

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

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

November 19, 2013

MEMBERS

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

Contact: Jo Morris (OFR)
(850) 410-9544

LL-03, The Capitol
Tallahassee, Florida

<u>ITEM</u>	<u>SUBJECT</u>	<u>RECOMMENDATION</u>
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1. The Office requests approval of the minutes of the September 24, 2013, meeting.

(ATTACHMENT 1)

FOR APPROVAL

2. The Office requests approval for final adoption of the following 4 rule amendments relating to International Banking Semiannual Assessment and Consumer Finance. The Consumer Finance rule amendments are proposed to implement changes as a result of Chapter 2013-201, Laws of Florida, relating to fingerprint requirements for money services businesses applicants.

Financial Institutions

- International Banking Semiannual Assessment: 69U-140.020, F.A.C.

Consumer Finance

- Adoption of Forms: 69V-560.1012, F.A.C.
- Application or Appointment Procedures and Requirements: 69V-560.102, F.A.C.
- Renewal Fees, Deadlines, and Requirements: 69V-560.302, F.A.C.

(ATTACHMENT 2)

APPROVAL FOR FINAL ADOPTION

ATTACHMENT 1

FINANCIAL SERVICES COMMISSION
OFFICE OF FINANCIAL REGULATION
MEETING MINUTES
SEPTEMBER 24, 2013

ATTACHMENT 2

**FINANCIAL SERVICES COMMISSION
OFFICE OF FINANCIAL REGULATION**

AGENDA ITEM #2

Action Requested

The Office requests approval for final adoption of four proposed rule amendments, relating to International Banking Semiannual Assessment (69U-140.020) and Consumer Finance (69V-560.1012, 69V-560.102, and 69V-560.302).

Proposed Rule Amendment

Rule 69U-140.020

Chapter Name: International Banks

Title: Semiannual Assessment

A. Summary and Justification

The proposed amendment to Rule 69U-140.020, F.A.C., creates additional monetary assessment tiers to extend declining assessments rates for agencies with assets from \$2.5B up to and exceeding \$10B. This will generally reduce the assessments due for international agencies with assets exceeding \$2.5B. Currently, the rule provides for declining assessments until reaching a flat assessment rate for agencies with total assets over \$1B. The proposed rule amendment also includes the statutory minimum assessment and late payment penalty amounts.

B. Procedural History

On September 3, 2013, a Notice of Rule Development was published in the Florida Administrative Register (FAR) for Rule Chapter 69U-140.020, F.A.C., relating to semiannual assessment, to advise the public of the development of changes to the rule chapter, 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 September 24, 2013, the Financial Services Commission approved proposed rule amendments to Rule Chapter 69U-140.020 for publication in the FAR. On October 2, 2013, the Notice of Proposed Rulemaking was published in the FAR.

The Office received comments from the Joint Administrative Procedures Committee regarding a technical change to 69U-140.020. A Notice of Change was published in the Vol. 39, No. 216 edition of the FAR on November 5, 2013. If this rule is approved for final adoption, the Office will incorporate the technical change at the time of filing with the Department of State.

The Office filed a Notice of Final Hearing for Rule Chapter 69U-140.020 which was published in the Volume 39, Number 220 edition of the FAR. The final hearing for the rules is noticed for the Financial Services Commission meeting to be held on November 19, 2013, at the regularly scheduled cabinet meeting in Tallahassee.

C. Full Text of Proposed Rule

69U-140.020 Semiannual Assessment.

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

If the agencies' total assets are:

	But Not	This Amount	Plus	Of Excess
Over	Over	(Base Assessment)	(Assessment Rate)	Over
Million	Million			Million
\$0	\$35	\$0	0.000065	0
35	100	2,275	0.000052	35
100	500	5,655	0.000040	100
500	1,000	21,495	0.000028	500
1,000	2,500	35,335	0.000016	1,000
<u>2,500</u>	<u>5,000</u>	<u>59,655</u>	<u>0.000004</u>	<u>2,500</u>
<u>5,000</u>	<u>7,500</u>	<u>69,655</u>	<u>0.000002</u>	<u>5,000</u>
<u>7,500</u>	<u>10,000</u>	<u>74,655</u>	<u>0.0000008</u>	<u>7,500</u>
<u>10,000</u>	<u>.....</u>	<u>76,655</u>	<u>0.0000004</u>	<u>10,000</u>

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

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

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

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

Specific Authority 655.012(2)(3), ~~663.12658.73(6)(b)~~, 663.13 FS. Law Implemented ~~663.12658.73(6)~~ FS. History—New 8-21-83, Amended 11-15-85, Formerly 3C-15.13, Amended 10-1-87, 5-17-90, Formerly 3C-15.013, 3C-140.020, Amended _____.

