FLORIDA OFFICE OF FINANCIAL REGULATION

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DREW J. BREAKSPEAR
COMMISSIONER

November 26, 2013

Ken Plante, Coordinator
Joint Administrative procedures Committee
680 Pepper Building
111 W. Madison Street
Tallahassee, Florida 32399-1400

Re: Final Report for compliance Economic Review, Group 2 Rules
Florida Statutes § 120.745

Dear Mr. Plante:

Please accept this letter as certification that the Office of Financial Regulation has completed its Final report for its Group 2 rules as required by Fla. Stat. § 120.745(5)(d). The report is published on the Office's website at:

http://www.flofr.com/2011_Rule_Review/

The Office identified a total of five rules requiring economic review as required under Fla. Stat. § 120.745(2)(g). Two of the rules were selected for Group 2 for reporting in 2013:

- 69U-120.730: Bank and Trust Company Assessments

- 69U-140.020: Semiannual Assessment

Enclosed please find the test and the Compliance Economic Reviews for these rules. The Office of Financial Regulation has not received any lower regulatory cost alternatives related to Compliance Economic Reviews of the Group 2 rules. As no alternatives have been received, the Office suggests to retain the rules without amendments.

Respectfully,

Drew J. Breakspear
Commissioner

Enclosure

200 E. GAINES ST. TALLAHASSEE, FL 32933-0375 OFFICE: (850) 410-9500 FAX: (850) 410-9748

Copy furnished to:
Office of Fiscal Accountability and Regulatory Reform
Executive Office of the Governor
1702 The Capitol
Tallahassee, Florida 32399

FINANCIAL SERVICES COMMISSION, OFFICE OF FINANCIAL REGULATION

Compliance Economic Review, Group 2 Rules

2011 Enhanced Biennial Review, Section 120.745, Florida Statutes

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RULE

Rule 69U-120.730, F.A.C. - Bank and Trust Company Assessments

TEXT OF RULE

69U-120.730 Bank and Trust Company Assessments.

(1) Each state bank and state trust company shall pay to OFR a semiannual fee of $1,000, plus a semiannual assessment computed on total assets as shown on the Consolidated Report of Condition of the bank or trust company as of the last business day in June and the last business day in December of each year. In the event that a Consolidated Report of Condition is amended, and such amendment results in a change in consolidated total assets, the semiannual assessment shall be computed on the adjusted total assets reported in the amended Consolidated Report of Condition only if such report is postmarked no later than July 31 or January 31 of the current assessment period. No adjustment will be made for amended reports postmarked after this date.

(2) In addition to the semiannual fee in subsection (1), commercial banks and trust companies shall pay to OFR a semiannual assessment which shall be computed on the following schedule:

Assets (in thousands)	Base	Plus	of Assets Over (in thousands)
0	0	0.1200	0
50,000	6,000	0.1050	50,000
100,000	11,250	0.0850	100,000
500,000	45,250	0.0800	500,000
750,000	65,250	0.0550	750,000
1,000,000	79,000	0.0500	1,000,000
1,500,000	104,000	0.0450	1,500,000
2,000,000	126.500	0.0400	2,000,000

(3) OFR shall levy a late payment penalty of $100.00 per day for each day that a semiannual assessment is past due, unless the late payment penalty is excused for good cause. For intentional late filing of a semiannual assessment, OFR shall levy a late payment penalty of $1,000.00 per day for each day that a semiannual assessment is past due.

Specific Authority 655.012(3), 658.73(1) FS. Law Implemented 655.047, 658.73(1)(b) FS. History–New 7-21-81, Amended 6-30-85, Formerly 3C-11.24, 3C-11.024, Amended 12-9-92, 8-9-93, 2-17-97, Formerly 3C-120.730.

