

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

http://www.flofr.com/Cabinet/Public_Notices.aspx

April 24, 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 March 20, 2012, meeting.

(ATTACHMENT 1)

FOR APPROVAL

2. The Office requests approval to file for adoption amendments to Rule Chapters 69T-1, 69W-600 and 69W-301.

Rule 69T-1.001, relating to the Office's organizational structure: The proposed amendments reflect changes to the Office's organizational structure to promote efficiency and accountability, including renaming organizational units to more accurately reflect their function and focus and consolidating two units in the finance area to streamline operations.

Rules 69W-600.002, .006, and Rule 69V-560.1012, relating to federal fingerprint processing fees: The proposed amendments implement reduced federal criminal history check fees by the U.S. Department of Justice, from \$19.25 to \$16.50. Rules 69W-600.002 and .006, F.A.C., (relating to securities regulation), and Rule 69V-560.1012, F.A.C., (relating money services business regulation), are updated to reflect the reduction.

Rule 69W-301.002, adopting the latest SEC uniform securities forms as federal standards. The proposed amendments adopt the latest version of uniform forms (Forms ADV and BD) that have been approved by the Securities and Exchange Commission (SEC) to register investment advisers (Form ADV) and broker-dealers (Form BD) with both the SEC and state regulators.

(ATTACHMENT 2)

APPROVAL FOR FINAL ADOPTION

3. The Office requests approval to publish Notices of Proposed Rules in the Florida Administrative Weekly for the following rules:

Rule Repeal: The proposed amendments repeal 19 rules identified as unnecessary as the result of the 2011 Enhanced Rule Review under Sections 120.74 and 120.745, F.S.

- Indexing Agency Orders: Rule 69T-8.002, Florida Administrative Code (F.A.C.)
- Savings Associations: Rule 69U-150.730, F.A.C.
- Mortgage Brokerage: Rules 69V-40.177 and 69V-40.265 (conforming change), F.A.C.
- Collection Agencies: Rules 69V-180.050 and .060, F.A.C.
- Money Transmitters: Rule 69V-560.901, F.A.C.
- Certified Capital Companies: Rules 69W-7.001, .002, .003, .004, .005, .006, .007, and .008, F.A.C.
- Procedural Rules for Processing Securities Registration Applications: Rules 69W-301.001 and .003, F.A.C.
- Registration of Securities: Rules 69W-700.018, .024, and .028, F.A.C.

(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:

BOARD OF TRUSTEES, INTERNAL IMPROVEMENT TRUST FUND
DEPARTMENT OF REVENUE
OFFICE OF FINANCIAL REGULATION
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,
March 20, 2012, commencing at 10:03 a.m.

Reported by:
CAROLYN L. RANKINE
Registered Professional Reporter
Notary Public

ACCURATE STENOGRAPHY REPORTERS, INC.
2894 REMINGTON GREEN LANE
TALLAHASSEE, FLORIDA 32308
850.878.2221

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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AFFAIRS' EXECUTIVE
DIRECTOR: MIKE PRENDERGAST

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BOARD OF TRUSTEES OF THE INTERNAL
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(Presented by Herschel T. Vinyard, Jr.)

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DEPARTMENT OF REVENUE
(Presented by LISA VICKERS)

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APPOINTMENT OF INTERIM COMMISSIONER OF
OFFICE OF FINANCIAL REGULATION

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OFFICE OF FINANCIAL REGULATION
(Presented by LINDA CHARITY)

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1 GOVERNOR SCOTT: All right. Next on our
2 agenda is the appointment of an interim
3 commissioner for the Office of Financial
4 Regulation. Linda Charity has over 32 years
5 experience at the Office of Financial
6 Regulation and currently is the Division
7 Director for Financial Institutions.

8 Linda has served as the interim
9 commissioner previously and she is well suited
10 to head the organization while we consider
11 candidates for a permanent appointment. Is
12 there a motion to appoint Linda as interim
13 commissioner of the Office of Financial
14 Regulation?

15 ATTORNEY GENERAL BONDI: So moved.

16 GOVERNOR SCOTT: Is there a second?

17 CFO ATWATER: Second.

18 GOVERNOR SCOTT: All in favor, say aye.

19 (All responded in the affirmative.)

20 GOVERNOR SCOTT: Anyone opposed?

21 (No response.)

22 GOVERNOR SCOTT: The motion carries.

23 Congratulations, Linda, and thank you for
24 serving. Please come forward and present OFR's
25 agenda.

1 INTERIM COMMISSIONER CHARITY: Thank you,
2 Governor, and CFO Atwater, Attorney General
3 Bondi, and Commissioner Putnam. I appreciate
4 your support and I look forward to working with
5 you in this new capacity.

6 On the agenda for OFR today we have three
7 items. The first is requesting approval for
8 the minutes of the Cabinet -- the Financial
9 Service Commission on September 20, 2011.

10 CFO ATWATER: So moved.

11 INTERIM COMMISSIONER CHARITY: Thank you.
12 Item number 2 --

13 ATTORNEY GENERAL BONDI: Oh, I'm sorry. I
14 didn't realize the Governor left. Is there a
15 motion?

16 CFO ATWATER: So moved.

17 ATTORNEY GENERAL BONDI: Is there a
18 second?

19 COMMISSIONER PUTNAM: Second.

20 ATTORNEY GENERAL BONDI: Okay. Passed.
21 Continue, please.

22 INTERIM COMMISSIONER CHARITY: Thank you.
23 Item number 2, we have three parts to this.
24 What I would like to do is recommend -- request
25 that we withdraw the rule repeal section.

1 There are some technical issues that we want to
2 readdress and I plan to bring that back before
3 the commission very shortly.

4 So I would like to request approval to
5 publish a notice of proposed rules in two
6 areas: One has to do with fingerprint
7 processing fees. We want to lower the cost of
8 fingerprint processing fees for applicants.
9 The Department of Justice has reduced their
10 fees so we want to pass this along to our
11 applicants.

12 The second piece of part 2 is a change --
13 slight change in organizational structure. We
14 have been moving to streamline and realign some
15 of our processes, and we would like to publish
16 an amendment to, you know, set just the basic
17 structure of the OFR. So I request approval of
18 those two pieces.

19 GOVERNOR SCOTT: All right. Is there a
20 motion to approve?

21 ATTORNEY GENERAL BONDI: And, Governor,
22 while you were out, I think first we need to do
23 a motion to withdraw the first part of Item
24 number 2.

25 GOVERNOR SCOTT: Okay. All right. All

1 right. All right. Is there a motion to
2 withdraw?

3 COMMISSIONER PUTNAM: So moved.

4 GOVERNOR SCOTT: Is there a second?

5 ATTORNEY GENERAL BONDI: Second.

6 GOVERNOR SCOTT: All in favor, aye.

7 ATTORNEY GENERAL BONDI: Aye.

8 GOVERNOR SCOTT: Moved -- okay.

9 INTERIM COMMISSIONER CHARITY: Okay. And
10 then I request permission to --

11 GOVERNOR SCOTT: Withdraw --

12 INTERIM COMMISSIONER CHARITY: -- to
13 publish changes to the organizational structure
14 for OFR. They're minor changes but they help
15 to streamline our processes and try to improve
16 efficiency.

17 And also we would like to propose a
18 reduction in fingerprint processing fees for
19 our applicants. The Department of Justice
20 recently reduced the cost to us of processing
21 applicant fees so we would like to pass that on
22 to -- to applicants.

23 GOVERNOR SCOTT: Okay. Is there a motion
24 to approve Item 2, which is the fingerprinting
25 process fees?

1 ATTORNEY GENERAL BONDI: So moved.

2 GOVERNOR SCOTT: Is there a second?

3 CFO ATWATER: Second.

4 GOVERNOR SCOTT: Moved and seconded,
5 Item 2 is approved without objection.

6 INTERIM COMMISSIONER CHARITY: Thank you.

7 Item 3, we would like to publish a notice of
8 intent to adopt some federal standards. The
9 SEC has recently implemented uniform forms for
10 broker-dealers and investment advisers. We
11 will be using an expedited process to establish
12 these federal standards. This should lead to
13 increased efficiencies and help our applicants
14 get their licenses more quickly so they can
15 engage in a business.

16 GOVERNOR SCOTT: Okay.

17 INTERIM COMMISSIONER CHARITY: So I would
18 request approval.

19 GOVERNOR SCOTT: Is there a motion to
20 approve Item 3?

21 COMMISSIONER PUTNAM: So moved.

22 GOVERNOR SCOTT: Is there a second?

23 ATTORNEY GENERAL BONDI: Second.

24 GOVERNOR SCOTT: Moved and seconded,
25 Item 3 is approved without objection.

1 INTERIM COMMISSIONER CHARITY: Thank you
2 very much. I appreciate it.

3 GOVERNOR SCOTT: You have a great
4 reputation and I know you're going to do a
5 great job.

6 INTERIM COMMISSIONER CHARITY: Thank you.

7 GOVERNOR SCOTT: Congratulations.

8 INTERIM COMMISSIONER CHARITY: I look
9 forward to working with you.

10 GOVERNOR SCOTT: Thanks. Absolutely.

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CERTIFICATE OF REPORTER

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STATE OF FLORIDA:

COUNTY OF LEON:

I, CAROLYN L. RANKINE, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages numbered 1 through 54 are a true and correct record of the aforesaid proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor relative or employee of such attorney or counsel, or financially interested in the foregoing action.

DATED THIS _____ day of April, 2012.

CAROLYN L. RANKINE
2894-A Remington Green Lane
Tallahassee, Florida 32308
850.878.2221

ATTACHMENT 2

**FINANCIAL SERVICES COMMISSION
OFFICE OF FINANCIAL REGULATION**

AGENDA ITEM #2

A. Action Requested

The Office requests permission to file for final adoption with the Department of State amendments to Rule Chapters 69T-1, 69W-600 and 69W-301, Florida Administrative Code.

B. Statement of Justification

Proposed amendments to **Rule 69T-1.001** reflect changes to the Office's organizational structure, by renaming organizational units to more accurately reflect their function and focus, and consolidating two units of the finance area to streamline operations. The rule implements Florida Statutes §20.121(3)(b) (2011), which states that “[t]he commission shall establish by rule any additional organizational structure of the offices. It is the intent of the Legislature to provide the commission with the flexibility to organize the offices in any manner they determine appropriate to promote both efficiency and accountability.”

Proposed amendments to **Rules 69W-600.002, .006, and Rule 69V-560.1012** reflect reduced federal criminal history check fees by the U.S. Department of Justice, from \$19.25 to \$16.50. The rules implement Florida Statutes §517.12(7) (2011) (securities) and §§560.141(1)(b)2. and 560.143(1)(f) (2011) (money services businesses), which authorize the collection of applicant fingerprints for processing by the Federal Bureau of Investigation (FBI) and the collection of costs of processing.

Proposed amendments to **Rule 69W-301.002** adopt the latest SEC uniform securities forms as federal standards. The latest version of Forms ADV and BD were approved by the Securities and

Exchange Commission (SEC) to register investment advisers (Form ADV) and broker-dealers (Form BD) with both the SEC and state regulators. The rule implements Florida Statutes §517.12(15)(a) (2011), which authorizes the commission to adopt by rule uniform forms approved by the SEC, including Form ADV and BD.

C. Summary of Rule Amendments

- 1. Proposed Rule 69T-1.001:** See pages 7-9 for full text and current and proposed organizational charts. The changes are as follows:

Division of Securities

Within the Division of Securities, the Bureau of Securities Regulation, is renamed the Bureau of Enforcement, and the Bureau of Regulatory Review is renamed the Bureau of Registration.

Division of Finance

Within the Division of Finance, the Bureau of Finance Regulation is renamed the Bureau of Enforcement and the Bureau of Regulatory Review is renamed the Bureau of Registration. In addition, the Division of Finance is renamed to the Division of Consumer Finance. The Bureau of Money Transmitter Regulation within the current Division of Finance is eliminated and its functions are being merged into the Division of Consumer Finance, Bureau of Enforcement. It is noted that the number of entities licensed through the Division of Finance has significantly dropped over the past few years. Accordingly, it is not efficient to maintain two bureaus to conduct examinations in the area of consumer finance regulation.

Office of Legal Services

The Office of Legal Services is renamed to the Office of General Counsel.

Office of Communications

The rule amendments also reflect an Office of Communications, which is headed by a director. The Office handles all of the office's internal and external communications.

2. **Rules 69W-600.002, .006, and Rule 69V-560.1012:** See pages 10-12 for full text. Proposed rules 69W-600.002 and .006 are amended to reduce the non-refundable fingerprint processing fee from \$43.25 to \$40.50. This fee includes the actual cost of processing charged by the Florida Department of Law Enforcement (FDLE) plus the updated actual cost of processing by the FBI. Proposed Rule 69V-560.1012 is amended to update an existing incorporated form by reference, Form OFR-560-01, Application for Licensure (attached in pages 13-28) as a Money Services Business, to reflect the reduction in fees.
3. **Rule 69W-301.002:** See page 29 for full text. Proposed rule 69W-301.002 is amended to update existing incorporated forms by reference, Form BD, Uniform Application for Broker-Dealer Registration, and Form ADV, Uniform Application for Investment Adviser Registration.

D. Procedural History

On February 10, 2012, a Notice of Rule Development was published for Rule 69T-1.001 in the Vol. 38, No. 6 issue of the Florida Administrative Weekly, to advise the public of the development of changes to the rule, 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 March 9, 2012, Notices of Rule Development for Rules 69W-600.002, .006, and Rule 69V-560.1012 were published in the Vol. 38, No. 10 issue of the Florida Administrative Weekly, to advise the public of the 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.

No Notice of Rule Development for Rule 69W-301.002 was filed, as the rule is proposed for adoption under the procedures of Florida Statute §120.54(6), which does not require filing this notice.

On March 20, 2012, the Financial Services Commission approved proposed rule amendments for 69T-1.001, 69W-600.002, .006 and 69V-560.1012 and the adoption of federal standards for

69W-301.002 for publication. On March 30, 2012, Notices of Proposed Rule were published in the Vol. 38, No. 13 issue of the Florida Administrative Weekly for all of the proposed rules. No requests for hearing were received by Office for 69T-1.001, 69W-600.002, .006 and 69V-560.1012 by April 20, 2012, and no objections were filed with the Office for 69W-301.002 by April 13, 2012.

On April 13, 2012, Notices of Final Hearing for all of the rules were published in the Vol. 38, No. 15 issue of the Florida Administrative Weekly. The final hearing for the rules is noticed for the Financial Services Commission meeting to be held on April 24, 2012, at the regularly scheduled Cabinet meeting in Tallahassee.

