

**AGENDA
FINANCIAL SERVICES COMMISSION
OFFICE OF FINANCIAL REGULATION**

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August 21, 2012

MEMBERS

Governor Rick Scott
Attorney General Pam Bondi
Chief Financial Officer Jeff Atwater
Commissioner Adam Putnam

Contact: **John Kim (OFR)**
(850) 410-9781

9:00 A.M.
LL-03, The Capitol
Tallahassee, Florida

ITEM	SUBJECT	RECOMMENDATION
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1. The Office requests approval of the minutes of the June 26, 2012, meeting.

(ATTACHMENT 1)

FOR APPROVAL

2. The Office requests approval to file for adoption 17 rule amendments proposed as a result of the 2011 Enhanced Rule Review:

Financial Institutions

- Licensing and Chartering of Financial Institutions: 69U-105.206, F.A.C.
- State Credit Unions: 69U-110.005 and .031, F.A.C.
- Banks, Trust Companies, Savings Banks and Associations: 69U-120.004 and .009, F.A.C.
- International Banks: 69U-140.008 and .015, F.A.C.

Securities

- Exempt Transactions: 69W-500.004, .007, and .013, F.A.C.
- Registration of Dealers, Investment Advisers, Associated Persons: 69W-600.001, .004, and .008, F.A.C.
- Registration of Securities: 69W-700.019, F.A.C.
- Notification Registration of Securities: 69W-800.001, F.A.C.

Consumer Finance

- Florida Consumer Finance Act: 69V-160.025, F.A.C.
- Money Transmitters: 69V-560.802, F.A.C.

(ATTACHMENT 2)

APPROVAL FOR FINAL ADOPTION

3. The Office requests approval to publish Notices of Proposed Rule to Rule Chapters 69V-160 and 69V-560.

Rule 69V-160.034, relating to the Florida Consumer Finance Act: The proposed amendment removes reference to “credit history” for clarification, as the Office lacks statutory authority to pull credit histories of applicants under the Act.

Rule 69V-560.302, relating to money transmitters: The rule is proposed for repeal as it was identified as unnecessary as the result of the 2011 Enhanced Rule Review.

(ATTACHMENT 3)

APPROVAL FOR PUBLICATION

ATTACHMENT 1

T H E C A B I N E T
S T A T E O F F L O R I D A

Representing:

DIVISION OF EMERGENCY MANAGEMENT

ENTERPRISE FLORIDA

OFFICE OF FINANCIAL REGULATION

OFFICE OF INSURANCE REGULATION

CITIZENS PROPERTY INSURANCE

PAROLE COMMISSION

DEPARTMENT OF REVENUE

BOARD OF TRUSTEES, INTERNAL IMPROVEMENT TRUST FUND

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

DIVISION OF BOND FINANCE

The above agencies came to be heard before
THE FLORIDA CABINET, Honorable Governor Scott
presiding, in the Cabinet Meeting Room, LL-03,
The Capitol, Tallahassee, Florida, on Tuesday, June
26, 2012, commencing at 9:08 a.m.

Reported by:

CAROLYN L. RANKINE

Register Professional Reporter

Notary Public

ACCURATE STENOGRAPHY REPORTERS, INC.

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APPEARANCES:

Representing the Florida Cabinet:

RICK SCOTT
Governor

ADAM H. PUTNAM
Commissioner of Agriculture

PAM BONDI
Attorney General

JEFF ATWATER
Chief Financial Officer

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(Presented by GREG HILA)

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TENA M. PATE	APPROVED	100
CHAIRPERSON		
BERNARD R. COHEN, SR.	APPROVED	100
VICE-CHAIRPERSON		

APPOINTMENT - INTERIM EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE

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1 GOVERNOR SCOTT: All right. Now, I would
2 like to recognize Deputy Commissioner Greg Hila
3 with the Office of Financial Regulation. Good
4 morning, Greg.

5 DEPUTY COMMISSIONER HILA: Good morning,
6 Governor Scott, good morning General Bondi, CFO
7 Atwater, and also Commissioner Putnam. I'm
8 Greg Hila, Deputy Commissioner of the Office of
9 Financial Regulation, and we have five items
10 for your consideration this morning. The first
11 one is the Office request the approved -- the
12 approval of the minutes for the April 24th,
13 2012 meeting.

14 GOVERNOR SCOTT: Is there a motion to
15 approve the minutes?

16 CFO ATWATER: Move.

17 GOVERNOR SCOTT: Second?

18 ATTORNEY GENERAL BONDI: Second.

19 GOVERNOR SCOTT: Moved and seconded. The
20 item is approved without objection.

21 DEPUTY COMMISSIONER HILA: Our second item
22 deals with rule amendments in the Financial
23 Institutions Division of our Agency. The
24 Office requests the approval of publishing
25 notices of proposed rules in the FAW to amend

1 seven regulating -- excuse me -- to amend seven
2 rules regulating financial institutions as a
3 result of the 2011 enhanced rule review. These
4 amendments are to make the rules consistent
5 with the statutes.

6 GOVERNOR SCOTT: Okay. Why don't we do
7 all -- we got four of them, just do all of them
8 and then we'll just do the voting at the same
9 time.

10 DEPUTY COMMISSIONER HILA: Okay. The
11 first one is a licensing and chartering of
12 financial institutions; the second is state
13 credit unions, banks, trust companies, savings
14 banks and associations, and international
15 banks.

