

## **Mass Transfer and Successor Registration Requirements**

Florida Administrative Code (F.A.C.) describes the method in which a merger and/or change of control for currently registered dealers or investment advisers should be reported to the Office of Financial Regulation (OFR).

The following is only a guideline. A complete review of Rule 69W-600.001, F.A.C. for members of the Financial Industry Regulatory Authority (FINRA) or Rule 69W-600.0016, F.A.C., for registered investment advisers, is recommended.

### **Mass Transfer:**

For a mass transfer to be approved in the state of Florida, the transaction between the two firms must be either a merger or change of control pursuant to Florida Administrative Code.

### **Merger:**

When there is a merger of dealers or investment advisers, currently registered with the OFR, involving the following:

- a. the assumption by the successor of substantially all assets **and** liabilities of the merged entities, **and**
- b. the continuation of the activities of the merged entities' successor entity

The merging entities shall file notification of such merger, along with a detailed letter of explanation, copy of the merger agreement and/or organizational documents with the OFR within thirty (30) calendar days **prior** to the date of such change. In addition, under Chapter 517.12(7), Florida Statutes (F.S.), any direct owners, principals, or indirect owners that are required to be reported on Form BD, Uniform Application for Broker-Dealer Registration (Form BD) or Form ADV, Uniform Application for Investment Adviser Registration (Form ADV) shall submit fingerprints for livescan processing in accordance with Rule 69W-600.002(7), F.A.C. for FINRA broker-dealers and Rule 69W-600.0016(7), F.A.C., for investment advisers, if not currently on file with FINRA and accessible through the FINRA Central Registration Depository (CRD).

### **Change of Control:**

1. Where a person or a group of persons directly or indirectly or acting by or through one or more persons, proposes to acquire a controlling interest in a dealer or investment adviser registrant, and
  - a. the acquirer is currently registered with the OFR, **or**
  - b. the acquirer has not within the preceding 10 years committed any reportable act as defined in Rule 69W-200.001(25), F.A.C.

The resulting entity shall file a detailed letter of explanation, amended organizational documents and an amendment to Form BD or Form ADV denoting such changes thirty (30) calendar days **prior** to the date of such acquisition. In addition, under Chapter 517.12(7), F.S., any direct owners, principals, or indirect owners that are required to be reported on Form BD or Form ADV, shall submit fingerprints for livescan processing in accordance with Rule 69W-600.002(7), F.A.C., for FINRA broker-dealers and Rule 69W-600.0016(7), F.A.C. for investment

advisers, if not currently on file with FINRA and accessible through the CRD.

2. Where a person or a group of persons directly or indirectly or acting by or through one or more persons, proposes to acquire a controlling interest in a dealer or investment adviser registrant, **and**
  - a. the acquirer has **within the preceding 10 years** committed any **reportable act** as defined in Rule 69W-200.001(25), F.A.C., **and**
  - b. the acquirer **is not currently registered** with the OFR.

The resulting entity shall prior to such acquisition file with the OFR a new application for registration on the forms prescribed by the OFR, together with all required exhibits and fees.

Per Rule 69W-600.001(11)(d) and Rule 69W-600.0016(12)(d), F.A.C., "**controlling interest**" means possession of the power to direct or cause the direction of the management or policies of a company, whether through ownership of securities, by contract or otherwise. Any individual or firm that directly or indirectly has the right to vote 25 percent or more of the voting securities of a company or is entitled to 25 percent or more of its profits is presumed to control that company.