STATEMENT OF JUSTIFICATION

Section 655.012(2), Florida Statutes, grants the Office of Financial Regulation ("Office") the authority to adopt rules to implement the provisions of the financial institutions codes. Section

658.73(1), Florida Statutes, mandates that each state bank and trust company pay to the Office a semiannual fee of $2,500 and a semiannual assessment, as determined by the Financial Services Commission ("Commission"), by rule, not to exceed $0.15 for each $1,000 of total assets as shown on the statement of condition of the bank or trust company as of the last day of June and the last day of December of each year. In making its determination, the Commission may consider examination and application fees received from banks and trusts companies in setting the semiannual assessment for the purposes of meeting the costs of regulation of banks and trust companies pursuant to this chapter. Section 658.73(5), Florida Statutes, provides that the amounts of all fees and assessments provided for in the section are deemed to be maximum amounts; and the commission has authority to establish, by rule, and from time to time to change, fees and assessments in amounts that are less than the maximum amounts stated in that section. Therefore, Rule 69U-120.730, Florida Administrative Code, as specifically authorized in Section 658.73, Florida Statutes, sets the semiannual fee and the semiannual assessment each state bank and trust company must pay to the Office.

The purpose of the rule is to establish equitable and precise assessment rates based upon total asset size, in order to provide the Office with the necessary revenue to meet the costs of regulating state banks and trust companies. Regulation of state banks and trust companies is necessary to achieve and further the purposes of the financial institutions codes set forth in Section 655.001(2), Florida Statutes, which include, but are not limited to, to provide for and promote: the safety and soundness of Florida's financial institutions; prudent conservation of assets of Florida financial institutions; maintenance of public confidence in Florida financial institutions; protection of the public in the safety and soundness, and the preservation, of the financial institution system in Florida; the opportunity for Florida financial institutions to be and remain competitive with each other and with financial institutions chartered by other states, the United States, or foreign countries, and; protection of the interests of depositors and creditors.

The public benefits from the rule because the assessments that banks and trust companies pay fund the Office's operations, instead of general tax revenue, and allow the Office to ensure that state banks and trust companies operate in a safe and sound manner. Safe and sound state banks and trust companies lead to increased public confidence in the financial institution system in Florida which leads to deposit and fiduciary account growth in state banks and trust companies. These increases help to fund extensions of credit to and investments in Florida businesses which in turn promotes economic growth and creates jobs in Florida.

STATEMENT OF REGULATORY COSTS

Section 120.541, Florida Statutes, provides the requirements that agencies must follow in preparing Statements of Estimated Regulatory Costs (SERC). Specifically, Subsections 120.541(2)(a) through (f), Florida Statutes, provide that certain information must be addressed in any SERC. The information requirements as they appear in the statute are cited below, modified for the five-year time period provided by Paragraphs 120.745(1)(b)2.a. and (1)(b)2.b., Florida Statutes, with the Office's response to each as related to Rule 69U-120.730, Florida Administrative Code, Bank and Trust Company Assessments.

(a) 1. Is the rule directly or indirectly likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of $1 million in the aggregate in the five-year period beginning on July 1, 2013?

No. While Rule 69U-120.730, Florida Administrative Code, requires that state banks and trust companies pay a semiannual fee and semiannual assessment to the Office and the amount of the combined fees and assessments paid by state banks and trust companies have exceeded and are projected to exceed $1 million over the five year period beginning July 1, 2013, the underlying purpose of the assessment is to meet the costs of regulation that provides for safe and sound state bank and trust company and preserves a health financial institution system in this State, which furthers economic growth, job creation, and capital investment in Florida businesses, including banks and trust companies.

2. Is the rule directly or indirectly likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of $1 million in the aggregate in the five-year period beginning on July 1, 2011?

No. The rule requires all state banks and trust companies to be assessed based upon the total asset size of the state bank or trust company. A state bank or trust company with a lower amount of total assets will pay a lower total amount of assessments than a state bank or trust company with a higher amount of total assets. Therefore, there is no direct or indirect impact on business competitiveness between one state bank or trust company and another.