16 GOVERNOR SCOTT: Okay. All right. Why
17 don't you go ahead and -- all right.

18 DEPUTY COMMISSIONER HILA: Would you like
19 me to review each?

20 GOVERNOR SCOTT: Go through all of them
21 and then we'll vote.

22 ATTORNEY GENERAL BONDI: Sure.

23 DEPUTY COMMISSIONER HILA: Okay. The
24 third item is the securities rule amendments.
25 The Office requests the approval to publish

1 notices of proposed rules in the FAW to amend
2 eight rules regulating securities as a result
3 of the 2011 enhanced rule review. These
4 amendments remove redundancies, reflect
5 technological changes, and make the rules
6 consistent with the statutes.

7 And those -- the third is for the Division
8 of Finance, and these amendments align the
9 rules to the statutes for consistency.

10 GOVERNOR SCOTT: Okay. Are there any
11 questions so far?

12 CFO ATWATER: There are some other
13 things.

14 GOVERNOR SCOTT: Okay.

15 DEPUTY COMMISSIONER HILA: Lastly, we're
16 proposing a new rule -- is this okay?

17 ATTORNEY GENERAL BONDI: We're going to do
18 all four.

19 GOVERNOR SCOTT: I messed it up, the whole
20 process so...

21 ATTORNEY GENERAL BONDI: We're going to do
22 all four.

23 GOVERNOR SCOTT: Yeah, we're going to do
24 all four and then we'll vote.

25 DEPUTY COMMISSIONER HILA: If you have

1 questions, I'll be happy --

2 GOVERNOR SCOTT: We don't have --

3 DEPUTY COMMISSIONER HILA: -- to go
4 through each and every item.

5 GOVERNOR SCOTT: -- questions.

6 DEPUTY COMMISSIONER HILA: Okay. The
7 fifth is a rule that we're proposing --

8 ATTORNEY GENERAL BONDI: Four.

9 DEPUTY COMMISSIONER HILA: -- and the
10 Office requests approval to publish a notice of
11 intent to adopt federal standards for the
12 following proposed rule relating to financial
13 institutions. The Commission is required to
14 adopt rules for a minimum due diligence for
15 certain financial institutions chartered in
16 Florida. The Office proposes to adopt the U.S.
17 Treasury Department rules as standards,
18 specifically the standards apply to those
19 institutions that maintain certain accounts
20 with foreign financial institutions to detect
21 whether those institutions facilitate the
22 development of weapons of mass destruction by
23 Iran or provide support for foreign terrorist
24 organizations.

25 GOVERNOR SCOTT: Any questions?

1 ATTORNEY GENERAL BONDI: Governor, it's
2 just to clarify for the record I think you
3 meant item 4, correct, since we're voting on
4 all these all together?

5 DEPUTY COMMISSIONER HILA: Well, we went
6 through the -- we went through the -- the four
7 were actually the minutes, and then the three
8 divisions --

9 ATTORNEY GENERAL BONDI: Oh, the minutes.
10 Okay.

11 DEPUTY COMMISSIONER HILA: -- and then the
12 fifth was the new rule --

13 ATTORNEY GENERAL BONDI: Okay.

14 DEPUTY COMMISSIONER HILA: -- involving
15 the weapons of mass destruction with the
16 banking situation.

17 GOVERNOR SCOTT: Does anybody have any
18 questions?

19 ATTORNEY GENERAL BONDI: No, Governor.

20 DEPUTY COMMISSIONER HILA: Okay.

21 GOVERNOR SCOTT: Is there a motion to move
22 for all these?

23 CFO ATWATER: So moved.

24 GOVERNOR SCOTT: Is there a second?

25 ATTORNEY GENERAL BONDI: Second to move

1 items 1, 2, 3, 4, and 5.

2 GOVERNOR SCOTT: Moved and seconded, the
3 item -- moved and seconded, the item is --
4 items are approved without objection. Thank
5 you.

6 DEPUTY COMMISSIONER HILA: Thank you.
7 Today is a special day, not only did I have the
8 honor to meet before you esteemed folks, but
9 it's also the day that my wife Claire and I
10 celebrate our 30th wedding anniversary.

11 GOVERNOR SCOTT: Oh, great.

12 ATTORNEY GENERAL BONDI: Congratulations.
13 (Applause.)

14 GOVERNOR SCOTT: Thank you, Greg.

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ATTACHMENT 2

**FINANCIAL SERVICES COMMISSION
OFFICE OF FINANCIAL REGULATION**

AGENDA ITEM #2

A. Action Requested

The Office requests approval to file for final adoption with the Department of State 17 rule amendments as listed below, proposed as a result of the 2011 Enhanced Rule Review pursuant to Sections 120.74 and 120.745, Florida Statutes.

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Consumer Finance

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B. Procedural History

On December 1, 2011, the Office published its Biennial Rule Review Agency Report. It identified rules, including the 17 rules in this Agenda Item, for repeal/amendment to remove language redundant of statutes/other regulations; remove requirements that exceeded statutory authority; amend language to update rules to technological changes; amend rules to make them consistent with statutory requirements; remove unnecessary regulatory burdens; and clarify/simplify language.

On May 25, 2012, Notices of Development of Rulemaking were published in the Florida Administrative Weekly (FAW) for the 17 rules, to advise the public of development of changes to the rules and to provide that, if requested in writing, a rule development workshop would be held. No written requests for a workshop were received by the Office.

