy is in place; the retention schedule is a living entity. It should be managed and updated. This may include formalizing an exception/exemption process will identify areas unable to comply with the approved retention policy, define what their practice will be, and establish how they will try to align with the retention schedule in the future.

Taking time to plan your implementation carefully will ensure a smooth transition.

Taking time to plan your implementation before you dive into it will ensure a smooth rather than bumpy start.

CONCLUSION

In summary, globalizing your retention schedule may appear to be an overwhelming task — particularly in the face of conflicting laws and regulations stretching across multiple jurisdictions and business units.

However, by following a systematic approach as outlined in this whitepaper, an organization can take its records management system global. The reward is an effective retention schedule that is clearly documented, legally compliant, and ready to unroll worldwide.

NEXT STEPS

If you'd like to learn more about best practices for globalizing your records schedule, contact the author Laurie Fischer of Fischer Associates LLC at fischer@mc.net or (815) 353-5476, or Fontis at info@fontisinternational.com or (719) 694-2480.

If you'd like to arrange a trial of Fontis' unique subscription-based legal retention research product, visit fontisinternational.com.

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ABOUT FONTIS

Fontis International is focused on the unique challenges of international information governance in the global enterprise. Fontis was founded to fill the gap left by a large universe of law firms, records management consultants, and content management technology vendors that offer only point solutions based their specialty.

Our international legal research, retention schedule management software, and advisory services provide an end-to-end solution for developing and maintaining a legally defensible enterprise records management program. In addition, we have a particular focus in the financial services arena, where regulatory issues are complex and the stakes can be high.

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