Additionally, a bank must be chartered by a state or the Office of the Comptroller of the Currency (the bank chartering agency of the federal government, also known as the "OCC"). If a bank is not chartered by the State of Florida, it will be required to pay fees and assessments to, either the OCC or another state. In addition, the fees and assessments provided for by Rule 69U-120.730 are lower than the fees and assessments national banks pay to the OCC as illustrated by the following table:

Assets	OFR Annual Assessment	OCC Annual Assessment	Savings From Having A State Charter
$10 million	4,400	14,148	9,748
$50 million	14,000	29,135	15,135
$75 million	19,250	37,951	18,701
$150 million	33,000	58,229	25,229
$300 million	58,500	89,085	30,585
$600 million	108,500	147,270	38,770
$1.2 billion	180,000	256,588	76,588
$1.6 billion	219,000	320,063	101,063
$2.2 billion	271,000	411,750	140,750
$3.0 billion	335,000	524,596	189,596

3. Is the rule directly or indirectly likely to increase regulatory costs, including any transactional costs, in excess of $1 million in the aggregate in the five-year period beginning on July 1, 2011?

Yes. State banks and trust companies paid the Office approximately $9.5 million in semiannual fees and assessments in 2012 as provided for in Rule 69U-120.730. While total assessments paid by state banks and trust companies have decreased recently, assessments are almost certain to remain in excess of $1 million for the five-year period beginning on July 1, 2011. Using 2011 and 2012 annual fees and assessments paid by state banks and trust companies as a basis for a five year total, the collective fees and assessments paid for years 2011 through 2016 would be approximately $47.5 million.[1]

Additionally, the basis or rate for the assessment amount has remained unchanged for over 15 years and is, on average, 40 percent lower than the maximum amount of $0.15 / $1,000 in assets the Office is permitted to assess pursuant to Section 658.73, F.S. Lastly, as noted above, banks chartered by the OCC pay higher assessments than banks chartered by the Office.

(b) A good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals likely to be affected by the rule.

As of April 7, 2013, the Office regulates 144 state banks and 12 state trust companies that pay the semiannual fees and assessments provided for by Rule 69U-120.730. The only entities that are required and will be required to submit semi-annual fees and assessments are the state banks and trust companies chartered by the Office.

There is the possibility for the number of entities affected by this rule to increase if the Office approves any new charter applications or any applications involving conversions from a national or another state charter. There is also the possibility that the number of entities may decrease due to mergers, conversions from a Florida state charter to a national or another state charter, failures, or acquisitions by national banks and out of state banks. However, due to economic uncertainties, it is difficult to accurately predict or project these numbers, especially the volume of applications that may be received for new charters. For example, over the last ten years, the Office has received over 20 applications for new bank charters in certain years (2005, 2006) and zero applications for new charters in other years (2010, 2011, 2012).

(c) A good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state or local revenues.

The rule does not impose any additional costs on the agency. Further, the implementation and enforcement of the rule is solely the responsibility of the Office. Accordingly, no other state or local agencies will be impacted by the proposed rule. There are no anticipated effects on state or local revenue.

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[1] Please note that the assessments are based on an institution's total asset size and thus, are likely to increase during economic expansion and decrease during economic contraction.

(d) A good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule. As used in this section, "transactional costs" are direct costs that are readily ascertainable based upon standard business practices, and include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring and reporting, and any other costs necessary to comply with the rule.

The costs as well as transactional costs of this rule are contained in the text of the rule and, to a certain extent, in Section 658.73, Florida Statutes. The rule calls for the payment of fees and assessments by state banks and trust companies. The maximum rate of assessments to be paid by a bank or state trust company is $0.15 for every $1,000 in assets, and for 2012, banks and trust companies were assessed, on average, approximately $0.09 for every $1,000 in assets. In total, state banks and trust companies were assessed approximately 9.5 million dollars in 2011 and 2012, which is a fair approximation of the total fees and assessments to be paid for each year from 2013 through 2016.