Proposed Rule 69T-1.001

THE FULL TEXT OF THE PROPOSED RULE IS:

69T-1.001 Organizational Structure.

(1) The following organizational units are established in the Office of Financial Regulation:

(a) Office of Inspector General;

(b) Office of General Counsel ~~Legal Services~~;

(c) Division of Financial Institutions, which shall include the following bureaus:

1. Bureau of Bank Regulation District I;

2. Bureau of Bank Regulation District II;

3. Bureau of Credit Union Regulation.

(d) Division of Securities, which shall include the following bureaus:

1. Bureau of Enforcement ~~Securities Regulation~~;

2. Bureau of Registration ~~Regulatory Review~~.

(e) Division of Consumer Finance, which shall include the following bureaus:

1. Bureau of Enforcement ~~Finance Regulation~~;

2. Bureau of Registration ~~Regulatory Review~~;

~~3. Bureau of Money Transmitter Regulation.~~

(f) Bureau of Financial Investigations as required by Section 20.121(3)(a)2., F.S.

(g) Office of Communications

(2) There is established under the Director of the Office of Financial Regulation the position of assistant director. The assistant director will aid the director in fulfilling the director's statutory obligations. The director may be known as the Commissioner of the Office of Financial Regulation and the assistant director may be known as the Deputy Commissioner of the Office of Financial Regulation.

(3) The Office of Inspector General shall be headed by an inspector general.

(4) The Office of General Counsel ~~Legal Services~~ shall be headed by a general counsel.

(5) The Office of Communications shall be headed by a director.

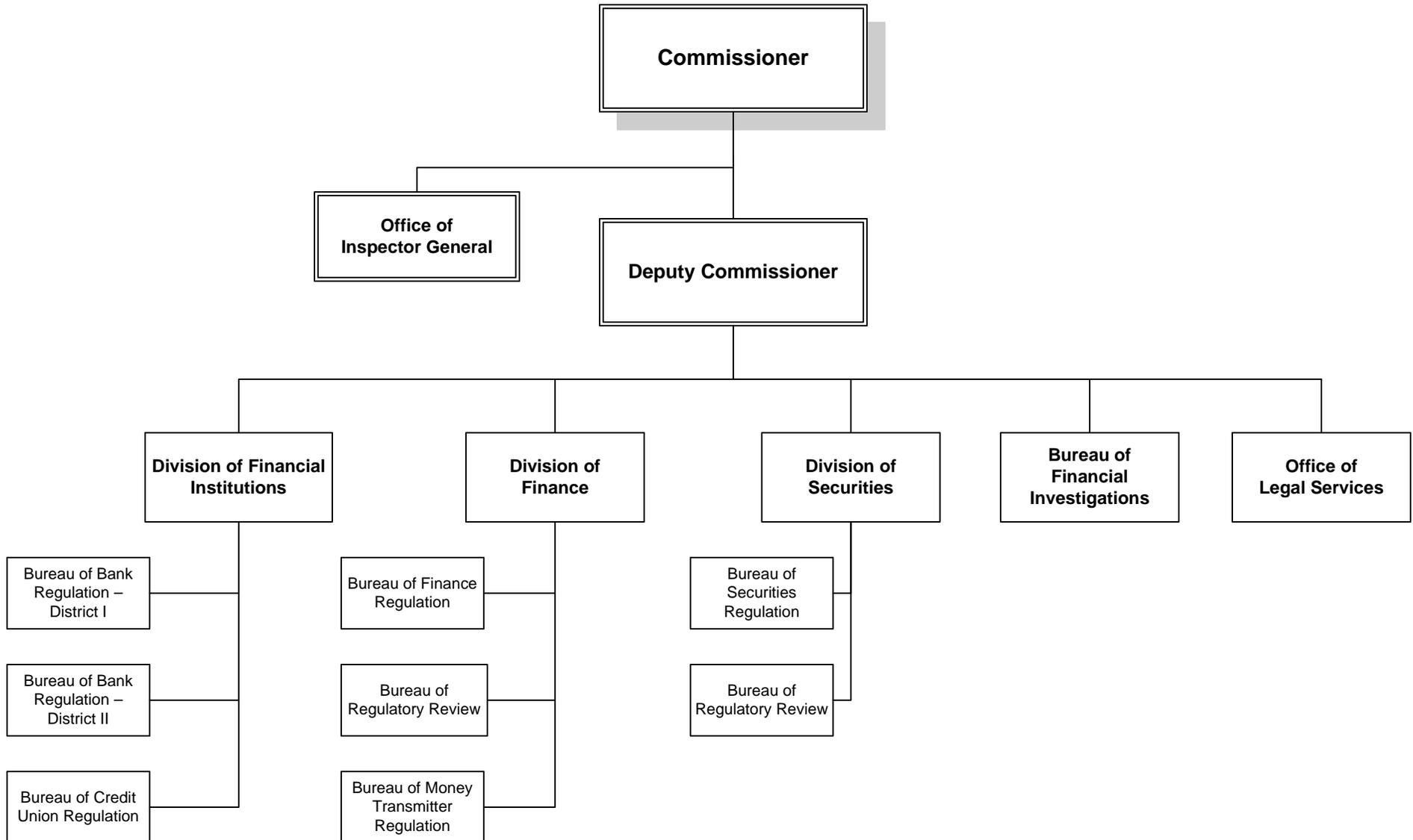
~~(6)(5)~~ Each division shall be headed by a director.

~~(7)(6)~~ Each bureau shall be headed by a chief.

Rulemaking Specific Authority 20.121(3)(b) FS. Law Implemented 20.055(2), 20.121(3)(b) FS. History—
New 1-3-07, Amended _____.

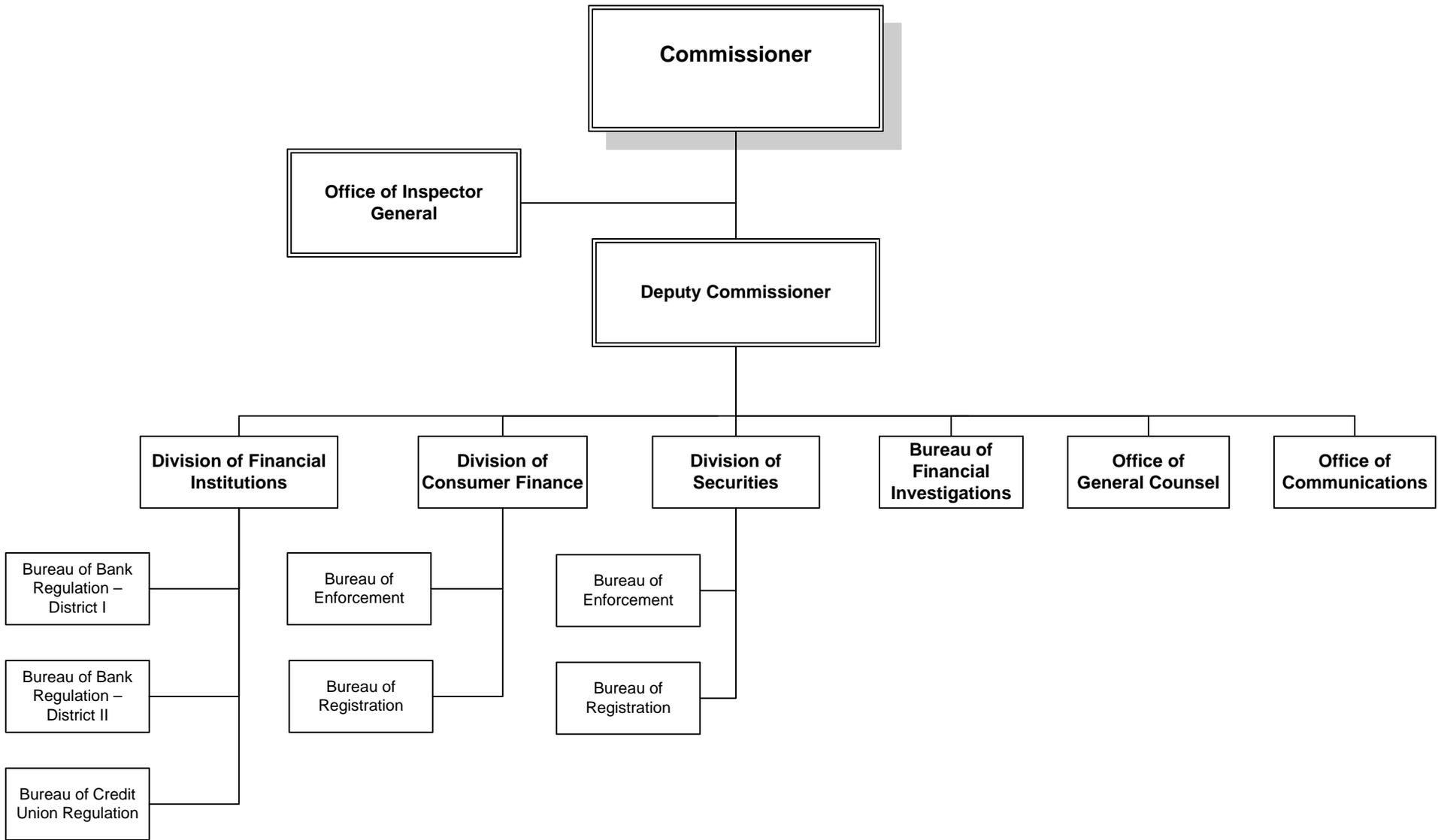
**Financial Services Commission
Office of Financial Regulation
Organizational Chart**

Current



**Financial Services Commission
Office of Financial Regulation
Organizational Chart**

Proposed



Proposed Rules 69W-600.002 and 69W-600.006

THE FULL TEXT OF THE PROPOSED RULE IS:

69W-600.002 Application for Registration as Associated Person.

(1)(a) No change.

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

1. through 4. No change

5. A complete Florida Fingerprint Card (FL921250Z) when required under Section 517.12(7), F.S., and Rule 69W-600.006, F.A.C., provided by the Office of Financial Regulation and taken by an authorized law enforcement agency and accompanied by a non-refundable ~~\$43.25~~ \$40.50 processing fee. Form FL921250Z, Florida Fingerprint Card, is incorporated by reference in subsection 69W-301.002(7), F.A.C.

(c) No change.

(2) No change.

Rulemaking Authority 215.405, 517.03(1), 517.12(6) FS. Law Implemented 517.12(6), (7), (10), 517.1205, 943.053 FS. History— New 9-20-82, Formerly 3E-301.02, Amended 10-15-86, 10-4-88, 6-24-90, 7-29-90, 10-14-90, 8-1-91, 6-16-92, 6-28-93, 11-14-93, 3-13-94, 4-30-96, 12-29-96, 6-22-98, 5-10-00, 9-19-00, 7-31-02, 12-11-03, Formerly 3E-600.002, Amended 3-16-06, 5-15-07, 12-24-07, 12-25-08, 11-22-10,_____.

69W-600.006 Fingerprint Requirements.

(1) Fingerprints filed in accordance with Section 517.12(7), F.S., shall be on fingerprint cards supplied by the Office of Financial Regulation taken by an authorized law enforcement agency, and accompanied by a non-refundable ~~\$43.25~~ \$40.50 processing fee. Form FL921250Z, Florida Fingerprint Card, is incorporated by reference in subsection 69W-301.002(7), F.A.C.

(2) No change

(3) Notwithstanding any exemptions found in SEC rule 17f-2 (17 C.F.R. § 240.17f-2 (2010)), any direct owner, principal, or indirect owner that is 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 owner, principal, or indirect owner shall submit to the Office fingerprint cards supplied by the Office of Financial Regulation taken by an authorized law enforcement agency, and accompanied by a non-refundable ~~\$43.25~~ \$40.50 processing fee. Such fingerprint card and fee shall be filed directly with the Office until such time as FINRA has the capability to electronically display the fingerprint card results to Florida via the CRD system. Form FL921250Z (Florida Fingerprint Card), Form BD, and Form ADV are incorporated by reference in subsection 69W-301.002(7), F.A.C.

(4) No change.

Rulemaking Authority 215.405, 517.03 FS. Law Implemented 517.12(7), 943.053 FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.06, Amended 8-1-91, Formerly 3E-600.006, Amended 5-15-07, 12-24-07, 12-25-08, 11-22-10,_____.

Proposed Rule 69V-560.1012

THE FULL TEXT OF THE PROPOSED RULE IS:

69V-560.1012 Adoption of Forms.

(1) The following forms are incorporated by reference and readopted by this rule for the purposes of Rules 69V-560.102-.913, F.A.C.:

(a) Application for Licensure as a Money Services Business, Form OFR-560-01, effective 10-18-09, amended _____, <http://www.flrules.org/Gateway/reference.asp?No=Ref-01013>.

(b) Location Notification Form, Form OFR-560-02, effective 1-13-09.

(c) Declaration of Intent to Engage in Deferred Presentment Transactions, Form OFR-560-03, effective 1-13-09.

(d) Money Services Business Quarterly Report Form, Form OFR-560-04, effective 1-13-09.

(e) Pledge Agreement, Form OFR-560-05, effective 1-13-09.

(f) Money Services Business Surety Bond Form, Form OFR-560-06, effective 1-13-09.

(g) Security Device Calculation Form, Form OFR-560-07, effective 10-18-09.

(h) Request for Exemption from Electronic Filing Requirements, Form OFR-560-08, effective 3/16/2011, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00145>.

(i) Florida Fingerprint Card (FL922720Z), effective 1-13-09.

(j) Currency Transaction Report, FinCEN Form 104, effective 1-13-09.

(k) Suspicious Activity Report by Money Services Business, FinCEN Form 109, effective 1-13-09.

(l) Report of International Transportation of Currency or Monetary Instruments, FinCEN Form 105, effective 1-13-09.

(2) All forms adopted by this rule are available on the Office's website at www.flofr.com and by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376. Rulemaking Authority 215.405, 560.105, 560.118, 560.141, 560.2085, 560.209, 560.403 FS. Law Implemented 560.118, 560.140, 560.141, 560.205, 560.2085, 560.209, 560.403, 943.053 FS. History—New 1-13-09, Amended 10-18-09, 3-16-11, _____.

**STATE OF FLORIDA
OFFICE OF FINANCIAL REGULATION**

**Application for Licensure as a Money Services Business
Chapter 560, Florida Statutes**

GENERAL INSTRUCTIONS

Form OFR-560-01 is the application form used by Money Transmitters or Payment Instrument Issuers (Part II) and Check Cashers or Foreign Currency Exchangers (Part III) to either apply for an initial license or make an amendment to an existing license. This form can also be used to surrender an existing license or withdraw a pending application.