Proposed Rule Amendment

Rule 69V-560.1012

Chapter Name: Money Transmitters

Title: Adoption of Forms

A. Summary and Justification

The proposed amendment to Rule 69V-560.1012, F.A.C., deletes an obsolete reference to the Florida Fingerprint Card (FL922720Z) which was a requirement for application for licensure as a money service business. This amendment is a result of HB 665 (2013) which was signed into

law by the Governor, Chapter No. 2013-201. This bill required money service business licensure applicants to submit live-scan fingerprints to the Florida Department of Law Enforcement and the Federal Bureau of Investigation, which, in turn, caused the Florida Fingerprint Card to become obsolete.

B. Procedural History

On September 4, 2013, a Notice of Rule Development was published in the Florida Administrative Register (FAR) for Rule Chapter 69V-560.1012, F.A.C., relating to money transmitters, to advise the public of the development of changes to the rule chapter, 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 September 24, 2013, the Financial Services Commission approved proposed rule amendments to Rule Chapter 69V-560.1012 for publication in the FAR. On October 2, 2013, the Notice of Proposed Rulemaking was published in the FAR.

The Office received comments from the Joint Administrative Procedures Committee regarding a technical change to 69V-560.1012. On November 7, 2013, a Notice of Change was published in the Vol. 39, No. 220 edition of the FAR. If this rule is approved for final adoption, the Office will incorporate the technical change at the time of filing with the Department of State.

The Office filed a Notice of Final Hearing for Rule Chapter 69V-560.1012 which was published in the Volume 39, Number 220 edition of the FAR. The final hearing for the rules is noticed for the Financial Services Commission meeting to be held on November 19, 2013, at the regularly scheduled cabinet meeting in Tallahassee.

C. Full Text of Proposed Rule

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 ~~5-29-12~~ new date <http://www.flrules.org/Gateway/reference.asp?No=Ref-01231>.

(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.~~

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

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

(k) (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, 5-29-12,_____.

Proposed Rule Amendment

Rule 69V-560.102

Chapter Name: Money Transmitters

Title: Application Forms, Procedures and Requirements

A. Summary and Justification

The proposed amendment to Rule 69V-560.102, F.A.C., requires applicants for licensure as a money service business to submit fingerprints through a live-scan vendor approved by the Florida Department of Law Enforcement (FDLE), as required by HB 665 (2013), Chapter No. 2013-201. These fingerprints will be submitted to the FDLE for a state criminal background check and the Federal Bureau of Investigation for a Federal criminal background check. The proposed amendment also removes the requirement for applicants to submit a written request for withdrawal of application and instead must submit the request through the Office of Financial Regulation REAL system.

B. Procedural History

On September 4, 2013, a Notice of Rule Development was published in the Florida Administrative Register (FAR) for Rule Chapter 69V-560.102, F.A.C., relating to money transmitters, to advise the public of the development of changes to the rule chapter, 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 September 24, 2013, the Financial Services Commission approved proposed rule amendments to Rule Chapter 69V-560.102 for publication in the FAR. On October 2, 2013, the Notice of Proposed Rulemaking was published in the FAR.

The Office received comments from the Joint Administrative Procedures Committee regarding a technical change to 69V-560.102. On November 7, 2013, a Notice of Change was published in the Vol. 39, No. 220 edition of the FAR. If this rule is approved for final adoption, the Office will incorporate the technical change at the time of filing with the Department of State.

The Office filed a Notice of Final Hearing for Rule Chapter 69V-560.102 which was published in the Volume 39, Number 220 edition of the FAR. The final hearing for the rules is noticed for the Financial Services Commission meeting to be held on November 19, 2013, at the regularly scheduled cabinet meeting in Tallahassee.