The rule does not require a bank to install any additional equipment or incur any additional operating cost that it would not otherwise incur in the ordinary course of conducting its business.

(e) An analysis of the impact on small businesses as defined by s. 288.703, and an analysis of the impact on small counties and small cities as defined in s. 120.52. The impact analysis for small businesses must include the basis for the agency's decision not to implement alternatives that would reduce adverse impacts on small businesses.

Of the 156 institutions affected by this rule as of March 20, 2103, approximately seven trust companies and seven banks may fit the criteria of a small business as defined by Section 288.703, F.S. Please note that, pursuant to Section 658.21(2), Florida Statutes, the current minimum amount of capital (the equivalent to net worth as referenced in Section 288.703, Florida Statutes) for a commercial bank to open in Florida is no less than $8 million. Therefore, only in isolated circumstances will a commercial bank's capital be less than the $5 million designation of a small business pursuant to Section 288.703, Florida Statutes.

While the rule does not contain an explicit provision for financial institutions that may be deemed small businesses, the rule does contemplate the size of the institution. Specifically, smaller financial institutions, and ones that may be considered small businesses, will pay less in sum than institutions with large asset sizes. Thus, the rule will not have an adverse impact on financial institutions that may be small businesses when compared to ones that may not be small businesses. Lastly, this rule will not impact small counties or small cities.

(f) Any additional information that the agency determines may be useful.

The purpose of the rule is to establish equitable and precise assessment rates based upon total asset size, in order to provide the Office with the necessary revenue to meet the costs of regulating state banks and trust companies, which includes onsite examinations and offsite monitoring. The regulation of financial institutions plays in important role in economic stability and growth in Florida. By ensuring

that state financial institutions operate in a safe and sound manner, the Office promotes and helps maintain the public's confidence in those institutions and protects and preserves the financial institution system in Florida. A sound financial institution industry in the state of Florida promotes private capital investments, often in local small businesses that provide the fuel for further economic growth and job creation.

The Office and its examiners are more familiar with the unique circumstances and nuances of the markets that Florida banks and trust companies serve. The Office maintains regional offices in key areas across the State and the personnel are more accessible to answer questions and discuss issues with state banks and trust companies. Florida state-chartered banks and trust companies are regulated according to state laws and administrative rules, and these laws and rules are structured to meet the unique needs of the citizens of the state. In contrast, Federal laws must apply to institutions operating in various regions and many different circumstances. These factors along with the lower assessments provided for by Rule 69U-120.730 allow the Office to more effectively promote the opportunity for Florida financial institutions to be and remain competitive with each other and with financial institutions chartered by other states, the United States, or foreign countries.

(g) In the statement or revised statement, whichever applies, a description of any regulatory alternatives submitted under paragraph (1)(a) and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule.

No lower cost regulatory alternative to the proposed rule has been submitted to the Office.

RULE

Rule 69U-140.020, F.A.C. - Semiannual Assessment

TEXT OF RULE

69U-140.020 Semiannual Assessment.[2]

(1) Each state licensed international banking agency shall pay to OFR a semiannual assessment fee for the six-month period beginning thirty days before each payment date. Each assessment shall be postmarked on or before January 31 and July 31 of each year. The amount of the semiannual assessment to be paid by each agency is computed as follows:

If the agencies' total assets are:

Over Million	But Not Over Million	This Amount (Base Assessment)	Plus (Assessment Rate)	Of Excess Over Million
$0	$35	$0	0.000065	0
35	100	2,275	0.000052	35
100	500	5,655	0.000040	100
500	1,000	21,495	0.000028	500
1,000	2,500	35,335	0.000016	1,000

[2] Please note that this language is the proposed rule amendment approved by the Financial Services Commission on November 19, 2013, for submission of final adoption to the Department of State.