On June 26, 2012, the Financial Services Commission approved publishing Notices of Proposed Rule for the 17 rules in the FAW. On July 6, 2012, Notices of Proposed Rule for the 17 rules were published in the FAW. The Office received one written request for hearing from Michael Underwood, Esq, Fowler White Boggs, P.A., regarding Rule 69W-600.001; however, Mr. Underwood later withdrew the request and instead submitted a comment regarding the rule. The Office also received comments from the Joint Administrative Procedures Committee regarding a technical change to 69W-500.013. If this rule is approved for final adoption, the Office will incorporate the technical change at the time of filing with the Department of State

On August 17, 2012, a Notice of Meeting for the final public hearing was published in the FAW for the 17 rules. A final hearing for the rules is noticed for the Financial Services Commission meeting to be held on August 21, 2012, at the regularly scheduled Cabinet meeting in Tallahassee.

[69U-105.206](#): Regulatory Standards for Evaluating Applications

SUMMARY: The proposed rule amendment updates the rule to reflect changes in initial capital amounts in Section 658.21, Florida Statutes. Chapter 2008-75, Laws of Florida, increased minimum initial capital amounts to \$8 million for banks and \$3 million for trust companies.

THE FULL TEXT OF THE PROPOSED RULE IS:

69U-105.206 Regulatory Standards for Evaluating Applications.

(1) No change.

(2) Standards. In making its determination OFR shall consider the following statutory criteria:

(a) No change.

(b) Capital structure.

1. Capital should be adequate to enable the new state financial institution to provide necessary services for state financial institutions, including loans of sufficient size, to meet the needs of prospective customers.

2. Capital should be sufficient to purchase, build, or lease a suitable permanent facility complete with equipment.

3. The initial capital accounts, at opening, for a new bank or association shall not be less than \$8.0 million ~~\$2.0 million in non-metropolitan areas and \$4.0 million in metropolitan areas~~. OFR may determine that higher amounts are necessary based on local market conditions or the operating plans of the organizing group. A higher amount may not be required where the applicant is proposed as a subsidiary of a registered financial institution holding company upon a finding by OFR that the financial institution holding company and its affiliated financial institutions have demonstrated satisfactory performance records of meeting OFR requirements.

4. The initial capital accounts, at opening, for a new trust company shall not be less than \$3.0 ~~\$2.0~~ million.

5. The capital referred to above shall be allocated among capital stock, paid-in surplus, and undivided profits in the ratios set forth in subsection (3) of Section 658.21, F.S.

6. With respect to all classes and series of voting stock, the voting rights, right to receive payment of dividends, right to receive payment in the event of liquidation, and any other rights or benefits of ownership shall be proportional to the amount of capital contributed in exchange for such shares.

(c) through (d) No change.

(3) through (5) No change.

Rulemaking Specific Authority 655.012(2) 655.012(3), 658.26(2)(a) FS. Law Implemented 517.051(5), 517.301, 517.311, 655.001(2)(c), (d), 655.0322, 655.037, 655.0385, 655.0386, 655.057(6), 658.19, 658.20, 658.21, 658.25, 658.26, 658.33, 665.013, 667.003 FS. History–New 5-24-78, Amended 6-9-81, Formerly 3C-10.051, Amended 6-20-90, Formerly 3C-10.0051, Amended 8-14-94, 4-15-98, Formerly 3C-105.206, Amended_____.

[69U-110.005](#): Application and Filing Fee

[69U-110.031](#): Powers

SUMMARY: Rule 69U-110.005, F.A.C., is proposed for amendment to strike the requirement that application forms be filed in triplicate to reduce regulatory burdens. Rule 69U-110.031, F.A.C., is proposed for amendment to delete subparagraph (2)(a)2., to comport with changes to federal rules.

THE FULL TEXT OF THE PROPOSED RULE IS:

69U-110.005 Application and Filing Fee.

Application for authority to organize and operate a credit union shall be made to OFR per Rule 69U-105.001 and Chapter 69U-105, Part I, F.A.C., and as follows:

(1) The organizers of the proposed credit union shall complete and file Form OFR-U-60, Application for Authority to Organize and Operate a Credit Union (revised 10/2006), which is hereby incorporated by reference, ~~in triplicate~~ and proposed bylaws on Form OFR-U-61, Model Credit Union Bylaws (revised 10/2006), which is hereby incorporated by reference, ~~in triplicate~~. The original shall be submitted to OFR with a nonrefundable filing fee of \$250. A copy of such documents shall be submitted to the National Credit Union Administration and a copy shall be retained by the organizers.

(2) Each proposed director, member of the supervisory committee, member of the credit committee, and executive officer shall complete the biographical report section only of Form OFR-U-10, Interagency Biographical and Financial Report (revised 6/2006) and Form OFR-U-10-A, Addendum to Form OFR-U-10 (revised 6/2006), which are hereby incorporated by reference, ~~in triplicate~~. The original shall be submitted to OFR, a copy of such documents shall be submitted to the National Credit Union Administration, and a copy shall be retained by the organizers.

(3) through (4) No change.

Rulemaking Specific Authority 655.012(2) FS. Law Implemented 657.005 FS. History–New 10-21-75, Amended 3-21-77, 10-13-81, Formerly 3C-30.02, 3C-30.002, Amended 10-8-95, Formerly 3C-110.005, Amended 3-6-07,_____.

69U-110.031 Powers.

(1) No change.