This form is divided into the following sections:

- Type of Filing
- Deferred Presentment Providers
- Applicant Information
- Contact Information
- Applicant Organization and History of Operations
- Disclosure Questions
- Financial Information
- Part II Filers Only

When filing this form to apply for an initial license, include a non-refundable application fee of:

Money Transmitter and/or Payment Instrument Issuer - \$375

Check Cashier and/or Foreign Currency Exchanger - \$188

**A fingerprint card processing fee of \$40.50 per person is also required for initial applications and amendments adding any individuals to question 5G of this form.

**If applying to conduct activities under both Part II and Part III, the required fee is only \$375. If you intend to also engage in Deferred Presentment Transactions, you must file Form OFR-560-03 along with the required \$1,000 non-refundable Deferred Presentment fee.

Make one check payable to:
Department of Financial Services

Return the completed form and fee(s) to:
**Office of Financial Regulation
Division of Finance
200 East Gaines St
Tallahassee, FL 32399-0376**

A. Type of Filing

Check the appropriate box for the type of filing. If filing for more than one type of service, check all the boxes that apply.

Initial Application – This designation applies to first-time filers and applications for Change of Control (See Rule 69V-560.201, F.A.C., for waiver of Change of Control Application).

Amendment – This designation applies to any changes including, but not limited to, business name, fictitious name, physical address and phone numbers, mailing address, or records address. An amendment also includes changes in bank account information and changes of individuals listed in Question 5G. Additionally, if the information on a Disclosure Reporting Page has changed, it should be reported through this form. When filing amendments, circle the question(s) on the form that contain new information. **See Chapter 560, F.S., and Rule 69V-560, F.A.C., for the requirements to file amendments.**

Surrender License /Withdraw – This designation applies to any request to surrender an active license or withdraw any pending application. Provide the effective date of this request. If surrendering an existing license, update the address where records are stored in Question 3E and the contact information in Question 4.

2. Deferred Presentment Transactions

If applicant/licensee wishes to engage in Deferred Presentment Transactions (Payday Loans), Form OFR-560-03 must be submitted with the \$1,000 required fee. Businesses proposing to engage in Deferred Presentment Transactions must be licensed under Part II or Part III of Chapter 560.

3. Applicant Information

A. Business Name – Provide the complete legal business name of the applicant. If sole proprietor, state your first name, middle name and last name.

B. Fictitious or D/B/A Name – Name under which the company operates if different from business name. Provide evidence of fictitious name registration. If you do not use a fictitious name, answer “N/A” for this question.

C. IRS Employee Identification Number (FEID) – This is a nine digit number assigned by the IRS. If the registrant is a sole proprietor using a social security number in lieu of the FEID number, then enter the social security number on Page 8 in the box labeled “SSN Section”.

D. Business Main Address – This is the main office physical address or the headquarters address.

E. Address where records stored – This is the physical location where any and all books and records will be maintained. If this address is the same as the business main address, enter “Same as Business” on this line. Do not leave blank.

F. Mailing Address – Provide if different from business main address.

G. Business Telephone and Fax Numbers – Provide the telephone and fax number of the business location.

4. Contact Information (this is optional)

A. Contact Person Name & Title – Person to be contacted regarding the application.

B. Contact Person Mailing Address – Can be different from Business Mailing Address.

C. Contact Person Telephone – Can be different from Business.

D. Contact Person E-mail Address – Provide contact person’s e-mail address.

5. Applicant Organization and History of Operations

Respond to Questions 5A through 5H. If any question does not apply, answer “N/A” as the response.

Question 5A – Check type of organization.

Question 5B(1) – If applicant is a legally formed entity, list the date and state in which the entity was formed.

Question 5B(2) – If you operate as a legally formed entity, provide a Certificate of Good Standing from the state or country in which applicant was formed. If an attachment is included, indicate attachment number in space provided.

Question 5B(3) – Provide a chart or description of the applicant’s organization structure, including the identity of any parent company. If an attachment is included, indicate attachment number in space provided.

Question 5C – Check the applicable box.

Question 5C(1) – Provide the name of the exchange or similar regulator and stock symbol(s).

Question 5C(2) – Provide copies of all United States Securities and Exchange Commission filings, or filings with a similar regulator in a country other than the United States, within the year preceding the date of filing this application. If an attachment is included, indicate attachment number in space provided.

Question 5D(1) – Check the applicable box. If an attachment is included, indicate attachment number in space provided.

Question 5D(2) – Check the applicable box. See page 3 of these instructions for information about Money Services Business registration requirements.

Questions 5D(3) – Provide a copy of the applicant’s written anti-money laundering program as required under 31 C.F.R. ss. 103.125 with this application.

Question 5E – Check the applicable box. List any other services provided by the business.

Question 5F – If your response to this question is “Yes”, complete and submit a Location Notification Form, OFR-560-02, for each location within 60 days after the date the applicant/licensee opens a location within this

state or authorizes a vendor location to operate on their behalf. Location/Vendor filings shall be accompanied by a non-refundable \$38 fee for each branch or vendor location. Attach a copy of your sample vendor contract.

Question 5G – List all persons as requested in this section. A “responsible person” means a person who is employed by or affiliated with a money services business and who has principal active management authority over the business decisions, actions, and activities of the money services business in this state. A controlling shareholder is a person who directly or indirectly may vote 25% or more of a class of a voting security or sell or direct the sale of 25% or more of a class of voting securities; or is a director, general partner, or officer exercising executive responsibility or having similar status or functions. A person has control over a money services business if the individual, partnership, corporation, trust, or other organization possesses the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. If any person within a parent organization ultimately owns a 25% or greater interest in the applicant, identify the person(s) in this section. A Biographical Summary section of Form OFR-560-01, fingerprint card provided by the Office of Financial Regulation (Office) and processing fee of \$40.50 must be submitted by every person listed. If the applicant, or any parent company is publicly traded, they are exempt from the requirement of filing fingerprint cards, however, they are still required to file the Biographical Summary section of this form.

Question 5H – Check the applicable box. Provide business’ website, if any.

Question 5I – Provide the applicant’s registered agent on whom service of process may be served. This person must be located in Florida. This person can be an individual within the entity applying.

6. Disclosure Information

For every “yes” answer to questions 6A, 6B, 6C, & 6D, complete a separate Disclosure Reporting Page (DRP), page 9 of this form, for each unrelated event. Provide documentation pertaining to each matter disclosed. Such documentation includes but is not limited to, certified copies of criminal convictions or administrative orders entered against the applicant.

7. Financial Information

List all accounts through which licensed activities will be conducted. An amendment filing is required for any changes to this information.

**QUESTIONS 8 – 16 ARE ONLY REQUIRED OF
PART II APPLICANTS/LICENSEES**

Question 8 – Submit a sample payment instrument if you are applying to conduct this activity. Indicate attachment number in space provided.

Question 9 – Provide the business fiscal year-end (Month/Day).

Question 10 – Provide financial statements as required in this section.

Question 11 – Complete question 11 to determine if your business is conducting money transmissions via armored cars and the amount of your security device.

Question 12 - In the table, provide projections of the total US dollar **volume** of the transactions to be conducted for the first year of operation.

Question 13 – Provide the total US dollar amount from the projections from Table **12**.

Question 14 – Calculate 2% of the total projections in Question 13 and enter that amount.

Question 15 – Based on your answer to question 13, determine the amount of your security device using the schedule in question 14. Enter that amount on line 14.

Question 16 – A bond or alternative security device between \$50,000 and \$2,000,000 is required. Indicate the type of device you are submitting. If pledging a deposit, attach an originally executed Pledge Agreement, Form OFR-560-05, with a copy of the security pledged. If submitting a surety bond, attach an originally executed Bond Form, OFR-560-06.

If submitting a letter of credit, provide an originally executed Letter of Credit.

17. Signature – This form must be signed by a person legally authorized to bind the applicant and attest to the accuracy of the information contained in this form.

Federal Requirements of Money Service Businesses (MSB's)

Registration with the Financial Crimes Enforcement Network, if applicable, is required in order to obtain a registration in Florida as a Money Services Business.

The registration with U. S. Department of Treasury, Financial Crimes Enforcement Network is required within 180 days of the date the business was established. The federal form required to be filed is the "FinCEN Form 107" and it can be found at their website www.msb.gov.

The designation of a Compliance Officer is also required within 90 days of the date the business was established. This should be amended with Financial Crimes Enforcement Network with each successive person who fills this role going forward as well.

Filers may also find all forms, statutes and rules relating to money services business licenses on the Office's website at www.flofr.com

**STATE OF FLORIDA
OFFICE OF FINANCIAL REGULATION**

**APPLICATION FOR LICENSURE AS MONEY SERVICES BUSINESS
Chapter 560, Florida Statutes**

Check the box that indicates what you would like to do:

- File an Initial Application** (Filing fees required – See instructions)
 File an Amendment (circle the question(s) amended)
 ****Surrender License/Withdraw** (Effective date of surrender/withdrawal: _____)
(MM/DD/YYYY)

1. If initial application or amendment, check the type(s) of license(s) requested:

Part II License:

- Money Transmitter
 Payment Instrument Issuer

Part III License:

- Foreign Currency Exchanger
 Check Casher

2. Will the applicant/licensee also engage in Deferred Presentment Transactions? Yes No
(If yes, file Form OFR-560-03 and statutory fee.)

3. Applicant Information

A. Business Name of Applicant (if sole proprietor provide first name, middle name, & last name):

B. D/B/A or Fictitious Name:

C. IRS Employee Identification Number (FEID):

D. Business Main Address (Street address only - do not use a P.O. Box):

(Number and Street) (City) (State) (Zip Code)

E. Address where records stored (Street address only - do not use a P.O. Box):

(Number and Street) (City) (State) (Zip Code)

F. Mailing Address, if different from Business (P.O. Box acceptable):

(Number and Street) (City) (State) (Zip Code)

G. Business Telephone Numbers:

(_____) ____--____ (_____) ____--____
(Business Phone) (Business Fax)

4. Contact Information:

A. Contact Person Name and Title:

(Last Name) (First Name) (Middle) (Title)

B. Contact Person Mailing Address:

(Number and Street) (City) (State) (Zip Code)

C. Contact Person Telephone Number:

(_____) ____--____ (_____) ____--____
(Contact Person Phone) (Contact Person Fax)

D. Contact Person E-mail address: _____

5. Applicant Organization and History of Operations:

A. Applicant is a: Corporation, Partnership, Association, LLC, Individual,
 Other (Explain): _____

B. If applicant is a corporation, partnership, association, LLC, or other legally formed entity:

(1) List the date and state the business was incorporated / formed:

(Date)

(State)

(2) Provide a copy of a certificate of good standing from the state or country in which applicant was incorporated or formed.

(3) Provide a chart or description of the organizational structure of the applicant, including the identity of any parent or subsidiary of the applicant.

C. Is the applicant, parent or subsidiary of the applicant publicly traded on any stock exchange? Yes No

(1) If yes, provide the name of the exchange or similar regulator and stock symbol(s):

(2) If the applicant is publicly traded, provide copies of all filings made by the applicant with the United States Securities and Exchange Commission, or with a similar regulator in a country other than the United States, within the year preceding the date of filing this application.

D. (1) Is the applicant engaged in the same or similar business in any other state? Yes No
 (If yes, attach a list of the state(s) of licensure, date(s) issued and license number(s).)

(2) Is the applicant registered with the Financial Crimes Enforcement Network (FinCEN) as a Money Service Business ("MSB")?
 Yes No (If not, then read page 3 of the instructions for information regarding registration requirements)

(3) Provide a copy of the applicant's written anti-money laundering program as required under 31 C.F.R. ss. 103.125.

E. Does the applicant perform any other services? Yes No (If yes, list other services performed.)

F. Does the applicant propose to engage in licensed activities at any location other than the main office or through an authorized vendor? Yes No
 (If yes, read page 2 in the instructions for requirements regarding notification of locations and authorized vendors and attach a copy of your vendor contract.)

G. List every chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, BSA/AML compliance officer, director, member, sole proprietor, controlling shareholder (See page 2 of instructions for definition of "controlling shareholder"), and responsible person for the applicant in the table below. Attach additional sheets if necessary. For every person listed, attach a completed Biographical Summary Form OFR-560-01, fingerprint card (FL922720Z), and fingerprint card fee(s). (See page 2 in the instructions for exemptions to fingerprint card requirement)

Name	Title or Position (Officer, Director, Shareholder, etc.)	% of ownership	Date Title or Position Acquired

H. Does the applicant provide a website for information or services? Yes No _____
Website URL

I. If applicant is a corporation, partnership, association, LLC, or other legally formed entity, provide the applicant's registered agent in this State on whom service of process may be made.

Name:

Mailing Address:

(Address) (City) (State) (Zip Code)

Telephone Number:

(_____) ____--_____

6. Disclosure Questions

A. Criminal Disclosure

1) Has the applicant or licensee ever been convicted of, or pleaded guilty or nolo contendere regardless of adjudication, to, any crime under the law of any state or of the United States?

Yes No. (If yes, attach a completed Disclosure Reporting Page (DRP) for each unrelated event.

2) Has the applicant or licensee been notified by a law enforcement or prosecutorial agency that the applicant or licensee or its authorized vendor is currently under criminal investigation including, but not limited to, subpoenas to produce records or testimony and warrants issued by a court of competent jurisdiction which authorizes the search and seizure of any records relating to a business activity regulated under Chapter 560, F.S.?

Yes No. (If yes, attach a completed Disclosure Reporting Page (DRP) for each unrelated event.

3) Is the applicant, licensee, authorized vendor of the licensee, or an affiliated party of the applicant or licensee the subject of a felony indictment related to Money Services Business or Deferred Presentment Provider activities?

Yes No. (If yes, attach a completed Disclosure Reporting Page (DRP) for each unrelated event.

B. Regulatory Action Disclosure

1) Has the applicant or licensee ever had an application for registration, or a registration or its equivalent, to practice any profession or occupation denied, suspended, revoked, or otherwise acted against by a registering authority in any jurisdiction or been the subject of final agency action or its equivalent, issued by an appropriate regulatory body of engaging in unlicensed unregistered activity as a money services business or deferred presentment provider within any jurisdiction?

Yes No. (If yes, attach a completed Disclosure Reporting Page (DRP) for each unrelated event.

2) Is the applicant or licensee the subject of a pending criminal prosecution or governmental enforcement action in any jurisdiction?

Yes No. (If yes, attach a completed Disclosure Reporting Page (DRP) for each unrelated event.

C. Civil Litigation Disclosure

1) Has the applicant or licensee been named as a DEFENDANT in any civil litigation?

Yes No. (If yes, attach a completed Disclosure Reporting Page (DRP) for each unrelated event.