C. Full Text of Proposed Rule

69V-560.102 Application or Appointment Procedures and Requirements.

69V-560.102 Application or Appointment Procedures and Requirements.

(1) Applications for money service business licenses must be made in accordance with the provisions of Sections 560.140, 560.141, and 560.143, F.S. Further, application for a money services business license involving payment instrument sales or money transmission must also comply with Section 560.205, F.S. The application form for applying hereunder is Application for Licensure as a Money Services Business, OFR-560-01, which is incorporated by reference in Rule 69V-560.1012, F.A.C.

(2) Each person listed in question 5G of the Application for Licensure as a Money Services Business, OFR-560-01, must submit fingerprints through a live-scan vendor approved by the Florida Department of Law Enforcement. A list of approved vendors is published on the Florida Department of Law Enforcement's website (<http://www.fdle.state.fl.us/Content/getdoc/941d4e90-131a-45ef-8af3-3c9d4efefd8e/Livescan-Service-Providers-and-Device-Vendors.aspx>). Such fingerprints will be submitted to the Florida Department of Law Enforcement for a state criminal background check and the Federal Bureau of Investigation for a Federal criminal background check. The cost of the fingerprinting process shall be borne by the applicant and paid directly to the live-scan vendor.

~~(3)~~(2) Request for Additional Information. Any request for additional information will be made by the Office within thirty (30) days after receipt of the application. The additional information must be received by the Office within forty-five (45) days from the date of the request. Failure to provide all information within forty-five (45) days from the date of the request will result in the Office denying the application.

~~(4)~~(3) Withdrawal of Application. An application may be withdrawn if the applicant submits a ~~written~~ request through the REAL system (<https://real.flofr.com/>) for same before the application is approved or denied.

~~(5)~~(4) Amendments to Pending Applications. If the information contained in any application form for licensure as a money services business, or in any amendment thereto, becomes inaccurate for any reason, the applicant shall file an amendment correcting such information within thirty (30) days of the change on Form OFR-560-01, which is incorporated by reference in Rule 69V-560.1012, F.A.C. An applicant may amend the application as to those factors

generally within the control or selection of the applicant once, as a matter of course, at any time within thirty (30) days from receipt of the application by the Office. Otherwise, the application may be amended only with prior written permission from the Office. The Office will grant permission to amend the application, unless the amendment constitutes a material change to the application. Requests to make changes which are material to the application will be deemed by the Office to be grounds for denial, and a new application, accompanied by the appropriate filing fee, will be required. Material changes include:

(a) Changes in net worth;

(b) The substitution or addition of a director, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, partner, member, joint venturer, responsible person, or controlling shareholder;

(c) Any change relating to the bond or collateral security item;

(d) A change to a response to the disclosure questions listed in section 6 on Form OFR-560-01; and

(e) A change to disclosure questions listed in section 3 on the biographical summary on Form OFR-560-01.

Rulemaking Specific Authority 215.405, 560.105, 560.118, 560.209, 560.403 FS. Law Implemented 215.405, 560.118, 560.140, 560.141, 560.143, 560.1235, 560.204, 560.205, 560.209, 560.303, 560.307, 560.403, 943.053 FS. History—New 9-24-97, Amended 11-4-01, 12-11-03, Formerly 3C-560.102, Amended 7-15-07, 6-17-08, 12-25-08, 1-13-09,_____.

Proposed Rule Amendment

Rule 69V-560.302

Chapter Name: Money Transmitters

Title: Renewal Fees, Deadlines, and Requirements

A. Summary and Justification

The proposed amendment to Rule 69V-560.302, F.A.C., requires applicants for renewal of Money Service Business (MSB) licensure to submit a nonrefundable fee, on or after October 1, 2013, of \$12.00 for each person currently listed in the records of the Office in question 5G of the application for licensure as a MSB, OFR-560-01, to cover the cost of fingerprint retention. Failure to remit the

\$12.00 fingerprint retention fee and the renewal fee prescribed in Section 560.141(2), F.S., by the license expiration date will automatically result in the license becoming expired. The proposed amendment also requires licensees to submit live-scan processing fingerprints to a live-scan vendor approved by the Florida Department of Law Enforcement for each person currently listed in the records of the Office in question 5G of the Application for Licensure as a Money Service Business, OFR-560-01, as required by Section 560.141(7), F.S.. The proposed amendment allows the Office of Financial Regulation to request additional information and documentation regarding the criminal background results and such information must be received by the Office within 45 days from the date of request.