(2) General Powers Activities. Credit unions are authorized to engage in those general powers activities to provide financial services and benefits to their members without prior approval of the OFR, unless such approval is otherwise specifically required by law or is necessary to achieve competitive equality per Section 655.061, F.S. The following general powers activities are so authorized for competitive equality:

(a) Credit unions exempted from significant events reporting per Section 655.948(4)(a), F.S., and meeting the net worth and Capital, Asset, Management, Earnings and Liquidity (CAMEL) rating eligibility criteria for the National Credit Union Administration’s Regulatory Flexibility Program, as specified in 12 C.F.R Part 742 (2006), which is hereby incorporated by reference, may:

1. Establish and maintain Federal public unit and nonmember accounts in accordance with National Credit Union Administration (NCUA) Rule 701.32 (codified at 12 C.F.R. § 701.32 (2006)), which is hereby incorporated by reference, and the exemption of NCUA Rule 742.4(a) (codified at 12 C.F.R. § 742.4(a)(2006)), which is incorporated by reference in paragraph (a), consistent with the limitations of Chapter 280, F.S.;

~~2. Invest in real estate and equipment for the credit union as provided in Section 657.042(5), F.S., that may exceed five percent of the capital of the credit union, without prior notice or approval of the OFR; and~~

~~2.3-~~ Invest in commercial mortgage related securities as may be permitted by NCUA Rule 703.16 (codified at 12 C.F.R. § 703.16 (2006)), which is hereby incorporated by reference, and the exemption, limitations and restrictions of NCUA Rule 742.4(b) (codified at 12 C.F.R. § 742.4(b) (2006)), which is incorporated by reference in paragraph (a).

(b) No change.

(3) No change.

Rulemaking Specific Authority 655.012(2) FS. Law Implemented 655.061, 657.031, 657.042 FS. History–New 3-6-07, Amended_____.

[69U-120.004](#): Loans Secured by Secondary Liens on Real Estate

[69U-120.009](#): Securities Purchasable by Banks; Investment Characteristics

SUMMARY: Rule 69U-120.004, F.A.C., is proposed for amendment to remove language nullified by the repeal of certain statutory language in Section 658.48, Florida Statutes, as a result of Chapter 2011-194, Laws of Fla. (2011). Rule 69U-120.009, F.A.C., is proposed for amendment to conform the rule to statutory revisions to Section 658.67, F.S., as a result of Chapter 2011-194, Laws of Fla. (2011).

THE FULL TEXT OF THE PROPOSED RULE IS:

69U-120.004 Loans Secured by Secondary Liens on Real Estate.

~~(1) As provided by subparagraph 658.48(5)(e)5., F.S., state banks may make loans based on the security of secondary real estate mortgages in an amount not to exceed 10 percent of capital accounts to any one borrower.~~

~~(2)~~ For computation of total loans to any one borrower, loans secured by secondary liens will be considered unsecured unless the following criteria are met:

~~(1)(a)~~ The position of the state bank's mortgage shall be documented. Acceptable forms of documentation shall include an attorney's title opinion, or title insurance, or a written memorandum of title search prepared by the bank's own employee or agent. A written notation made by the person preparing the documentation that prior mortgages contain no future advance provisions is required. If prior liens do contain future advance provisions, an estoppel letter from prior mortgagees must be obtained.

~~(2)(b)~~ Appropriate records shall be maintained to fully establish the bank's equity in their mortgage at the time the loan is made.

~~(3)(c)~~ Any loan with a maturity in excess of 5 years from origination will be subject to principal reduction through a regular schedule of payments. At least one such payment is required annually.

~~(4)(d)~~ Any loan due on demand shall not be carried on the books of a state bank in excess of 5 years, however, it may be converted to an amortized loan with a stated maturity and thereby permissibly extended beyond 5 years.

Rulemaking Specific Authority ~~655.012(2) 655.012(3), 655.06~~ FS. Law Implemented 658.48 FS. (See also 12 U. S. C. 371) History—New 6-13-77, Amended 4-23-78, 6-30-81, Formerly 3C-11.17, 3C-11.017, 3C-120.004, Amended _____.

69U-120.009 Securities Purchasable by Banks; Investment Characteristics.

(1) Securities of political subdivisions of the states are not eligible for investment unless current as to all payments of principal and interest and otherwise supported as to investment quality and marketability by a credit rating file compiled and maintained in current status by the purchasing bank or trust company rated at least Baa or BAA by established investment services (such as Standard and Poor's Corporation, Moody's Investors Service, and The Fitch Publishing Company, Inc.) are eligible bank investments. It is understood that the compiled and current credit rating file will indicate such ratings indicate the presence of protection for both principal and interest through satisfactory basic credit factors as follows:

(a) For general obligations – assessed valuations; tax rates; tax collections; receipts and disbursements; long-term debt record; direct debt-overlapping debt; budget controls; operating results; economic status of political subdivision including population trend; and, political subdivision management record.

(b) For revenue obligations – assessed valuations; tax rates; tax collections; specific pledged revenues, with projections if available; operating expenses chargeable to revenues; net revenues available for debt service; nature of revenue lien; restrictions against excessive additional revenue bonds; necessity of project; competitive facilities; legal authority for the revenue issue; economic status of political subdivision; and population, including growth trend.

~~(2) Absence of a rating shall not of itself render a security ineligible. Non-rated general obligations and revenue issues of quality but limited in size which possess the factors present in rated issues to a satisfactory and equivalent degree shall be regarded as eligible.~~

~~(2)(3)~~ Corporate obligations listed upon a recognized exchange, and new corporate issues for which listing applications are pending, which are current as to all payments of principal and interest and otherwise supported as to investment quality and marketability by a credit file compiled and maintained in current status by the purchasing bank or trust company rated at least Baa or BAA by established statistical services shall be considered eligible bank investments, except as follows:

(a) Equipment trust issues shall not be subject to the listing requirement.

(b) Securities convertible into stock at the option of the holder or with stock purchase warrants attached shall be prohibited if the price paid is in excess of the comparative investment value considered independently of the conversion or purchase warrant features.

(c) Securities convertible into stock at the option of the issuer are predominantly speculative and shall be ineligible.