D. Financial Disclosure

- 1) Has the applicant or licensee ever filed bankruptcy or entered into a compromise with creditors?
 Yes No. (If yes, attach a completed Disclosure Reporting Page (DRP) for each unrelated event.
- 2) Has the applicant or licensee ever had a surety bond cancelled by a surety company?
 Yes No. (If yes, attach a completed Disclosure Reporting Page (DRP) for each unrelated event.

7. Financial Information

A. Provide a list of accounts, to include the following, through which registered activities are or will be conducted:

Name of Institution	Address	Name on Account	Type of Account	Account No.(s)

Questions 8-16 must be completed by Part II applicants/licensees only

8. If applying to be a payment instrument issuer, provide a sample payment instrument.
9. Provide applicant's/licensee's Fiscal Year End? _____ / _____
 (Month/Day)
10. Provide copies of the applicant's audited financial statements prepared in accordance with U.S. Generally Accepted Accounting Principles for the most recent fiscal year end.

Net worth Requirement – All licensees under Part II are required to maintain a minimum net worth of \$100,000 for the main office address. For each additional location and/or authorized vendor the net worth requirement increases by \$10,000 to a maximum of \$2,000,000.

11. (a) Is your money transmission business limited solely to the physical transportation of currency (or other valuables) via armored cars? Yes _____ No _____ If no, please complete questions 12 – 15 below to calculate your security device requirement.
- (b) If yes to 11(a), do you maintain a cargo insurance policy in an amount equal to or greater than your maximum transported liability on any one shipment, or \$2,000,000, whichever is greater?
 Yes _____ No _____ If no, please complete questions 12 – 15 below to calculate your security device requirement.
- (c) If yes to 11(b), your security device requirement is \$50,000. If no, please complete questions 12 – 15 below to calculate your security device requirement.

12. Provide a projection of the total U. S. dollar volume of money transmissions and/or payment instrument transactions for the applicant's first year of operation:

	Fund Transmissions	Payment Instrument Transactions
1st Quarter	\$	\$
2nd Quarter	\$	\$
3rd Quarter	\$	\$
4th Quarter	\$	\$
Total Year Projections	\$	\$

13. Total U.S. dollar projections (from Table 12): \$ _____

14. Calculate 2% of total projections (multiply answer in question 13 by .02) \$ _____

15. Based on your answer to question 14, use the table below to determine the required amount of your security device and enter the amount on this line \$ _____.

NOTE: The required amount of the collateral device shall be calculated at \$50,000 increments. If the calculation equates to an amount between each increment then the device amount shall be rounded to the next \$50,000. Please see the chart below as an example of how to calculate the required amount in \$50,000 increments.

<u>Amount in Line 14</u>	<u>Required Amount of Security Device</u>
\$0 - \$50,000	\$50,000
\$50,001 - \$100,000	\$100,000
\$100,001 - \$150,000	\$150,000
\$150,001 - \$200,000	\$200,000
\$200,001 - \$300,000	\$300,000
\$300,001 - \$400,000	\$400,000
\$400,001 - \$500,000	\$500,000
\$500,001 - \$600,000	\$600,000
\$600,001 - \$700,000	\$700,000
\$700,001 - \$800,000	\$800,000
\$800,001 - \$900,000	\$900,000
\$900,001 - \$1,000,000	\$1,000,000
\$1,000,001 - \$1,100,000	\$1,100,000
\$1,100,001 - \$1,200,000	\$1,200,000
\$1,200,001 - \$1,300,000	\$1,300,000
\$1,300,001 - \$1,400,000	\$1,400,000
\$1,400,001 - \$1,500,000	\$1,500,000
\$1,500,001 - \$1,600,000	\$1,600,000
\$1,600,001 - \$1,700,000	\$1,700,000
\$1,700,001 - \$1,800,000	\$1,800,000
\$1,800,001 - \$1,900,000	\$1,900,000
\$1,900,001 - \$2,000,000	\$2,000,000

16. A bond or alternative security device between \$50,000 and \$2,000,000 is required. Complete questions 12 through 15 of this application to determine the required security device amount. Indicate below the type of security device you are submitting with your application. Attach evidence from a federally-insured financial institution to confirm that the security is on deposit or in safekeeping and is pledged to the Office of Financial Regulation.

Type of security device provided with application:

- Certificate of Deposit (Attach originally executed pledge agreement, Form OFR-560-05, along with a copy of the item pledged)
- Bond (Attach originally executed bond form, Form OFR-560-06)
- Letter of Credit (Provide originally executed Letter of Credit)
- Other (Please list) _____

17. Signature

I the undersigned authorized person hereby swear or affirm, under penalties of perjury, that I have full authority to sign and verify this application, that I have read this application and disclosure reporting page and have knowledge of the facts stated herein, and that this application, and all information submitted in connection herewith, is complete and accurate and contains no misstatements, misrepresentations, or omissions of material facts, to the best of my knowledge and belief. I further acknowledge that any misstatement may cause the office to deny the application or initiate proceedings against the license. I also represent that to the extent any information previously submitted is not amended such information is currently accurate and complete.

The authorized person or authorized person's agent has typed his or her name under this section to attest to the completeness and accuracy of this form. The authorized person recognizes that this typed name constitutes, in every way, use or aspect, his or her legally binding signature.

Signature

Title

Print Name

Date

<p>SSN Section (If Applicant is a Sole Proprietor)</p> <p>Applicant's Social Security Number _ _ - _ - _ _ _ _</p>

Disclosure Reporting Pages (OFR-560-01)

This Disclosure Reporting Form is an **INITIAL OR** **AMENDED** response to report details for affirmative responses to **Questions 6A, 6B, 6C & 6D** on Form OFR-560-01;

Check question(s) you are responding to:

6A(1) **6A(2)** **6A(3)** **6B(1)** **6B(2)** **6C(1)** **6D(1)** **6D(2)**

Use only one DRP to report details to the same event. Unrelated actions must be reported on separate DRPs.

1. Action initiated against:
 Applicant/Licensee
 Authorized Vendor
 Affiliated Party
Name of Authorized Vendor/Affiliated Party: _____

2. Action initiated by: (Name of Regulator, Law Enforcement or Prosecutorial Agency, Creditor/Lien Holder, Private Plaintiff, Applicant/Licensee, etc.)

3. Filing Date of Action (MM/DD/YYYY): _____ Exact Explanation
If not exact, provide explanation:

4. Formal Action was brought in (include name of Federal, Military, State or Foreign Court, Location of Court – City or County and State or Country, Docket/Case Number):

5. Employing Business when activity occurred:

8. Describe the allegations related to this action. (Attach a separate sheet if necessary.):

9. Current status of action? **Pending** **On Appeal** **Final**

10. If on appeal, action appealed to (provide name of court): Date Appeal Filed (MM/DD/YYYY):

11. If Pending, date notice/process was served (MM/DD/YYYY): _____
 Exact **Explanation** If not exact, provide explanation:

If Final or On Appeal, complete items below. For Pending Actions, complete item 14 only.

12. Provide a detailed explanation of how the matter was resolved (Attach a separate sheet if necessary):

13. Resolution Date (MM/DD/YYYY): _____ **Exact** **Explanation**
If not exact, provide explanation:

14. Comments. Use this section to provide a summary of the circumstances leading to the action, as well as the status or disposition and/or finding(s).

15. In addition to the information requested in this DRP, provide documentation pertaining to each matter. Such documentation includes but is not limited to, certified copies of criminal convictions or administrative orders entered against the applicant.

**State of Florida
Office of Financial Regulation**

Biographical Summary

Check the box that indicates what you would like to do:

- Submit an initial biographical summary.**
 Submit an amendment to a biographical summary.

1. Applicant/Licensee Information

A. Business Name of Applicant/Licensee (Same as Question 3A on page 1 of Application):

Business Name of Applicant/Licensee

2. Individual Biographical Summary

A. *Identifying Information

Provide your Social Security Number below the signature section at the end of this summary.

B. *Name

First Name	Middle Name	Last Name	Suffix	Date of Birth

C. Surnames and/or Aliases

First Name	Middle Name	Last Name	Suffix (Sr, Jr, II, or III)

D. *Are you a U. S. Citizen? **Yes** **No**

(If "No", or naturalized citizen less than five years, complete Addendum (1) applicable to non-U.S. Citizens.
 If naturalized, indicate date of naturalization and certificate number.

Date of Naturalization	Certificate Number

E. *Residential Address

Number and Street	City, Town, etc.	State	Country	Postal Code

F. *Mailing Address (Check box if mailing address the same as residential.)

Number and Street	City, Town, etc.	State	Country	Postal Code

G. *Phone Number

Residence Telephone Number	Daytime Telephone Number
() - -	() - -

H. *Residential History (Start with the current address, give all addresses for last 5 years. Report changes as they occur.)

Number and Street	City, Town, etc.	State/Providence	Country	From		To	
				Mo.	Yr.	Mo.	Yr.

I. *Employment History (Start with current employer, give all employments for the last 5 years. Report changes as they occur.)

Name of Company	City, Town, etc.	State/Providence	Position Held	From		To	
				Mo.	Yr.	Mo.	Yr.

J. *Professional Licenses and Certifications

Type of License/Certification	Name of Licensing Authority/City/State	Date Issued		Status	Status Date	
		Mo.	Yr.		Mo.	Yr.

K. Are you presently an officer, director, representative, member, principal, agent, or shareholder of 10% or more of the outstanding stock of any firm, company, corporation, partnership or other business organization?

Yes No. If yes, complete the chart below.

Name and Address	State of Incorporation	Type of Business	Position Held

3. Disclosure Questions (If you answer “yes” to any question, complete a separate Disclosure Reporting Page (DRP) for each event.)

A. Criminal Disclosure

1) Have you or any business or enterprise with which you have been associated as an officer, director, representative, member, principal, agent, or shareholder of 10% or more of the outstanding stock ever plead nolo contendere to, been convicted of, or found guilty of, any crime, regardless of adjudication?

Yes No. (If yes, attach a completed Disclosure Reporting Page (DRP) for each unrelated event.

2) Have you been notified by a law enforcement or prosecutorial agency that you are currently under criminal investigation including, but not limited to, subpoenas to produce records or testimony and warrants issued by a court of competent jurisdiction which authorizes the search and seizure of any records relating to a business activity regulated under Chapter 560, F.S.?

Yes No. (If yes, attach a completed Disclosure Reporting Page (DRP) for each unrelated event.

3) Are you the subject of a felony indictment related to Money Services Business or Deferred Presentment Provider activities?

Yes No. (If yes, attach a completed Disclosure Reporting Page (DRP) for each unrelated event.

B. Regulatory Action Disclosure

1) Have you or any business or enterprise with which you have been associated as an officer, director, representative, member, principal, agent, or shareholder of 10% or more of the outstanding stock ever had an application for registration, or a registration or its equivalent, to practice any profession or occupation denied, suspended, revoked, or otherwise acted against by a registering authority in any jurisdiction or been the subject of final agency action or its equivalent, issued by an appropriate regulatory body of engaging in unlicensed activity as a money services business or deferred presentment provider within any jurisdiction, or is any such action pending?

Yes No. (If yes, attach a completed Disclosure Reporting Page (DRP) for each unrelated event.

2) Are you or any business or enterprise with which you have been associated as an officer, director, representative, member, principal, agent, or shareholder of 10% or more of the outstanding stock the subject of a pending criminal prosecution or governmental enforcement action, in any jurisdiction?

Yes No. (If yes, attach a completed Disclosure Reporting Page (DRP) for each unrelated event.

C. Civil Litigation Disclosure

1) Have you or any business or enterprise with which you are now or were at the time associated as an officer, director, representative, member, principal, agent or holder of 10% or more of the outstanding stock now or during the last five (5) years, been named as a DEFENDANT in any civil litigation?

Yes No. (If yes, attach a completed Disclosure Reporting Page (DRP) for each unrelated event.

D. Financial Disclosure

1) Have you or any business or enterprise with which you are currently or have been associated with as an officer, director, representative, member, principal, agent, or shareholder of 10% of more of the outstanding stock ever filed bankruptcy or entered into a compromise with creditors?

Yes No. (If yes, attach a completed Disclosure Reporting Page (DRP) for each unrelated event.

2) Have you or any business or enterprise with which you are currently or have been associated with as an officer, director, representative, member, principal, agent, or shareholder of 10% of more of the outstanding stock ever had tax liens of any kind filed against you individually or against your business affiliates?

Yes No. (If yes, attach a completed Disclosure Reporting Page (DRP) for each unrelated event.

3) Have you or any business or enterprise with which you are currently or have been associated with as an officer, director, representative, member, principal, agent, or shareholder of 10% of more of the outstanding stock ever had a surety bond cancelled by a surety company?

Yes No. (If yes, attach a completed Disclosure Reporting Page (DRP) for each unrelated event.

4. *Signature

In assuming the position for which this form is being submitted, I am undertaking a commitment to be fully informed as to the affairs of the company with which I will be associated and to exercise my independent judgment with respect to any matters that may come before me.

Certificate

I hereby certify that this form, attached addenda, and applicable disclosure reporting pages have been carefully examined by me and that the information is true, correct and complete to the best of my knowledge and belief. I agree and understand that any false or misleading statements or omissions of material fact herein may be cause for the Office to deny my participation in the application for which this summary is submitted.

The individual person or individual person's agent has typed his or her name under this section to attest to the completeness and accuracy of this form. The individual person recognizes that this typed name constitutes, in every way, use or aspect, his or her legally binding signature.

(Date)

(Signature)

<p>*SSN Section</p> <p>Social Security Number _ _ - _ - _ _ _</p>
--

**Addendum (1) to Form OFR-560-01
Non-U. S. Citizen Supplemental Information**

If you are **NOT** a United States citizen, please provide the following:

- 1. Visa Type and Number: _____
- 2. Passport Type and Number: _____
- 3. National or Alien Identification Number(s): _____
- 4. Other Identification Number(s) (Please indicate the type of identification numbers listed): _____

If you are exempt from holding a visa, please explain why _____

- 5. Mother's maiden name: _____

Instructions:

Any and all of the documents, which are presented in a language other than, the English language are to be translated into English and duly certified by the translator to be true and accurate. All of the certified copies and statements to be submitted with this application must be certified in accordance with the provisions of Section 90.902(3), Florida Statutes, so as to be admissible in a court of law in the State of Florida.

If you are unable to secure certified statements from the government of your country, a statement from the government attesting that it will not issue certificates or sworn statements must be submitted. However, if not available from the government, a certification from the United States Embassy Secretary or Consular Agent attesting that the government does not or will not issue certifications or sworn statements is required.

A United States Embassy Secretary or Consular Agent in the foreign country must certify each final copy and statement to be submitted with this application.