B. Procedural History

On September 4, 2013, a Notice of Rule Development was published in the Florida Administrative Weekly (FAR) for Rule Chapter 69V-560.302, F.A.C., relating to money transmitters, to advise the public of the development of changes to the rule chapter, 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 September 24, 2013, the Financial Services Commission approved proposed rule amendments to Rule Chapter 69V-560.302 for publication in the FAR. On October 2, 2013, the Notice of Proposed Rulemaking was published in the FAR.

The Office received comments from the Joint Administrative Procedures Committee regarding a technical change to 69V-560.302. On November 5, 2013, a Notice of Change was published in the Vol. 39, No. 216 edition of the FAR. If this rule is approved for final adoption, the Office will incorporate the technical change at the time of filing with the Department of State.

The Office filed a Notice of Final Hearing for Rule Chapter 69V-560.302 which was published in the Volume 39, Number 220 edition of the FAR. The final hearing for the rules is noticed for the Financial Services Commission meeting to be held on November 19, 2013, at the regularly scheduled cabinet meeting in Tallahassee.

C. Full Text of Proposed Rule

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

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

(2) Licensees initially approved on or after October 1, 2013, shall submit a nonrefundable fee of \$12.00 for each person currently listed in the records of the Office in question 5G of the Application for Licensure as a Money Services Business, OFR-560-01, to cover the costs of fingerprint retention. Failure to remit renewal fees as prescribed in Section 560.141(2), F.S., and fingerprint retention fees as required in this paragraph by the license expiration date will automatically result in the license becoming expired. An expired license may be reinstated within 60 days following expiration pursuant to Section 560.142, F.S.

(3)(a) Licensees initially approved before October 1, 2013, shall submit fingerprints for each person currently listed in the records of the Office in question 5G of the Application for Licensure as a Money Services Business, OFR-560-01, for live-scan processing pursuant to 560.141(7), F.S. Such fingerprints must be submitted before renewing a license that is scheduled to expire between April 30, 2014, and December 31, 2015. The Office shall screen the background results to determine if the licensee meets licensure requirements. Any request for additional information must be received by the Office within forty-five (45) days from the date of the request. For purposes of this paragraph, each of the applicant's control persons required to submit fingerprints shall submit such fingerprints to a live-scan vendor approved by the Florida Department of Law Enforcement and published on the Florida Department of Law Enforcement's website (<http://www.fdle.state.fl.us/Content/getdoc/941d4e90-131a-45ef-8af3-3c9d4efefd8e/Livescan-Service-Providers-and-Device-Vendors.aspx>) for submission to the Florida Department of Law Enforcement and the Federal Bureau of Investigation for a state criminal background check and a Federal criminal background check. The cost of the fingerprinting process shall be borne by the applicant and paid directly to the live scan vendor.

(b) Licenses renewed pursuant to paragraph (a) shall submit a nonrefundable fee of \$12.00 for each person currently listed in the records of the Office in question 5G of the Application for Licensure as a Money Services Business, OFR-560-01, to cover the costs of fingerprint retention. This requirement applies to licensees renewing licenses that expire on or after April 1, 2016 that were approved before October 1, 2013. Failure to remit renewal fees as prescribed in Section

560.141(4), F.S., and fingerprint retention fees as required in this paragraph by the license expiration date will automatically result in the license becoming expired. An expired license may be reinstated within 60 days following expiration pursuant to Section 560.142, F.S.

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

Rulemaking Specific Authority 560.105 FS. Law Implemented 560.142, 560.403, 560.141, 560.143 FS. History—New 9-24-97, Amended 12-30-98, 11-4-01, Formerly 3C-560.302, Amended 7-15-07, 1-13-09,_____.