~~(3)(4)~~ Marketability, which is considered as present in listed corporate issues and in new corporate issues for which listing applications are pending, shall be accepted as present in securities of political subdivisions if they shall be salable under ordinary circumstances with reasonable promptness at a fair value.

Rulemaking Specific Authority 655.012(2) 655.012(3) FS. Law Implemented 658.67 FS. History—New 7-18-74, Amended 6-30-81, Formerly 3-1.04, 3C-11.04, 3C-11.004, 3C-120.009, Amended_____.

[69U-140.008](#): Permissible Activities for an Agency

[69U-140.015](#): Capital Equivalency or Asset Maintenance

SUMMARY: Rule 69U-140.008, F.A.C., is proposed for amendment to clarify and make the rule consistent with the actual activities that an international agency may engage in Rule 69U-140.015, F.A.C., is proposed for amendment to conform the rule to statutory revisions in Section 658.67, F.S. enacted by Chapter 2011-194, Laws of Fla. (2011).

THE FULL TEXT OF THE PROPOSED RULE IS:

69U-140.008 Permissible Activities for an Agency.

(1) ~~An international banking corporation is authorized to transact only such limited business in Florida as is clearly related to and usual in international or foreign business and financing international commerce.~~ Generally, permissible activities shall include those activities permissible for corporations engaged in international banking or financial operations under the Edge Act, 12 U.S.C. sections 611-631, except such of those activities that are contrary to or inconsistent with any of the provisions of Chapter 663, F.S., or these rules.

(2) through (4) No change.

(5) Lending. ~~An No international banking corporation shall make loans from its agency office in Florida unless such loans are clearly related to and usual in international or foreign business and financing international commerce.~~ Thus, an agency may provide financing and banking services to foreign businesses and foreign individuals in their foreign operations, and also in their operations in the United States or elsewhere, where such operations are in the stream of international business and commerce. An agency may also provide financing and banking services to United States businesses and customers in their foreign operations and in their operations in Florida and elsewhere that are clearly related to international commerce, such as operations directly connected with the production, storage, transportation and sale of goods for export or import if the importation or exportation of the goods is financed by the banking agency. ~~Real estate loans, automobile loans, retail installment contract financing, loans for the purchase of securities and other essentially domestic loans will not fall within the category of permissible activities.~~

(6) Deposits.

(a) An international bank agency licensed by this state may accept, pursuant to Section 663.061 ~~663.06~~, F.S., only the following deposits:

1. through 4. No change.

(b) No change.

(7) No change.

Rulemaking Specific Authority 655.012(2) 655.012(3), 663.061(3), 663.13 FS. Law Implemented 663.061 FS. History—New 5-4-78, Amended 2-24-80, 7-21-81, 12-2-85, Formerly 3C-15.03, Amended 5-27-87, 5-18-88, Formerly 3C-15.003, Amended 11-5-97, Formerly 3C-140.008, Amended _____.

69U-140.015 Capital Equivalency or Asset Maintenance.

(1) through (5) No change.

(6) Notwithstanding the limitations of Section 658.67, F.S., an international bank agency or international branch is authorized to use securities issued by foreign governments, or foreign government sponsored entities, for the purpose of satisfying the capital equivalency or asset maintenance requirements of Section 663.07, F.S., provided that:

(a) The bonds or other obligations used for this purpose are current as to all payments of principal and interest and otherwise supported as to investment quality and marketability by a credit rating file compiled and maintained in current status ~~are rated in one of the four highest classifications;~~

(b) through (c) No change.

(7) through (11) No change.

Rulemaking Specific Authority 655.012(2) 655.012(3), 663.13 FS. Law Implemented 663.07(1), (3), (5), (7), (9), 663.12(4) FS. History— New 3-10-82, Amended 11-21-85, Formerly 3C-15.10, Amended 10-5-89, Formerly 3C-15.010, Amended 8-24-93, Formerly 3C-140.007, 3C-140.015, Amended _____.

[69W-500.004](#): Computation of Number of Purchasers for Purposes of Section 517.061(11), F.S

[69W-500.007](#): General Solicitation or General Advertising in Connection with an Offering Exempted Under Section 517.061(11), F.S

[69W-500.013](#): Exemption/Mobile Home Parks/Limited Purpose Stock Offering

SUMMARY: Rule 69W-500.004, F.A.C., is proposed for amendment to strike paragraphs (1)(a), (b) and (c), which are redundant of Section 517.061(11), F.S. Rule 69W-500.007, F.A.C., is recommended for amendment to update definitions for general solicitation or general advertising to include electronic media

other than television or radio. Rule 69W-500.013, F.A.C., is recommended for amendment to strike subsection (5) as this provision conflicts with Section 517.061, F.S.

THE FULL TEXT OF THE PROPOSED RULE IS:

69W-500.004 Computation of Number of Purchasers for Purposes of Section 517.061(11), F.S.

(1) The following purchasers shall be excluded in computing the number of purchasers for purposes of Section 517.061(11), F.S.:

~~(a) Any relative or spouse of a purchaser and any relative of such spouse, who shares the same principal residence as such purchaser;~~

~~(b) Any trust or estate in which a purchaser or any of the persons related to him as specified in paragraph (1)(a) or (c) of this rule collectively owns more than 50% of the beneficial interest in such trust or estate (excluding contingent interests); and~~

~~(c) Any corporation or other organization of which a purchaser or any of the persons related to him as specified in paragraphs (1)(a) and (b) of this rule, collectively, are the beneficial owners of more than 50% of the equity securities (excluding directors' qualifying shares) or equity interest;~~

~~(a)(d)~~ The issuer, including any promoter of that issuer;

~~(b)(e)~~ Any General Partner of a Limited Partnership, regardless of the types of interest in the Limited Partnership purchased or held by the General Partner;

~~(c)(f)~~ Any purchaser with whom the transaction was consummated outside the State of Florida.