Disclosure Reporting Pages (Form OFR-560-01)

This Disclosure Reporting Form is an **INITIAL OR** **AMENDED** response to report details for affirmative responses to **Questions 3A, 3B, 3C, & 3D** of the biographical summary section on Form OFR-560-01;

Check question(s) you are responding to:

3A(1) **3A(2)** **3A(3)** **3B(1)** **3B(2)** **3C(1)** **3D(1)** **3D(2)** **3D(3)**

Use only one DRP to report details to the same event. Unrelated actions must be reported on separate DRPs.

1. Action initiated by: (Name of Regulator, Law Enforcement or Prosecutorial Agency, Creditor/Lien Holder, Private Plaintiff, Applicant/Licensee, etc.)

2. Filing Date of Action (MM/DD/YYYY): _____ Exact Explanation
If not exact, provide explanation:

3. Formal Action was brought in (include name of Federal, Military, State or Foreign Court, Location of Court – City or County and State or Country, Docket/Case Number):

6. Employing Business when activity occurred:

7. Describe the allegations related to this action. (Attach a separate sheet if necessary.):

8. Current status of action? **Pending** **On Appeal** **Final**

9. If on appeal, action appealed to (provide name of court): Date Appeal Filed (MM/DD/YYYY):

10. If Pending, date notice/process was served (MM/DD/YYYY): _____
 Exact **Explanation** If not exact, provide explanation:

If Final or On Appeal, complete items below. For Pending Actions, complete item 13 only.

11. Provide a detailed explanation of how the matter was resolved (Attach a separate sheet if necessary):

12. Resolution Date (MM/DD/YYYY): _____ **Exact** **Explanation**
If not exact, provide explanation:

13. Comments. Use this section to provide a summary of the circumstances leading to the action, as well as the status or disposition and/or finding(s).

14. In addition to the information requested in this DRP, provide documentation pertaining to each matter. Such documentation includes but is not limited to, certified copies of criminal convictions or administrative orders entered against you.

Proposed Rule 69W-301.002

THE FULL TEXT OF THE PROPOSED RULE IS:

69W-301.002 Processing of Applications.

(1) through (6) No change.

(7)(a) The forms referred to in this section below are incorporated by reference and readopted by this rule for the purposes of Rule Chapters 69W-100 through 69W-900, F.A.C.:

1. through 5. No change.

6. Form BD, Uniform Application for Broker-Dealer Registration (1/2008), effective _____, <http://www.flrules.org/Gateway/reference.asp?No=Ref-01021> (5/2002), effective 11-22-10;

7. Form ADV, Uniform Application for Investment Adviser Registration (9/2011), effective _____, <http://www.flrules.org/Gateway/reference.asp?No=Ref-01020> (1/2008), effective 11-22-10;

8. through 15. No change.

(b) No change.

(c) Social security number. The following forms contain a field that allows, but does not require, an individual to submit his or her social security number: Form ADV, Uniform Application for Investment Adviser Registration (9/2011) (1/2008); Form U-4, Uniform Application for Securities Industry Registration or Transfer (5/2009); and Form U-5, Uniform Termination Notice for Securities Industry Registration (5/2009). If provided, an individual's social security number will be used by the Office of Financial Regulation to facilitate the identification of the individual to obtain the required criminal justice information, which may expedite the processing of the forms. Social security numbers obtained through the submission of the above-listed forms are subject to the confidentiality provisions of Section 119.071(5), F.S.

(d) No change.

PROPOSED EFFECTIVE DATE APRIL 23, 2012

Rulemaking Authority 517.03(1), 517.12, 517.1201, 517.081(2), 517.082(4) FS. Law Implemented 120.60(1), 517.051, 517.075, 517.081, 517.082, 517.12, 517.161(5) FS. History—Revised and Transferred from 3E-300.01, 9-20-82, Formerly 3E-301.02, Amended 10-15-86, 2-1-87, 12-8-87, 7-29-90, 7-31-91, 6-16-92, 1-10-93, 3-13-94, 10-1-96, 10-23-97, 6-22-98, 6-10-99, 5-7-00, 7-10-02, Formerly 3E-301.002, Amended 3-16-06, 6-10-07, 11-22-10, 4-23-12.

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 rules that have been identified as unnecessary. Pursuant to sections 120.74 and 120.745, Florida Statutes, the Office conducted a comprehensive review of its rules. In summary, the Office identified 19 rules for repeal at this time. The notices contained in this item represent the rules identified for repeal. A future rule package will be presented to address those rules that were recommended for repeal at the March 14, 2012 Cabinet aides meeting but were pulled for further discussion and analysis, as well as a number of rules that are recommended for amendment. Listed below are the rules identified for repeal and their corresponding page number on this agenda. All statutes cited are to the 2011 edition of Florida Statutes.

<u>Rule</u>	<u>Page</u>
<u>Indexing Agency Orders</u> : 69T-8.002	32
<u>Savings Associations</u> : 69U-150.730	36
<u>Mortgage Brokerage</u> : 69V-40.177/69V-40.265	40
<u>Collection Agencies</u> : 69V-180.050 and .060	43
<u>Money Transmitters</u> : 69V-560.901	47
<u>Certified Capital Companies</u> : 69W-7.001, .002, .003, .004, .005, .006, .007, and .008	49
<u>Procedural Rules for Processing Securities Registration Applications</u> : 69W-301.001 and .003	57
<u>Registration of Securities</u> : 69W-700.018, .024, and .028	59

Proposed Rule Repeal
Rule 69T-8.002
Chapter Name: Indexing Agency Orders
Title: Purpose

A. Summary and Justification

The proposed rule amendment will repeal the rule. Rule 69T-8.002 describes the purpose of the rules adopted under the chapter, which the Office identified as unnecessary.

B. Text of Proposed Amendment

69T-8.002 Purpose.

~~The purpose of Rules 69T 8.001 through 69T 8.009, F.A.C., is to provide public access to and availability of final orders.~~

Specific Authority 288.99(14)(b), 494.0011(2), 516.23(3), 517.03(1), 520.994(5), 537.016(3), 560.105(2), 655.012(2) FS. Law Implemented 120.53 FS. History—New 10-26-92, Formerly 3-8.002, Amended 5-15-07, Repealed .

C. Statutes Cited in Rule

288.99(14)(b)

[omitted - Section 288.99, F.S., the Florida Certified Capital Company Act, was repealed December 1, 2010.]

494.0011(2) Powers and duties of the commission and office.

516.23(3) Subpoenas; enforcement actions; rules.

517.03(1) Rulemaking; immunity for acts in conformity with rules.

520.994(5) Powers of office.

537.016(3) Subpoenas; enforcement actions; rules.

560.105(2) Supervisory powers; rulemaking.

[omitted, as they relate to general rulemaking authority]

665.012(2) Definitions.

[. . .]

(2) “Capital stock” means the aggregate of shares of nonwithdrawable capital issued by a capital stock association, but does not include nonwithdrawable capital represented by capital certificates.

120.53 Maintenance of orders; indexing; listing; organizational information.—

(1)(a) Each agency shall maintain:

1. All agency final orders.

2.a. A current hierarchical subject-matter index, identifying for the public any rule or order as specified in this subparagraph.

b. In lieu of the requirement for making available for public inspection and copying a hierarchical subject-matter index of its orders, an agency may maintain and make available for public use an electronic database of its orders that allows users to research and retrieve the full texts of agency orders by devising an ad hoc indexing system employing any logical search terms in common usage which are composed by the user and which are contained in the orders of the agency or by descriptive information about the order which may not be specifically contained in the order.

c. The agency orders that must be indexed, unless excluded under paragraph (c) or paragraph (d), include:

(I) Each final agency order resulting from a proceeding under s. [120.57](#) or s. [120.573](#).

(II) Each final agency order rendered pursuant to s. [120.57](#)(4) which contains a statement of agency policy that may be the basis of future agency decisions or that may otherwise contain a statement of precedential value.

(III) Each declaratory statement issued by an agency.

(IV) Each final order resulting from a proceeding under s. [120.56](#) or s. [120.574](#).

3. A list of all final orders rendered pursuant to s. [120.57](#)(4) which have been excluded from the indexing requirement of this section, with the approval of the Department of State, because they do not contain statements of agency policy or statements of precedential value. The list must include the name of the parties to the proceeding and the number assigned to the final order.

4. All final orders listed pursuant to subparagraph 3.

(b) An agency final order that must be indexed or listed pursuant to paragraph (a) must be indexed or listed within 120 days after the order is rendered. Each final order that must be indexed or listed pursuant to paragraph (a) must have attached a copy of the complete text of any materials incorporated by reference; however, if the quantity of the materials incorporated makes attachment of the complete text of the materials impractical, the order may contain a statement of the location of such materials and the manner in which the public may inspect or obtain copies of the materials incorporated by reference. The

Department of State shall establish by rule procedures for indexing final orders, and procedures of agencies for indexing orders must be approved by the department.

(c) Each agency must receive approval in writing from the Department of State for:

1. The specific types and categories of agency final orders that may be excluded from the indexing and public inspection requirements, as determined by the department pursuant to paragraph (d).
2. The method for maintaining indexes, lists, and final orders that must be indexed or listed and made available to the public.
3. The method by which the public may inspect or obtain copies of indexes, lists, and final orders.
4. A sequential numbering system which numbers all final orders required to be indexed or listed pursuant to paragraph (a), in the order rendered.
5. Proposed rules for implementing the requirements of this section for indexing and making final orders available for public inspection.

(d) In determining which final orders may be excluded from the indexing and public inspection requirements, the Department of State may consider all factors specified by an agency, including precedential value, legal significance, and purpose. Only agency final orders that are of limited or no precedential value, that are of limited or no legal significance, or that are ministerial in nature may be excluded.

(e) Each agency shall specify the specific types or categories of agency final orders that are excluded from the indexing and public inspection requirements.

(f) Each agency shall specify the location or locations where agency indexes, lists, and final orders that are required to be indexed or listed are maintained and shall specify the method or procedure by which the public may inspect or obtain copies of indexes, lists, and final orders.

(g) Each agency shall specify all systems in use by the agency to search and locate agency final orders that are required to be indexed or listed, including, but not limited to, any automated system. An agency shall make the search capabilities employed by the agency available to the public subject to reasonable terms and conditions, including a reasonable charge, as provided by s. [119.07](#). The agency shall specify how assistance and information pertaining to final orders may be obtained.

(h) Each agency shall specify the numbering system used to identify agency final orders.

(2)(a) An agency may comply with subparagraphs (1)(a)1. and 2. by designating an official reporter to publish and index by subject matter each agency order that must be indexed and made available to the public, or by electronically transmitting to the division a copy of such orders for posting on the division's website. An agency is in compliance with subparagraph (1)(a)3. if it publishes in its designated reporter a list of each agency final order that must be listed and preserves each listed order and makes it available for public inspection and copying.

(b) An agency may publish its official reporter or may contract with a publishing firm to publish its official reporter; however, if an agency contracts with a publishing firm to publish its reporter, the agency is responsible for the quality, timeliness, and usefulness of the reporter. The Department of State may publish an official reporter for an agency or may contract with a publishing firm to publish the reporter for the agency; however, if the department contracts for publication of the reporter, the department is responsible for the quality, timeliness, and usefulness of the reporter. A reporter that is designated by an agency as its official reporter and approved by the Department of State constitutes the official compilation of the administrative final orders for that agency.

(c) A reporter that is published by the Department of State may be made available by annual subscription, and each agency that designates an official reporter published by the department may be charged a space rate payable to the department. The subscription rate and the space rate must be equitably apportioned to cover the costs of publishing the reporter.

(d) An agency that designates an official reporter need not publish the full text of an agency final order that is rendered pursuant to s. [120.57](#)(4) and that must be indexed pursuant to paragraph (1)(a), if the final order is preserved by the agency and made available for public inspection and copying and the official reporter indexes the final order and includes a synopsis of the order. A synopsis must include the names of the parties to the order; any rule, statute, or constitutional provision pertinent to the order; a summary of the facts, if included in the order, which are pertinent to the final disposition; and a summary of the final disposition.

(3) Agency orders that must be indexed or listed are documents of continuing legal value and must be permanently preserved and made available to the public. Each agency to which this chapter applies shall provide, under the direction of the Department of State, for the preservation of orders as required by this chapter and for maintaining an index to those orders.

(4) Each agency must provide any person who makes a request with a written description of its organization and the general course of its operations.

Proposed Rule Repeal

Rule 69U-150.730

Chapter Name: Savings Associations

Title: Association Assessments

A. Summary and Justification

The proposed rule amendment will repeal the rule. The rule applies to assessments for capital stock associations chartered under chapter 665, F.S. There are no Florida-chartered capital stock associations operating in the state and there has not been any in recent times. In effect, this type of charter has been replaced by the provisions of chapter 667, F.S., which governs the chartering of state-chartered savings banks.

B. Text of Proposed Amendment

69U-150.730 Association Assessments.

~~(1) Each state association shall pay to OFR a semiannual fee of \$250, plus a semiannual assessment computed on total assets as shown on the Consolidated Thrift Financial Report of the association as of the last business day in June and the last business day in December of each year. In the event that a Consolidated Thrift Financial Report 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 Thrift Financial Report 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), associations shall pay to OFR a semiannual assessment which shall be computed on the following schedule:~~

Assets Over			Of Assets Over
(in thousands)	Base	Plus	(in thousands)
\$0	\$0	0.05	\$0
50,000	2,500	0.03	50,000

~~(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 120.53(1)(a), 655.012(3) FS. Law Implemented 655.013(34), 655.047, 658.73 FS. History—New 8-9-93, Formerly 3C-150.730, Repealed.

C. Statutes Cited in Rule

120.53(1)(a) Maintenance of orders; indexing; listing; organizational information.— [see page 33]

665.012 Definitions.—When used in this chapter, the following words and phrases have the following meanings, except to the extent that any such word or phrase specifically is qualified by its context:

(1) “Association” means a capital stock association subject to the provisions of this chapter.
[rule should reference subsection (1) instead of (3)]

665.013 Applicability of chapter 658.—The following sections of chapter 658, relating to banks and trust companies, are applicable to an association to the same extent as if the association were a “bank” operating thereunder:

[. . .]

(35) Section [658.73](#), relating to fees and assessments. The commission shall, by rule, adopt a separate semiannual fee and semiannual assessment for associations. In its determination, the commission shall consider the housing finance role of such associations in addition to the cost of regulation of associations and the collection of fees from such associations.
[rule should reference subsection (35) instead of (34)]

655.047 Assessments; financial institutions.—

(1) Each state financial institution shall pay to the office a semiannual assessment based on the total assets as shown on the statement of condition of the financial institution on the last business day in December and the last business day in June of each year.