2,500	5,000	59,655	0.000004	2,500
5,000	7,500	69,655	0.000002	5,000
7,500	10,000	74,655	0.0000008	7,500
10,000	....	76,655	0.0000004	10,000

(2) Each semiannual assessment is based on the total assets (including amounts due the agency from other offices or branches of the international banking corporation of which the agency is a part of or from entities related to that international banking corporation) as shown in the agency's "Report of Assets and Liabilities of U.S. Agencies of Foreign Banks" most recently preceding the payment date. ~~The assessment shall be computed on Form OFR-U-7, Semiannual Assessment Return International Bank Agencies, revised 3/2003, provided by OFR. Form OFR-U-7 is incorporated by reference and can be obtained by contacting OFR.~~ Each agency subject to the jurisdiction of OFR on January 1 or June 30 of each year is subject to the full assessment for the next six-month period without proration for any reason.

(3) Regardless of the rates above, the semiannual assessment must equal at least $1,000.

(4) The agency officer who is responsible for the calculation of the semiannual assessment must sign, date, and indicate his/her title when submitting to OFR.

(5) OFR shall levy a late payment penalty of $100.00 per day for each day that a semiannual assessment is past due, unless the late payment penalty is excused per s. 655.047, F.S. (2013). For intentional late filing of a semiannual assessment, OFR shall levy a late payment penalty of $1,000.00 per day for each day that a semiannual assessment is past due.

Specific Authority 655.012(2)~~(3)~~, 663.12~~658.73(6)(b)~~, 663.13 FS. Law Implemented 663.12~~658.73(6)~~ FS. History–New 8-21-83, Amended 11-15-85, Formerly 3C-15.13, Amended 10-1-87, 5-17-90, Formerly 3C-15.013, 3C-140.020, Amended _____.

STATEMENT OF JUSTIFICATION

Section 663.12(2), Florida Statutes, provides that each international bank agency, international branch, and state-chartered investment company shall pay to the Office of Financial Regulation ("Office") a semiannual assessment in an amount determined by rule by the commission and calculated in a manner so as to recover the costs of the Office incurred in connection with the supervision of international banking activities licensed under Chapter 663. The rules must provide for uniform rates of assessment for all licenses of the same type, with declining rates of assessment in relation to the total assets of the licensee held in the state, and cannot provide for an assessment rate which exceeds the rate applicable to state banks pursuant to Section 658.73, unless the rate of assessment would result in a semiannual assessment of less than $1,000. In addition, Section 663.12(2), Florida Statutes, provides that each international representative office, international administrative office, or international trust company representative office shall pay to the office an annual assessment in the amount of $2,000. Therefore, Rule 69U-140.020, Florida Administrative Code, as specifically authorized in Section 663.12, Florida Statutes, sets the semiannual assessment each state licensed international banking agency must pay to the Office.

The purpose of the rule is to establish equitable and precise assessment rates based upon total asset size, in order to provide the Office with the necessary revenue to meet the costs of regulating international bank agencies. Regulation of international bank agencies is necessary in the interest of

protecting depositors, creditors, borrowers, or the public interest and in the interest of maintaining a sound banking system in this state as provided in Section 663.13, Florida Statutes, and to achieve and further the purposes of the financial institutions codes as set forth in Section 655.001(2), Florida Statutes.

The public benefits from the rule because the assessments that international bank agencies pay fund the Office's operations, instead of general tax revenue, and allow the Office to ensure that international bank agencies operate in a safe and sound manner. Safe and sound international bank agencies lead to increased public confidence in the financial institution system in Florida which leads to deposit and fiduciary account growth in international bank agencies. These increases help to attract international business and commerce for the State which in turn promotes economic growth and creates jobs for Florida businesses.

STATEMENT OF REGULATORY COSTS

Section 663.13, Florida Statutes, provides "[b]ecause of the difficulty in obtaining economic data with regard to such banks, no statement of estimated regulatory costs shall be required in connection with these rules." Therefore, Rule 69U-140.020, F.A.C., is exempt from the requirements of Section 120.541, Florida Statutes.