(2) No change.

Rulemaking Specific Authority 517.03 FS. Law Implemented 517.061(11) FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-500.04, Amended 7-31-91, Formerly 3E-500.004, Amended 5-15-07,_____.

69W-500.007 General Solicitation or General Advertising in Connection with an Offering Exempted Under Section 517.061(11), F.S.

(1) No change.

(2) For purposes of Section 517.061(11)(a)2., F.S., general solicitation or general advertising, shall be deemed to include, but not be limited to, the following:

(a) Any advertisement, article, notice or other communication published in any newspaper, magazine or similar medium, or broadcast over the television or radio, or transmitted through electronic media; or

(b) Any seminar, meeting, letter, circular, notice or other written communication.

(3) No change.

Rulemaking Specific Authority 517.03 FS. Law Implemented 517.061(11) FS. History–New 12-5-79, Amended 9-20-82, Formerly 3E-500.07, Amended 7-31-91, Formerly 3E-500.007, Amended _____.

69W-500.013 Exemption/Mobile Home Parks/Limited Purpose Stock Offering.

Transactions which involve the offer or sale of stock, bonds, or other instruments deemed to be securities as defined in Section 517.021(21), F.S., offered or sold by or on behalf of a non-profit corporation consisting solely of property owners of a singular mobile home park, where the securities evidence shares of the corporation, are hereby exempted from the registration requirements of Section 517.07, F.S., provided that such securities meet and comply with all of the following criteria:

(1) through (4) No change.

~~(5) That the Office of Financial Regulation is provided with reasonable notice of the issuance of said securities prior to or contemporaneous with their offer and sale.~~

Rulemaking Authority 517.03 FS. Law Implemented 517.061(18) FS. History–New 1-8-86, Amended 7-31-91, Formerly 3E-500.013, Amended 9-30-10, _____.

[69W-600.001](#): Application for Registration as a Dealer, Issuer/Dealer, or Investment Adviser

[69W-600.004](#): Registration of Issuer/Dealers, Principals and Branch Offices

[69W-600.008](#): Termination of Registration as Dealer, Investment Adviser, Branch Office, Principal or Agent

SUMMARY: Rule 69W-600.001, F.A.C., is recommended for amendment to strike subparagraph (1)(b)6., which requires proof of clearing agreements when requested by the Office, and to add a requirement for control persons and/or owners to provide fingerprint cards in support of the application, pursuant to Section 517.12(7), F.S. Rule 69W-600.004, F.A.C., is recommended for amendment to strike subparagraph (3)(b)4., relating to evidence of current registration with the Secretary of State, as there is no specific statutory authority for this requirement. Rule 69W-600.008, F.A.C., is recommended to be amended to change the number of days for notice in subsection (1) from 20 to 30 for consistency with other amendment provisions, and to correct a cross-reference typographical error in subparagraph (1) from 59W to 69W.

THE FULL TEXT OF THE PROPOSED RULE IS:

69W-600.001 Application for Registration as a Dealer, Issuer/Dealer, or Investment Adviser.

(1)(a) No change.

(b) A complete application must include the following exhibits or forms that are appropriate for the type of registration requested:

1. through 5. No change.

6. Any direct or indirect owner or control person required to be reported on Form BD, Uniform Application for Broker-Dealer Registration, or Form ADV, Uniform Application for Investment Adviser Registration, pursuant to Section 517.12(7), F.S., who is not currently registered in Florida with the firm they are seeking to join or act as a direct or indirect owner or control person shall submit to the Office fingerprint cards in accordance with subsection 69W-600.006(3), F.A.C. ~~A fully disclosed dealer shall furnish proof of clearing agreements when requested by the Office of Financial Regulation;~~

7. through 9. No change.

(2) through (3) No change.

Rulemaking Authority 517.03(1), 517.12(6) FS. Law Implemented 517.12(6), (7), 517.1205 FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.01, Amended 7-29-90, 8-1-91, 6-16-92, 1-11-93, 11-14-93, 4-30-96, 6-22-98, 5-10-00, 9-19-00, 7-31-02, Formerly 3E-600.001, Amended 3-16-06, 5-15-07, 11-22-10, _____.

69W-600.004 Registration of Issuer/Dealers, Principals and Branch Offices.

(1) through (2) No change.

(3)(a) No change.

(b) A complete application must include the following exhibits or forms that are appropriate for the type of registration requested:

1. Form BR, which is incorporated by reference under subsection 69W-301.002(7), F.A.C.

2. Statutory fee in the amount required by Section 517.12(10), F.S.

3. Manager and resident agent as appropriate in this rule must be registered as set forth in Rule 69W-600.002, F.A.C.

~~4. Evidence of current registration or exemption from the registration requirements of the Florida Secretary of State.~~

(c) through (d) No change.

Rulemaking Authority 517.03(1), 517.12(6) FS. Law Implemented 517.12(5), (6), (10) FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.04, Amended 10-14-90, 6-16-92, 1-11-93, 11-7-93, 11-14-93, 12-29-96, 10-20-97, 6-10-99, 8-19-99, 5-27-01, 7-31-02, Formerly 3E-600.004, Amended 3-16-06, 5-15-07, 11-22-10, _____.

69W-600.008 Termination of Registration as Dealer, Investment Adviser, Branch Office, Principal or Agent.