(2) The mailing of a semiannual assessment must be postmarked on or before January 31 and July 31 of each year. The office may levy a late payment penalty of up to \$100 per day or part thereof that a semiannual assessment payment is overdue, unless it is excused for good cause. However, for intentional late payment of a semiannual assessment, the office shall levy an administrative fine of up to \$1,000 a day for each day the semiannual assessment is overdue.

(3) The assessments required by this section cover the 6-month period following the first day of the month in which they are due. The office may prorate the amount of the semiannual assessment; however, no portion of a semiannual assessment is refundable.

658.73 Fees and assessments.—

(1) Each state bank and state trust company shall pay to the office examination fees and assessments as follows:

(a) A semiannual fee of \$2,500; and

(b) A semiannual assessment, each in such amount as may be determined by the commission, by rule, but not exceeding 15 cents for each \$1,000 of total assets as shown on the statement of condition of the bank or trust company as of the last business day in June and the last business day in December in each year. In its determination, the commission may consider examination fees and application fees received from banks and trust companies in setting the semiannual assessment for purposes of meeting the cost of regulation of banks and trust companies subject to this chapter.

(2) Applications filed with the office shall be accompanied by payment of the following nonrefundable fees:

(a) Fifteen thousand dollars for each application for authority to organize a new state bank or state trust company.

(b) Two thousand five hundred dollars for each application by an existing bank or association for trust powers.

(c) Seven thousand five hundred dollars for each application for authority to acquire a controlling interest in a state bank or state trust company; however, if more than one bank or trust company is being acquired in any such application, the fee shall be increased by \$3,500 for each additional bank or trust company. However, in no event shall the fee exceed \$15,000.

(d) Seven thousand five hundred dollars for each application for conversion of a national bank to a state bank.

(e) One thousand five hundred dollars for each application to establish a branch by any other state bank or state trust company that does not qualify for the branch notification process.

(f) One thousand five hundred dollars for each application for authority to establish a trust service office of a state trust company or of a trust department of a state bank or association, and a like amount for each application by a bank or association with trust powers which is not a state bank or state association for authority to establish a trust service office at a state bank, state association, or state credit union.

(g) Seven thousand five hundred dollars for each application for a merger or consolidation; however, if three or more banks or trust companies are involved in any such application, the fee shall be \$3,500 for each involved institution. However, in no event shall the fee exceed \$15,000.

- (h) Two thousand five hundred dollars to establish a successor institution.
 - (i) Seven hundred fifty dollars for each application by a state bank or trust company not operating in a safe and sound manner for relocation of its main office.
 - (j) Two thousand five hundred dollars for each application for the purchase of assets and the assumption of liabilities.
- (3) If, as a result of any application filed with the office, the office determines that an examination is necessary to assess the financial condition of any financial institution, the applying financial institution shall pay to the office a nonrefundable examination fee, pursuant to s. [655.045\(1\)](#).
- (4) Any individual or entity other than a financial institution chartered in this state must pay to the office \$25 for each “certificate of good standing” certifying that a state-chartered financial institution is licensed to conduct business in this state under the financial institutions codes. All such requests shall be in writing. The office shall waive this fee when the request is by a state or federal regulatory agency or law enforcement agency.
- (5) The amounts of all fees and assessments provided for in this section shall be deemed to be maximum amounts; and the commission has the authority to establish, by rule, and from time to time to change, fees and assessments in amounts less than the maximum amounts stated in this section.

Proposed Rule Repeal

69V-40.177 (repeal) and 69V-40.265 (conforming change)

Chapter Name: Mortgage Brokerage

Titles: Mortgage Brokerage and Lending Transaction Journal (*same*)

A. Summary and Justification

The proposed rule amendments streamline regulations relating to recordkeeping requirements for mortgage loan transactions. Rule 69V-40.177 requires mortgage brokers, and mortgage lenders acting as mortgage brokers, to maintain certain information about each mortgage loan transaction. Rule 69V-40.265 requires the same information for mortgage lenders. To streamline regulations, Rule 69V-40.177 is being repealed and Rule 69V-40.265 is being amended to include mortgage brokers.

B. Text of Proposed Amendments

69V-40.177 Mortgage Brokerage and Lending Transaction Journal.

~~(1) Each mortgage brokerage business and lender acting in the capacity of a mortgage brokerage business shall maintain a journal of mortgage brokerage transactions, which shall include, at least, the following information:~~

~~(a) Name of applicant;~~

~~(b) Date applicant applied for the mortgage loan;~~

~~(c) Disposition of the mortgage loan application. The Mortgage Brokerage and Lending Transaction Journal shall indicate the result of the brokerage transaction. The disposition of the case shall be categorized as one of the following: loan funded, loan denied, application withdrawn, or other (with explanation);~~

~~(d) Name of lender, if applicable.~~

~~(2) The journal shall be maintained in a format which is substantially similar to Form OFR 494-10, Mortgage Brokerage and Lending Transaction Journal.~~

~~(3) The Mortgage Brokerage and Lending Transaction Journal shall be maintained in the principal office or in each branch office where mortgage brokerage transactions are originated. The Mortgage Brokerage and Lending Transaction Journal shall be kept current. The failure to initiate an entry to the Mortgage Brokerage and Lending Transaction Journal within seven (7) business days from the date the brokerage transaction is entered into, shall be deemed to be a failure to keep the Mortgage Brokerage and~~

~~Lending Transaction Journal current.~~

~~(4) The penalty for failure to maintain the Mortgage Brokerage and Lending Transaction Journal or to keep the same current (incidental and isolated clerical errors or omissions shall not be considered a violation) shall be the issuance of a “notice of noncompliance” for a first offense. Any subsequent finding of a violation of this rule during an examination or investigation shall be a fine of \$500. The penalty for any intentional violation of this rule shall be a fine of \$500 and suspension of the license.~~

~~(5) Form OFR 494-10 is incorporated by reference in subsection 69V-40.002(1), F.A.C. Specific Authority 494.0011(2), 494.0016(4) FS. Law Implemented 120.695, 494.0016, 494.0041 FS. History—New 2-16-92, Amended 7-25-96, 12-12-99, Formerly 3D-40.177, Amended 3-23-08, Repeal.~~

69V-40.265 Mortgage Brokerage and Lending Transaction Journal.

(1) Each mortgage broker and mortgage lender shall maintain a Mortgage Brokerage and Lending Transaction Journal, which shall include, at least, the following information:

- (a) Name of applicant;
- (b) Date applicant applied for the mortgage loan;
- (c) Disposition of the mortgage loan application. The journal shall indicate the result of the lending transaction. The disposition of the transaction shall be categorized as one of the following: loan funded, loan denied, or application withdrawn.
- (d) Name of lender, if applicable.

(2) The journal shall be maintained on Form OFR-494-10, Mortgage Brokerage and Lending Transaction Journal, or a form substantially similar.

(3) In lieu of maintaining Form OFR-494-10, ~~a each~~ mortgage lender or mortgage broker may maintain the Home Mortgage Disclosure Act loan/application register, Form FR HMDA-LAR, found at 12 C.F.R., part 203, Appendix A (2010) if all lending transactions are recorded on this form. The form is hereby incorporated by reference and may be accessed through the Government Printing Office website <http://www.gpoaccess.gov/cfr/>.

(4) The Mortgage Brokerage and Lending Transaction Journal shall be maintained in the principal office or in each branch office where ~~mortgage lender~~ the transactions are originated. The Mortgage Brokerage and Lending Journal shall be kept current. The failure to initiate an entry to the Mortgage Brokerage and Lending Transaction Journal within 7 business days from the date the transaction was entered into, shall be deemed to be a failure to keep the Mortgage Brokerage and Lending Transaction Journal current.

(5) and (6) No change.

*Rulemaking Authority 494.0016(4) FS. Law Implemented 120.695, 494.0016, 494.00255 FS. History—
New 1-10-93, Amended 7-25-96, 12-12-99, Formerly 3D-40.265, Amended 3-23-08, 10-1-10*

C. Statutes Cited in Rules

494.0016 Books, accounts, and records; maintenance; examinations by the office.—

[. . .]

(4) The commission may prescribe by rule the minimum information to be shown in the books, accounts, records, and documents of licensees so that such records will enable the office to determine the licensee's compliance with ss. [494.001-494.0077](#). In addition, the commission may prescribe by rule requirements for the destruction of books, accounts, records, and documents retained by the licensee after completion of the time period specified in subsection (3).

120.695 Notice of noncompliance.—

[omitted – relates to subsection (5) of the rule, which is not affected by the proposed amendment]

494.00255 Administrative penalties and fines; license violations.—

[omitted – relates to subsection (5) of the rule, which is not affected by the proposed amendment]

494.0041 Administrative penalties and fines; license violations.

[omitted – this statute was repealed 10/1/2010]

Proposed Rule Repeal
Rules 69V-180.050 and .060
Chapter Name: Collection Agencies

Titles:

Consumer Collection Agency Registration Renewal Form and Procedures (69V-180.050)

Commercial Collection Agency Registration Renewal Form and Procedures (69V-180.060)

A. Summary and Justification

The proposed rule amendments will repeal the rules. The Office does not need a form in order to renew a registrant's registration. The Office does not collect any additional information at the time of renewal. Further, the renewal fee is set forth in statute. In addition, there is no need to extend deadlines for renewals because of weekends or holidays because registrants can renew their registration electronically through the Office's REAL system 24 hours a day, 7 days a week.

B. Text of Proposed Amendments

69V-180.050 Consumer Collection Agency Registration Renewal Form and Procedures.

~~(1) Each active consumer collection agency registration shall be renewed for the annual period beginning January 1 of each year, upon submission of the renewal fee of \$200 and the renewal form. Form OFR-CCA-104, Consumer Collection Agency Registration Renewal Form, effective 1-1-95, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375. If December 31 of the year is on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., then the renewals received on the next business day will be considered timely received.~~

~~(2) Failure to submit the renewal fee and renewal form required in subsection (1) prior to January 1 of the renewal year shall automatically result in the registration becoming expired.~~

Specific Authority 17.29 FS. Law Implemented 559.553(2), 559.555(3) FS. History—New 1-1-95, Amended 2-5-01, Formerly 3D-180.050, Repealed.

69V-180.060 Commercial Collection Agency Registration Renewal Form and Procedures.

~~(1) Each active commercial collection agency registration shall be renewed for the annual~~

~~period beginning January 1 of each year, upon submission of the renewal fee of \$500 and the renewal form. Form OFR COM 105, Commercial Collection Agency Registration Renewal Form, effective 1-1-95, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375. If December 31 of the year is on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., then the renewals received on the next business day will be considered timely received.~~

~~(2) Failure to submit the renewal fee and renewal form required in subsection (1) prior to January 1 of the renewal year shall automatically result in the registration becoming expired.~~

Specific Authority 17.29 FS. Law Implemented 559.544(2), 559.545 FS. History—New 1-1-95, Amended 2-5-01, Formerly 3D-180.060, Repealed .

C. Statutes Cited in Rules

17.29 Authority to prescribe rules.

The Chief Financial Officer may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this chapter and the duties assigned by statute or the State Constitution. Such rules may include, but are not limited to, the following:

- (1) Procedures or policies relating to the processing of payments from salaries, other personal services, or any other applicable appropriation.
- (2) Procedures for processing interagency and intraagency payments that do not require the issuance of a state warrant.
- (3) Procedures or policies requiring that payments made by the state for goods, services, or anything of value be made by electronic means, including, but not limited to, debit cards, credit cards, or electronic funds transfers.
- (4) A method that reasonably accommodates persons who, because of technological, financial, or other hardship, may not be able to receive payments by electronic means. The Chief Financial Officer may make payments by state warrant if deemed administratively necessary.

559.553(2) Registration of consumer collection agencies required; exemptions.—

[. . .]

- (2) Each consumer collection agency doing business in this state shall register with the office and renew such registration annually as set forth in s. 559.555.

559.555(3) Registration of consumer collection agencies; procedure.—

Any person required to register as a consumer collection agency shall furnish to the office the registration fee and information as follows:

[. . .]

(3) Renewal of registration shall be made between October 1 and December 31 of each year. There shall be no proration of the fee for any registration.

559.544 Registration required; exemptions.—

[. . .]

(2) Each commercial collection agency doing business in this state shall register with the office and annually renew such registration, providing the registration fee, information, and surety bond required by this part.

559.545 Registration of commercial collection agencies; procedure.—

Any person who wishes to register as a commercial collection agency in compliance with this part shall do so on forms adopted by the commission and furnished by the office. Any renewal of registration shall be made between October 1 and December 31 of each year. In registering or renewing a registration as required by this part, each commercial collection agency shall furnish to the office a registration fee, information, and surety bond, as follows:

(1) The registrant shall pay to the office a registration fee of \$500. All amounts collected shall be deposited to the credit of the Regulatory Trust Fund of the office.

(2) The registrant shall provide the following information:

(a) The business name or trade name of the commercial collection agency, the current mailing address of the agency, and the current business location of each place from which the agency operates either a main or branch office, with a designation of which location constitutes its principal place of business.

(b) The full names, current addresses, current telephone numbers, and social security numbers, or federal identification numbers of any corporate owner, of the registrant's owners or corporate officers and directors, and of the Florida resident agent of the registering agency.

(c) A statement as to whether the registrant is a domestic or foreign corporation, together with the state and date of incorporation, charter number of the corporation, and, if a foreign corporation, the date the corporation first registered to do business in this state.

(d) A statement listing each county in this state in which the registrant is currently doing business or plans to do business within the next calendar year, indicating each county in which the registrant holds an occupational license.

(e) A statement listing each county in this state in which the registrant is operating under a fictitious name or trade name other than that of the registrant, indicating the date and place of registration of any such fictitious name or trade name.

(f) A statement listing the names of any other corporations, entities, or trade names through which any owner or director of the registrant was known or did business as a commercial or consumer collection agency within the 5 calendar years immediately preceding the year in which the agency is registering.

(g) A statement clearly identifying and explaining any occasion on which any professional license or occupational license held by the registrant, any principal of the registrant, or any business entity in which any principal of the registrant was the owner of 10 percent or more of such business was the subject of any suspension, revocation, or other disciplinary action.

(h) A statement clearly identifying and explaining any occasion of a finding of guilt of any crime involving moral turpitude or dishonest conduct on the part of any principal of the registrant.

(3) The registrant shall furnish to the office evidence, as provided in s. 559.546, of the registrant having a current surety bond in the amount of \$50,000, valid for the year of registration, paid for and issued for the use and benefit of any credit grantor who suffers or sustains any loss or damage by reason of any violation of the provisions of this part by the registrant, or by any agent or employee of the registrant acting within the scope of her or his employment, and issued to ensure conformance with the provisions of this part.

Proposed Rule Repeal
Rule 69V-560.901
Chapter Name: Money Transmitters
Title: Scope

A. Scope and Justification

The proposed rule amendment will repeal the rule. Rule 69V-560.901, relating to scope, is merely descriptive and does not impose any regulatory requirements.

B. Text of Proposed Amendment

69V-560.901 Scope.

~~This section contains the specific requirements for deferred presentment providers with respect to the procedures employed to accomplish a deferred presentment transaction.~~

Specific Authority 560.105, 560.404(23) FS. Law Implemented 560.404 FS. History—New 12-17-01, Formerly 3C-560.901, Repealed.

C. Statutes Cited in Rule

560.105 Supervisory powers; rulemaking.—

[omitted – relates to general rulemaking authority]

560.404(23) Requirements for deferred presentment transactions.—

(23) The office shall implement a common database with real-time access through an Internet connection for deferred presentment providers, as provided in this subsection. The database must be accessible to the office and the deferred presentment providers in order to verify whether any deferred presentment transactions are outstanding for a particular person. Deferred presentment providers shall submit such data before entering into each deferred presentment transaction in such format as required by rule, including the drawer's name, social security number or employment authorization alien number, address, driver's license number, amount of the transaction, date of transaction, the date that the transaction is closed, and such additional information as is required by rule. The commission may by rule impose a fee of up to \$1 per transaction for data that must be submitted by a deferred presentment provider. A deferred presentment provider may rely on the information contained in the database as accurate and is not subject to any administrative penalty or civil liability due to relying on inaccurate information contained in the database. A deferred presentment provider must notify the office, in a

manner as prescribed by rule, within 15 business days after ceasing operations or no longer holding a license under part II or part III of this chapter. Such notification must include a reconciliation of all open transactions. If the provider fails to provide notice, the office shall take action to administratively release all open and pending transactions in the database after the office becomes aware of the closure. This section does not affect the rights of the provider to enforce the contractual provisions of the deferred presentment agreements through any civil action allowed by law. The commission may adopt rules to administer this subsection and to ensure that the database is used by deferred presentment providers in accordance with this section.

Proposed Rule Repeals

Rules/Titles:

69W-7.001: Definitions

69W-7.002: Certification as a Certified Capital Company

69W-7.003: Capital Requirements for Certified Capital Companies

69W-7.004: Annual Review

69W-7.005: Requirement to Update Information

69W-7.006: Renewal of Certification

69W-7.007: Books and Records Requirements

69W-7.008: Forms, Instructions and Manuals

Chapter Name: Certified Capital Companies

A. Summary and Justification

Rule Chapter 69W-7, relating to certified capital companies, is proposed for repeal. The statute authorizing these rules, Section 288.99, F.S., was repealed effective December 31, 2010, by operation of law. See Fla. Stat. s. 288.99(17) (2010), which provides: "This section shall stand repealed December 31, 2010." During the 2011 legislative session, a reviser's bill was passed that removed Section 288.99, F.S., from the Florida Statutes. See s. 5, Ch. 2011-3, Laws of Florida.

B. Text of Proposed Amendments

69W-7.001 Definitions.

~~Definitions as used in Rule Chapter 69W-7, F.A.C.~~

~~(1) "Application" means all information required by the forms prescribed by the Financial Services Commission and any additional information required by the Financial Services Commission or Office of Financial Regulation together with all required statutory fees.~~

~~(2) "Management Company" means a company hired to perform management services for a business.~~

~~(3) "Predominantly engaged," as used in Section 288.99(3)(k), F.S., means any business engaged in retail sales, real estate development, insurance, banking, lending, oil and gas exploration or engaged in professional services provided by accountants, lawyers, or physicians for which: (i) over fifty percent of the revenues of such business, for the preceding fiscal year, are derived from a combination of one or more such activities, or (ii) if a new enterprise, over fifty percent of the projected revenues of such business, for its first fiscal year, are derived from a combination of one or more such activities.~~

~~(4) "Principal Office" means the place where the chief or principal affairs and business of the applicant are transacted.~~

Specific Authority 288.99(4)(h) FS. Law Implemented 288.99(4) FS. History—New 9-15-98, Amended 12-12-02, Formerly 3E-7.001, Repealed .

69W-7.002 Certification as a Certified Capital Company.

~~(1) Each applicant seeking certification as a certified capital company shall complete, execute, and file with the Office of Financial Regulation not later than ninety (90) days prior to the scheduled deadline for submission of tax credit allocation requests to the Office of Trade, Tourism, and Economic Development contained in Section 288.99(17), F.S., for the respective Program, Form OFR-C-1-98, Application for Certification as a Certified Capital Company, which is incorporated herein by reference.~~

~~(a) An application may be obtained directly from the Office of Financial Regulation in paper copy format, on 3.5" diskette, by e-mail, or by accessing the Office of Financial Regulation's website at www.dbf.state.fl.us.~~

~~(b) Diskette and e-mail versions of the application are available only in the following format: Microsoft Word for Windows Version 7.0a.~~

~~(2) An application shall be deemed filed with the Office of Financial Regulation when the Office of Financial Regulation receives the application, including an originally executed certification page, and the application fee.~~

~~(3) Any application filed after the date referenced in subsection (1) of this section shall be denied by the Office of Financial Regulation.~~

~~(4) Applications may be filed on paper copy, on diskette or by e-mail.~~

~~(5) Applications filed by mail shall be mailed to the Office of Financial Regulation at Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375. Applications filed by e-mail shall be sent to the Office of Financial Regulation's e-mail address at electroniclicensing@dfs.state.fl.us.~~

~~(6) Applicants who file applications on diskette or by e-mail must also file an originally executed certification page which becomes part of the diskette or e-mail by reference.~~

~~(7) Applications filed on diskette or by e-mail shall be submitted in the following format: Microsoft Word for Windows Version 7.0a. No other software will be accepted unless authorized in writing by the Office of Financial Regulation.~~

~~(8) Application fees shall be paid by cashier's check, money order, certified check or wire transfer. Wire transfer instructions are provided on the application.~~

~~(9) Whenever an applicant has knowledge that information supplied on or with its application has become inaccurate or obsolete, the applicant shall file an amended application form within 30 days,~~

~~including an originally executed certification page to the Office of Financial Regulation updating this information. Amended applications may be filed in the same manner as provided for original applications.~~

~~(10) The Office of Financial Regulation will make requests for additional information within 30 days, if necessary, after the Office of Financial Regulation receives the application and the full amount of the application fee.~~

~~(11) Upon approving an application, the Office of Financial Regulation shall issue a certificate evidencing certification effective through December 31 of that calendar year. No renewal fees shall be required within 6 months after the date of initial certification.~~

~~(12) Copies of all offering materials and advertising materials used by the CAPCO must be filed with the Office of Financial Regulation no later than the date on which the Certified Capital Company submits tax credit allocation request to the Office of Trade, Tourism, and Economic Development with respect to the Program for which the requests are being submitted.~~

Specific Authority 288.99(4)(h) FS. Law Implemented 288.99(4) FS. History—New 9-15-98, Amended 12-12-02, Formerly 3E-7.002, Repealed.

69W-7.003 Capital Requirements for Certified Capital Companies.

~~At the time of application and at all times prior to the receipt of an allocation of tax credits, the applicant shall maintain an equity capitalization in the form of cash and cash equivalents in accordance with Section 288.99(4)(b), (5), F.S. A certified capital company shall notify the Office of Financial Regulation within twenty four hours of a failure to maintain such equity capitalization. Any certified capital company that receives an allocation of tax credits shall immediately be subject to the constraints of Section 288.99(3)(m), F.S., with respect to any distributions or payments.~~

Specific Authority 288.99(4)(h) FS. Law Implemented 288.99(4) FS. History—New 9-15-98, Amended 12-12-02, Formerly 3E-7.003, Repealed.

69W-7.004 Annual Review.

~~(1) After completing an annual review, the Office of Financial Regulation shall notify the certified capital company of the Office of Financial Regulation's findings regarding the certified capital company's compliance with the provisions of Section 288.99, F.S.~~

~~(2) The Office of Financial Regulation shall charge each certified capital company a fee of \$5000 to cover the cost of the Office of Financial Regulation's annual review. After completing an annual review, the Office of Financial Regulation shall issue the certified capital company an invoice for the cost of the~~

~~annual review. A certified capital company shall pay the amount of the invoice in full within 30 days from the date of the invoice. Payment shall be made by certified check, money order, cashier's check or wire transfer.~~

Specific Authority 288.99(4)(h) FS. Law Implemented 288.99(10) FS. History—New 9-15-98, Formerly 3E-7.004, Repealed.

69W-7.005 Requirement to Update Information.

~~Within 30 days after actual knowledge that information supplied on or with its application has become inaccurate or obsolete, a certified capital company shall file an amended application with the Office of Financial Regulation on Form OFR-C 1-98, including an originally executed certification page.~~

Specific Authority 288.99(4)(h) FS. Law Implemented 288.99(4) FS. History—New 9-15-98, Formerly 3E-7.005, Repealed.

69W-7.006 Renewal of Certification.

~~(1) Each certified capital company seeking to renew its certification shall pay all renewal fees as required by Section 288.99(4), F.S.~~

~~(2) Renewal fees shall be paid by cashier's check, money order, certified check or wire transfer.~~

~~(3) Renewal fees paid by cashier's check, money order or certified check shall be mailed to the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~

~~(4) Upon receipt of the required renewal fees, the Office of Financial Regulation shall issue a certificate evidencing renewal of the certification through December 31 of that calendar year.~~

Specific Authority 288.99(4)(h) FS. Law Implemented 288.99(4) FS. History—New 9-15-98, Amended 12-12-02, Formerly 3E-7.006, Repealed.

69W-7.007 Books and Records Requirements.

~~(1) Each certified capital company shall prepare and maintain on a current basis the following records:~~

~~(a) A complete executed copy of the application, any amendments thereto and the attached schedules.~~

~~(b) Files for each Director and Principal containing the following:~~

~~1. Evidence that at least two of the Principals meet the requirements of Section 288.99(4)(c)3., F.S.;~~

~~2. Full documentation and details pertaining to each affirmative response to the disciplinary questions~~

on Schedule D to Form OFR-C-1-98; and

~~3. Documentation pertaining to any outstanding or resolved customer complaints, actions, internal reviews or investigations into each Director's and Principal's activities while associated with said certified capital company.~~

~~(c) Records concerning all securities issued by the certified capital company which include each of the following:~~

~~1. The type of security issued;~~

~~2. The name, address, and telephone number of the Investor(s);~~

~~3. The date of the transaction;~~

~~4. The total dollar amount invested;~~

~~5. Copies of any prospectus or offering material used in connection with the sale of securities by the certified capital company; and~~

~~6. Evidence that the offering security contains the statement required by Section 288.99(4)(g), F.S.~~

~~(d) Records relating to each certified investor in the certified capital company which include each of the following:~~

~~1. Evidence demonstrating that the certified investor is subject to premium tax liability pursuant to Section 624.509, F.S.;~~

~~2. The names of all affiliates and a description of the affiliation; and~~

~~3. The investor's state and federal tax identification numbers and premium tax identification number.~~

~~(e) Records relating to each qualified business or early stage technology Business (collectively "business") invested in by the certified capital company which include each of the following:~~

~~1. The name of the business;~~

~~2. The location of the headquarters and principal business operations of the business;~~

~~3. A description of the type of business engaged in;~~

~~4. Evidence that the business meets the definition of a qualified business as defined by Section 288.99(3)(k), F.S.;~~

~~5. The affidavit required by Section 288.99(3)(k)3., F.S. Such affidavit shall be duly sworn and notarized, and shall be completed by an authorized representative of such business;~~

~~6. A copy of any contractual agreement entered into between the certified capital company and the business;~~

~~7. The amount of investment made in the business;~~

~~8. The type of investment made along with all supporting documentation;~~

~~9. The date of the investment;~~

~~10. A description of the procedures used to select the business for investment including the names of~~

~~all individuals associated with the certified capital company who participated in the decision;~~

~~11. A due diligence file on the business;~~

~~12. Copies of any prospectus or offering material used in connection with the sale of securities by the business to the certified capital company;~~

~~13. All correspondence between the certified capital company and the qualified business; and~~

~~14. A summary listing of all investments made in qualified businesses as of the end of each calendar year beginning with December 31, 2000.~~

~~15. Copies of annual financial statements and the quarterly and annual unemployment tax filings for each qualified business. For a qualified business that is not required to file quarterly and annual unemployment tax filings, the qualified business shall maintain end of quarter and end of year payroll records which shall include contracts for the leasing of staff.~~

~~(f) Organizational documents, and any amendments to these documents, as are applicable, based upon the type of organizational structure. These documents should include the following, as applicable:~~

~~1. Articles of Incorporation;~~

~~2. Partnership Agreement;~~

~~3. Articles of Organization;~~

~~4. Bylaws; and~~

~~5. Evidence of Registration with the Department of State.~~

~~(g) Records relating to capital of the certified capital company which is not invested in qualified businesses which include each of the following:~~

~~1. A ledger or customer statement from the financial institution or broker dealer holding the assets which includes the details of all purchases, sales, receipts, and deliveries of securities; and~~

~~2. Evidence that each investment complies with the requirements of Section 288.99(5)(b)3., F.S.~~

~~(h) Records relating to all qualified distributions by the certified capital company which include each of the following:~~

~~1. The date of the distribution;~~

~~2. The amount of the distribution;~~

~~3. To whom the distribution was paid;~~

~~4. The purpose of the distribution; and~~

~~5. A statement describing how each distribution complies with the definition found in Section 288.99(3)(m), F.S.~~

~~(i) Records relating to all distributions by the certified capital company, other than qualified distributions, which include each of the following:~~

~~1. The date of the distribution;~~

2. The amount of the distribution;
3. Who the distribution was paid to;
4. The purpose of the distribution; and
5. A statement describing how each distribution complies with Section 288.99(9), F.S.

~~(j) Documentation to support the information provided to the Office of Financial Regulation pursuant to Section 288.99(8)(a), F.S.~~

~~(k) Financial records, prepared in accordance with generally accepted accounting principles, which include each of the following:~~

1. A journal or journals, including cash receipts and disbursements records, and any other records of original entry forming the basis of entries in any ledger;
2. General and auxiliary ledgers (or other comparable records) reflecting asset, liability, reserve, capital, income and expense accounts;
3. All check books, bank statements, canceled checks and cash reconciliations; and
4. All bills or statements (or copies thereof), paid or unpaid, relating to the business of the certified capital company.