(1) Where a registrant withdraws, cancels, or otherwise terminates registration, or is terminated for any reason, notice of such fact shall be filed with the Office of Financial Regulation on the forms prescribed by the Financial Services Commission, in accordance with subsection ~~69W-301.002(7)~~ ~~59W-301.002(7)~~, F.A.C., within thirty (30) ~~twenty (20)~~ calendar days of the date of termination. Such forms shall be filed electronically in accordance with Rules 69W-301.002, 69W-600.0091, 69W-600.0092 and 69W-600.0093, F.A.C.

(2) through (6) No change.

Rulemaking Authority 517.03(1) FS. Law Implemented 517.12(12)(b), 517.161(5) FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.08, Amended 7-29-90, 8-1-91, 6-16-92, 1-11-93, 6-22-98, 6-10-99, 5-10-00, 5-27-01, Formerly 3E-600.008, Amended 3-16-06, 11-22-10,_____.

69W-700.019: Submission of Sales Reports

SUMMARY: Rule 69W-700.019, F.A.C., is recommended for amendment to change the requirement of mandatory submission of sales reports to only require submission of sales reports upon request by the Office, to reduce regulatory burdens. Also, an amendment is proposed to clarify the requirement of notice of consummated sales/discontinued offerings in subsection (3) by replacing language containing “should” to “shall.”

THE FULL TEXT OF THE PROPOSED RULE IS:

69W-700.019 Submission of Sales Reports.

(1) Sales reports shall be submitted upon request to the Office of Financial Regulation for securities registered pursuant to Section 517.081, F.S. ~~The Office of Financial Regulation will require sales reports to be submitted for securities registered pursuant to Section 517.081, F.S., as follows:~~

~~(1) In the case of a firm commitment by an underwriter, within one hundred and twenty (120) days after distribution of securities.~~

~~(2) In a “best efforts” underwriting, every thirty (30) days until the offering is completed.~~

(2)(3) When all sales have been consummated or it is the desire to discontinue an offering, notice shall be given to the Office of Financial Regulation ~~should be notified~~ so that it may close its files on this registration.

Rulemaking Specific Authority 517.03(1) FS. Law Implemented 517.081(3) FS. History—(Formerly 3E-20.18) New 9-20-82, Formerly 3E-700.19, Amended 12-8-87, 7-31-91, Formerly 3E-700.019, Amended _____.

[69W-800.001](#): Filing - Notification Registration Including Shelf Filings

SUMMARY: Rule 69W-800.001, F.A.C., is recommended for amendment to change the word “telegraphic” in subsection (4) to “electronic” to reflect other forms of electronic delivery.

THE FULL TEXT OF THE PROPOSED RULE IS:

69W-800.001 Filing – Notification Registration Including Shelf Filings.

(1) through (3) No change.

(4) Electronic ~~Telegraphic~~ notification of effective registration with the SEC shall be filed within ten (10) business days from the date federal registration is granted if such registration was pending with the SEC at the time the notification application was filed.

(5) through (6) No change.

Rulemaking Authority 517.03(1) FS. Law Implemented 517.082 FS. History—New 10-15-86, Amended 12-8-87, 7-31-91, 10-1-96, 10-20-97, Formerly 3E-800.001, Amended 11-22-10, _____.

[69V-160.025](#): Property Insurance on Loans

SUMMARY: Rule 69V-160.025, F.A.C., is recommended for amendment to strike subsection (11). The Office lacks statutory authority to require licensees under the act to display the rules governing insurance on household goods and appliances.

THE FULL TEXT OF THE PROPOSED RULE IS:

69V-160.025 Property Insurance on Loans.

(1) through (10) No change.

~~(11) Rules to be displayed. The licensee shall display in a conspicuous place in the office of the lending institution the rules contained herein governing insurance on household goods and appliances.~~

~~Upon request of the borrower, the licensee shall explain clearly to the borrower his rights and limitations as set forth in said rules.~~

(12) No change.

Rulemaking Specific Authority 20.05(5), 516.22(1) FS. Law Implemented ~~516.20(1)~~, 516.031(3) FS. History–New 9-1-75, Amended 8-16-83, Formerly 3D-160.25, 3D-160.025, Amended_____.

69V-560.802: Minimum Disclosure

SUMMARY: Rule 69V-560.802, F.A.C., is to be amended to remove deferred presentment providers from the requirement to post a schedule of fees, as there is no specific statutory authority as applied to deferred presentment providers.

THE FULL TEXT OF THE PROPOSED RULE IS:

69V-560.802 Minimum Disclosure.

(1) Every check casher ~~and deferred presentment provider~~ must continuously post in a conspicuous place a clearly legible schedule of fees charged in every location and mobile unit.

(2) The term “conspicuous place” is defined herein as a place which is reasonably calculated to impart the information to the public.

Rulemaking Specific Authority 560.105, 560.404(23) FS. Law Implemented 560.309 FS. History–New 9-24-97, Amended 12-30-98, 12-17-01, Formerly 3C-560.802, Amended_____.

ATTACHMENT 3

**FINANCIAL SERVICES COMMISSION
OFFICE OF FINANCIAL REGULATION**

AGENDA ITEM #3

Action Requested

The Office is requesting approval to file Notices of Proposed Rules to repeal one rule (69V-560.302) and amend one rule (69V-160.034).

69V-560.302 was identified for repeal as being unnecessary as a result of the 2011 Enhanced Rule Review under Sections 120.74 and 120.745, Florida Statutes. 69V-160.034 is proposed for amendment to remove reference to “credit history” as clarification, as the Office lacks statutory authority to pull credit histories of applicants under the Florida Consumer Finance Act.