~~(2) Records required by subsection (1) of this rule shall be preserved for a period of not less than ten (10) years while effectively registered with the Office of Financial Regulation, nor for less than five (5) years after decertification as a certified capital company.~~

~~(3) Records required by subsection (1) of this rule shall be preserved for a period of not less than three (3) years at the office located in this state as designated in Section 288.99(4)(e)3., F.S., and thereafter shall be preserved for the periods of time specified in subsection (2) at the certified capital company's principal place of business. Such records shall be accessible through the main office of the certified capital company.~~

Specific Authority 288.99(4)(h) FS. Law Implemented 288.99(3), (4), (5), (8), (9) FS. History—New 9-15-98, Amended 12-12-02, Formerly 3E-7.007, Repealed.

69W-7.008 Forms, Instructions and Manuals.

~~(1)(a) The forms set forth below, as well as any instructions accompanying them, are hereby adopted by the Office of Financial Regulation and incorporated by reference into Rule Chapter 69W-7, F.A.C.~~

~~(b) Form OFR-C-1-98, Application for Certification as a Certified Capital Company.~~

~~(2)(a) In addition to the forms incorporated by subsection (1), the following manuals and forms are hereby adopted by the Office of Financial Regulation and incorporated by reference into Rule Chapter 69W-7, F.A.C.~~

~~(b) GAAP Interpretation and Application of Generally Accepted Accounting Principles, copyright John Wiley & Sons, Inc., (1998).~~

Specific Authority 288.99(4)(h) FS. Law Implemented 288.99(4) FS. History—New 9-15-98, Formerly 3E-7.008, Repealed.

C. Statutes Cited in Rules

288.99

[omitted - Section 288.99, F.S., the Florida Certified Capital Company Act, was repealed December 1, 2010.]

Proposed Rule Repeal
Rules 69W-301.001 and .003

Chapter Name: Procedural Rules for Processing Securities Registration Applications

Titles: Scope (69W-301.001); Right to Hearing (69W-301.003)

A. Summary and Justification

The proposed rule amendments will repeal the rules. Rule 69W-301.001 describes the scope of the rule chapter, which is unnecessary. Rule 69W-301.003 is unnecessary because the procedures for requesting a hearing are already addressed under the Uniform Rules of Procedure. See Rule 28-106.111, F.A.C.

B. Text of Proposed Amendments

69W-301.001 Scope.

~~These rules contain procedures related to actions taken by the Office of Financial Regulation, in connection with its responsibility to process applications pursuant to Chapter 517, F.S.~~

Rulemaking Authority 517.03(1) FS. Law Implemented 517.081, 517.12 FS. History—New 9-20-82, Formerly 3E-301.01, 3E-301.001, Repealed .

69W-301.003 Right to Hearing.

~~Should the Office of Financial Regulation refuse to grant the license, the Office of Financial Regulation shall notify the applicant of this decision stating the grounds for denial. The applicant aggrieved by such a refusal shall be entitled to an administrative hearing upon filing a written request for such a hearing. Procedures for requesting such hearing appear in Rules 28-106.201 and 28-106.301, F.A.C.~~

Rulemaking Authority 517.03(1) FS. Law Implemented 120.57, 120.60, 517.081, 517.082, 517.12, 517.241(1) FS. History—New 9-20-82, Formerly 3E-301.03, Amended 7-31-91, 6-22-98, Formerly 3E-301.003, Amended 9-30-10, Repealed .

C. Statutes Cited in Rule

517.03(1) Rulemaking; immunity for acts in conformity with rules.

[Text omitted – related to general rulemaking authority]

517.081 Registration procedure.—

[Text omitted – relating to registration of securities, generally]

517.12 Registration of dealers, associated persons, investment advisers, and branch offices.—

[Text omitted – relating to registration of dealers/associated persons/investment advisers/branch offices, generally]

120.57 Additional procedures for particular cases.—

[Text omitted – relating to APA procedures for conducting hearings]

120.60 Licensing.—

[Text omitted – relating to APA procedures for licensing]

517.082 Notification registration.—

[Text omitted – relating to notification registration of securities]

517.241 Remedies.—

(1) Any person aggrieved by a final order of the office may have the order reviewed as provided by chapter 120, the Administrative Procedure Act.

Proposed Rule Repeal

Rules 69W-700.018, 69W-700.024, 69W-700.028

Chapter Name: Registration of Securities

Titles:

69W-700.018: Signing Required - Consents and Consents of Experts

69W-700.024: Submission of Final Documents

69W-700.028: Small Corporate Offering Registration ("SCOR" Offering)

A. Summary and Justification

The purpose of the proposed rule amendments is to repeal Rules 69W-700.018, 69W-700.0024, and 69W-700.028. Section 517.081, F.S., sets forth the procedures that must be followed when a person seeks to register a security with the Office. It also sets forth the information that the Office may request as part of the registration process. Rule 69W-700.018 requires information that is not specified in the implementing statute. Accordingly, the rule has been identified for repeal because it enlarges the scope of the statute. Rule 69W-700.024 has been designated for repeal because it may allow an issuer to sell securities in Florida prior to registration, which conflicts Section 517.081(1), F.S. Rule 69W-700.028 has been identified for repeal because it is redundant of statutory requirements. The documents specified in the rule are required by the following statutes: s. 517.081(2), F.S. (application); s. 517.081(3), F.S.; (offering circular/prospectus, allowance for use of a form of simplified offering circular and, filing of exhibits and financial statements and annual financial reports); s. 517.081(6), F.S.; (payment of statutory filing fee); s. 517.101, F.S., (consent to service and corporate resolution), and s. 517.12, F.S.; (registration of issuer as dealer).

B. Text of Proposed Amendments

69W-700.018 Signing Required - Consents and Consents of Experts.

~~The following rule shall not apply if the registrant has submitted written consents.~~

~~(1) If any portion of the report of an expert is quoted or summarized as such in the offering circular or in a prospectus, the written consent of the expert shall expressly state that the expert consents to such quotation or summarization.~~

~~(2) If it is stated that any information contained in the offering circular or prospectus has been reviewed or passed upon by any person and that such information is set forth in the offering circular or~~

prospectus upon the authority of or in reliance upon such person as an expert, the written consent of such person authorizing or approving such statement shall be filed with the offering circular or prospectus.

(3) If any person who has not signed the offering circular or prospectus is named therein as a director or named as about to become a director, the written consent of such person authorizing or approving such statement shall be filed with the offering circular or prospectus. Any such consent, however, may be omitted if there is filed with the offering circular or prospectus, a statement by the registrant, supported by an affidavit or affidavits, setting forth the reasons for such omission and establishing that the obtaining of such consent is impracticable or involves undue hardship on the registrant.

Specific Authority 517.03 FS. Law Implemented 517.081(3) FS. History—(Formerly 3E-20.16) New 9-20-82, Formerly 3E-700.18, 3E-700.018, Repealed .

69W-700.024 Submission of Final Documents.

The Office of Financial Regulation may allow an Issuer to sell its securities in this state prior to furnishing all statements, exhibits and documents required by the Office of Financial Regulation which are supplemental in nature and are not related to the substantive merit standards required by the Office of Financial Regulation. Such final documents, however, must be submitted within 30 days of the effective registration granted by the Office of Financial Regulation or administrative action may be taken by the Office of Financial Regulation.

Specific Authority 517.03 FS. Law Implemented 517.03(1) FS. History—New 9-20-82, Formerly 3E-700.24, 3E-700.024, Repealed .

69W-700.028 Small Corporate Offering Registration (“SCOR” Offering).

(1) For the purpose of compliance with the registration provisions of Section 517.081(3)(g)2., F.S., the issuer shall file an application on Form OFR S 12-97, SCOR (Small Corporate Offering Registration) Application to Register Securities, which is incorporated by reference in subsection 69W 301.002(7), F.A.C. The application shall include:

(a) Three (3) copies of Form U 7, Small Corporate Offering Registration Form, which is incorporated by reference in subsection 69W 301.002(7), F.A.C.;

(b) An irrevocable written Uniform Consent to Service of Process, Form U 2 or Form OFR S 5-91, and Uniform Corporate Resolution, Form U 2A or Form OFR S 6-91, which are incorporated by reference in subsection 69W 301.002(7), F.A.C., as described in Section 517.101, F.S. It shall be the choice of the applicant to file either the Form U 2 or the Form OFR S 5-91, either of which are acceptable to the office. It shall also be the choice of the applicant to file either the Form U 2A or Form OFR S 6-91;

~~(c) Payment of the statutory fee as required in Section 517.081, F.S.;~~

~~(d) Exhibits, where applicable, as prescribed in Part II to Form OFR-S-12-97, SCOR (Small Corporate Offering Registration) Application to Register Securities, which is incorporated by reference in subsection 69W-301.002(7), F.A.C.~~

~~(2) Self-underwritten offerings shall be offered and sold by the issuer registered with the Office of Financial Regulation in compliance with Section 517.12, F.S. All offerees shall be furnished with a prospectus approved by the Office of Financial Regulation and a copy of Florida's Guide to Small Business Investments.~~

~~(3) Annual financial reports shall be filed with the Office of Financial Regulation within 90 days after the close of the issuer's fiscal year for a period of 5 years following the effective date of the registration. In the event the corporation ceases operations, such financial reports shall continue to be furnished to the Office of Financial Regulation unless the corporation is dissolved and all remaining assets distributed, if any. In such an event, the issuer shall furnish documentation to the Office of Financial Regulation to close the file.~~

Rulemaking Authority 517.03(1) FS. Law Implemented 517.081(3), (7) FS. History—New 11-30-97, Formerly 3E-700.028, Amended 11-22-10, Repealed .

C. Statutes Cited in Rules

517.03(1) Rulemaking; immunity for acts in conformity with rules.

[Text omitted – relating to general rulemaking authority]

517.081(3) Registration procedure.

[. . .]

(3) The office may require the applicant to submit to the office the following information concerning the issuer and such other relevant information as the office may in its judgment deem necessary to enable it to ascertain whether such securities shall be registered pursuant to the provisions of this section:

(a) The names and addresses of the directors, trustees, and officers, if the issuer be a corporation, association, or trust; of all the partners, if the issuer be a partnership; or of the issuer, if the issuer be an individual.

(b) The location of the issuer's principal business office and of its principal office in this state, if any.

(c) The general character of the business actually to be transacted by the issuer and the purposes of the proposed issue.

(d) A statement of the capitalization of the issuer.

(e) A balance sheet showing the amount and general character of its assets and liabilities on a day not more than 90 days prior to the date of filing such balance sheet or such longer period of time, not exceeding 6 months, as the office may permit at the written request of the issuer on a showing of good cause therefor.

(f) A detailed statement of the plan upon which the issuer proposes to transact business.

(g)1. A specimen copy of the security and a copy of any circular, prospectus, advertisement, or other description of such securities.

2. The commission shall adopt a form for a simplified offering circular to be used solely by corporations to register, under this section, securities of the corporation that are sold in offerings in which the aggregate offering price in any consecutive 12-month period does not exceed the amount provided in s. 3(b) of the Securities Act of 1933. The following issuers shall not be eligible to submit a simplified offering circular adopted pursuant to this subparagraph:

a. An issuer seeking to register securities for resale by persons other than the issuer.

b. An issuer who is subject to any of the disqualifications described in 17 C.F.R. s. [230.262](#), adopted pursuant to the Securities Act of 1933, or who has been or is engaged or is about to engage in an activity that would be grounds for denial, revocation, or suspension under s. [517.111](#). For purposes of this subparagraph, an issuer includes an issuer's director, officer, shareholder who owns at least 10 percent of the shares of the issuer, promoter, or selling agent of the securities to be offered or any officer, director, or partner of such selling agent.

c. An issuer who is a development-stage company that either has no specific business plan or purpose or has indicated that its business plan is to merge with an unidentified company or companies.

d. An issuer of offerings in which the specific business or properties cannot be described.

e. Any issuer the office determines is ineligible if the form would not provide full and fair disclosure of material information for the type of offering to be registered by the issuer.

f. Any corporation which has failed to provide the office the reports required for a previous offering registered pursuant to this subparagraph.

As a condition precedent to qualifying for use of the simplified offering circular, a corporation shall agree to provide the office with an annual financial report containing a balance sheet as of the end of the issuer's fiscal year and a statement of income for such year, prepared in accordance with United States generally accepted accounting principles and accompanied by an independent accountant's report. If the issuer has more than 100 security holders at the end of a fiscal year, the financial statements must be audited. Annual financial reports must be filed with the office within 90 days after the close of the issuer's fiscal year for each of the first 5 years following the effective date of the registration.

(h) A statement of the amount of the issuer's income, expenses, and fixed charges during the last fiscal year or, if in actual business less than 1 year, then for such time as the issuer has been in actual business.

(i) A statement of the issuer's cash sources and application during the last fiscal year or, if in actual business less than 1 year, then for such time as the issuer has been in actual business.

(j) A statement showing the maximum price at which such security is proposed to be sold, together with the maximum amount of commission, including expenses, or other form of remuneration to be paid in cash or otherwise, directly or indirectly, for or in connection with the sale or offering for sale of such securities.

(k) A copy of the opinion or opinions of counsel concerning the legality of the issue or other matters which the office may determine to be relevant to the issue.

(l) A detailed statement showing the items of cash, property, services, patents, good will, and any other consideration in payment for which such securities have been or are to be issued.

(m) The amount of securities to be set aside and disposed of and a statement of all securities issued from time to time for promotional purposes.

(n) If the issuer is a corporation, there shall be filed with the application a copy of its articles of incorporation with all amendments and of its existing bylaws, if not already on file in the office. If the issuer is a trustee, there shall be filed with the application a copy of all instruments by which the trust is created or declared and in which it is accepted and acknowledged. If the issuer is a partnership, unincorporated association, joint-stock company, or any other form of organization whatsoever, there shall be filed with the application a copy of its articles of partnership or association and all other papers pertaining to its organization, if not already on file in the office.

517.081(7) Registration procedure.

[. . .]

(7) If upon examination of any application the office shall find that the sale of the security referred to therein would not be fraudulent and would not work or tend to work a fraud upon the purchaser, that the terms of the sale of such securities would be fair, just, and equitable, and that the enterprise or business of the issuer is not based upon unsound business principles, it shall record the registration of such security in the register of securities; and thereupon such security so registered may be sold by any registered dealer, subject, however, to the further order of the office. In order to determine if an offering is fair, just, and equitable, the commission may by rule establish requirements and standards for the filing, content, and circulation of any preliminary, final, or amended prospectus and other sales literature and may by rule establish merit qualification criteria relating to the issuance of equity securities, debt securities, insurance

company securities, real estate investment trusts, and other traditional and nontraditional investments, including, but not limited to, oil and gas investments. The criteria may include such elements as the promoter's equity investment ratio, the financial condition of the issuer, the voting rights of shareholders, the grant of options or warrants to underwriters and others, loans and other affiliated transaction, the use or refund of proceeds of the offering, and such other relevant criteria as the office in its judgment may deem necessary to such determination.