All references to Florida Statutes in this item are to the 2012 edition unless otherwise stated.

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<u>Florida Consumer Finance Act: 69V-160.034</u>	32

Proposed Rule Repeal

Rule 69V-560.302

Chapter Name: Money Transmitters

Title: Renewal Fees, Deadlines, and Requirements

A. Summary and Justification

The rule was identified as unnecessary as a result of the 2011 Enhanced Rule Review under Sections 120.74 and 120.745, Florida Statutes (2011), and is proposed for repeal. Subparagraph (1) is redundant of the statute and subparagraph (2) is made obsolete by the Office's electronic REAL system. All renewals are filed electronically and the REAL system is available 24 hours a day, 7 days a week.

B. Proposed Text of Rule

69V-560.302 Renewal Fees, Deadlines, and Requirements.

~~(1) Chapter 560, F.S., licenses must be renewed in accordance with the provisions of Section 560.142, F.S.~~

~~(2) If any date established in accordance with Section 560.142, F.S., falls on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., the required renewal fees and any applicable late fees must be received by the Office by the close of business on the next business day.~~

Rulemaking Specific Authority 560.105 FS. Law Implemented 560.142, 560.403 FS. History—New 9-24-97, Amended 12-30-98, 11-4-01, Formerly 3C-560.302, Amended 7-15-07, 1-13-09, Repealed _____.

C. Relevant Statutes Cited in Rule

560.105 Supervisory powers; rulemaking.—

- (1) The office shall:
 - (a) Supervise all money services businesses and their authorized vendors.
 - (b) Have access to the books and records of persons the office supervises as necessary to carry out the duties and functions of the office under this chapter.

(c) Issue orders and declaratory statements, disseminate information, and otherwise administer and enforce this chapter and all related rules in order to effectuate the purposes, policies, and provisions of this chapter.

(2) The commission may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this chapter.

(a) The commission may adopt rules requiring electronic submission of any forms, documents, or fees required by this chapter, which must reasonably accommodate technological or financial hardship and provide procedures for obtaining an exemption due to a technological or financial hardship.

(b) Rules adopted to regulate money services businesses, including deferred presentment providers, must be responsive to changes in economic conditions, technology, and industry practices.

560.142 License renewal.—

(1) A license may be renewed for a subsequent 2-year period by furnishing such application as required by rule, together with the payment of a nonrefundable renewal fee as provided under s. 560.143, on or before the license expiration date, or for the remainder of any such period without proration following the date of license expiration.

(2) In addition to the renewal fee, each part II licensee must pay a 2-year nonrefundable renewal fee as provided in s. 560.143 for each authorized vendor or location operating within this state.

(3) A licensee who has on file with the office a declaration of intent to engage in deferred presentment transactions may renew a declaration upon license renewal by submitting a nonrefundable deferred presentment provider renewal fee as provided in s. 560.143.

(4) If a license or declaration of intent to engage in deferred presentment transactions expires, the license or declaration of intent may be reinstated only if a renewal application or declaration of intent, all required renewal fees, and any applicable late fees are received by the office within 60 days after expiration. If not submitted within 60 days, the license or declaration of intent expires and a new license application or declaration of intent must be filed with the office pursuant to this chapter.

(5) The commission may adopt rules to administer this section.

560.403 Declaration of intent. — Except for financial institutions as defined in s. 655.005, a person may not engage in a deferred presentment transaction unless the person is licensed as a money services business under part II or part III of this chapter and has on file with the office a declaration of intent to engage in deferred presentment transactions, regardless of whether such person is exempted from licensure under any other provision of this chapter. The declaration of intent must be under oath and on

such form as prescribed by rule. The declaration of intent must be filed with a nonrefundable filing fee as provided in s. 560.143. A declaration of intent expires after 24 months and must be renewed.

Proposed Rule Amendment

Rule 69V-160.034

Chapter Name: Florida Consumer Finance Act

Title: Failure to Demonstrate Financial Responsibility Defined

A. Summary and Justification

The rule is proposed for amendment to remove reference to “credit history” as clarification, as the Office lacks statutory authority to pull credit histories of applicants under the Florida Consumer Finance Act.

B. Proposed Text of Rule

69V-160.034 Failure to Demonstrate Financial Responsibility Defined.

As used in Section 516.07(1)(c), F.S., failure to demonstrate “financial responsibility” means having a ~~credit~~ history that reflects any of the following: unpaid liens, judgments, repossessions, foreclosures or an otherwise general history of non-payment of legal debts, or having filed a petition for bankruptcy under the federal Bankruptcy Code.

Rulemaking Authority 516.22(1), 516.23(3) FS. Law Implemented 516.07(1) FS. History—New 10-1-95, Formerly 3D-160.034, Amended _____.

C. Relevant Statutes Cited in Rule

516.22 Rules; certified copies.—

(1) RULES.—The commission may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of law conferring duties upon it.

516.23 Subpoenas; enforcement actions; rules.—

(3) The commission may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter.

516.07 Grounds for denial of license or for disciplinary action.—

(1) The following acts are violations of this chapter and constitute grounds for denial of an application for a license to make consumer finance loans and grounds for any of the disciplinary actions specified in subsection (2):

(a) A material misstatement of fact in an application for a license.

(b) Failure to maintain liquid assets of at least \$25,000 at all times for the operation of business at a licensed location or proposed location.

(c) Failure to demonstrate financial responsibility, experience, character, or general fitness, such as to command the confidence of the public and to warrant the belief that the business operated at the licensed or proposed location is lawful, honest, fair, efficient, and within the purposes of this chapter.

[remainder omitted]