

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

<https://www.flofr.gov/sitePages/OFRNews.htm>

**December 19, 2023**

**MEMBERS**

Governor Ron DeSantis  
Attorney General Ashley Moody  
Chief Financial Officer Jimmy Patronis  
Commissioner Wilton Simpson

**Contact: Ash Mason**  
**Director of Legislative Affairs (OFR)**  
**(850) 410-9601**

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

<b>ITEM</b>	<b>SUBJECT</b>	<b>RECOMMENDATION</b>
1.	The OFR respectfully requests approval to publish a Notice of Proposed Rule to amend Rules 69V-40.111, 69V-560.1000, 69V-560.609, and 69V-560.704, and to create Rule 69V-560.7044, Florida Administrative Code and approval for final adoption of the same if no member of the public timely requests a rule hearing or if a rule hearing is requested and no notice of change is needed as a result thereof or otherwise. Notice of Proposed Rule to amend Rules 69V-40.111, 69V-560.1000, 69V-560.609, and 69V-560.704, and to create Rule 69V-560.7044, Florida Administrative Code and approval for final adoption of the same if no member of the public timely requests a rule hearing or if a rule hearing is requested and no notice of change is needed as a result thereof or otherwise.	
	<b>(ATTACHMENT 1)</b>	<b>FOR APPROVAL</b>
2.	The OFR respectfully requests approval to publish a Notice of Proposed Rule to amend Rules 69W-200.001, 69W-200.002, 69W-400.001, 69W-500.006, 69W-500.011, 69W-600.001, 69W-600.0011, 69W-600.0012, 69W-600.0015, 69W-600.0016, 69W-600.0017, 69W-600.0019, 69W-600.002, 69W-600.0022, 69W-600.0024, 69W-600.012, 69W-600.013, 69W-600.0131, 69W-600.0132, 69W-600.0133, 69W-600.014, 69W-600.0151, 69W-600.0161, 69W-700.001, 69W-700.002, 69W-700.003, 69W-700.006, 69W-700.007, 69W-700.008, 69W-700.012, 69W-700.014, 69W-700.015, 69W-700.030, 69W-800.001, 69W-800.004, and 69W-1000.001, repeal Rules 69W-100.005, 69W-100.010, 69W-600.0013, 69W-600.0023, and 69W-600.0033, Florida Administrative Code and approval for final adoption of the same if no member of the public timely requests a rule hearing or if a rule hearing is requested and no notice of change is needed as a result thereof or otherwise.	
	<b>(ATTACHMENT 2)</b>	<b>FOR APPROVAL</b>

## ATTACHMENT 1

**FINANCIAL SERVICES COMMISSION  
OFFICE OF FINANCIAL REGULATION**

**AGENDA ITEM #\_1\_: REQUEST APPROVAL TO PUBLISH NOTICES OF PROPOSED RULE AND FOR  
FINAL ADOPTION IF NO MEMBER OF THE PUBLIC TIMELY REQUESTS A RULE HEARING OR IF A  
RULE HEARING IS REQUESTED AND NO NOTICE OF CHANGE IS NEEDED AS A RESULT THEREOF  
OR OTHERWISE**

**Action Requested**

The Office of Financial Regulation (“Office”) respectfully requests approval to publish a Notice of Proposed Rule to amend Rules 69V-40.111, 69V-560.1000, 69V-560.609, and 69V-560.704, and to create Rule 69V-560.7044, Florida Administrative Code and approval for final adoption of the same if no member of the public timely requests a rule hearing or if a rule hearing is requested and no notice of change is needed as a result thereof or otherwise.

**Summary and Justification of Rules**

Rule 69V-40.111, F.A.C.: The Office proposes to amend Rule 69V-40.111, F.A.C., to conform to and implement Chapter No. 2023-130, Laws of Florida, which was signed into law on May 24, 2023 and went into effect July 1, 2023. The law authorizes mortgage lenders to transact business from branch offices & remote locations and provides requirements for operating from remote locations. Once amended the incorporated material in the rule will provide administrative penalties for persons who fail to adhere to statutory provisions related to business transaction locations and the supervision of remote locations. In addition, the incorporated material in the rule is being amended to create new penalty provisions and reduce existing penalty provisions.

Rule 69V-560.1000, F.A.C.: The Office proposes to amend Rule 69V-560.1000, F.A.C., to conform to and implement Chapter No. 2023-130, Laws of Florida, which was signed into law on May 24, 2023 and went into effect on July 1, 2023. The law prohibits check cashers from cashing corporate checks for payees where the aggregate face amount of all such checks exceeds 200 percent of a payee’s payroll amount as reported in its workers’ compensation policy during the policy coverage period. Once amended, this rule will provide administrative penalties for persons who violate this prohibition. In addition, the rule is being amended to bring the text of the rule in parity with the penalties assessed in the disciplinary guidelines form.

Rule 69V-560.609, F.A.C.: The Office proposes to amend Rule 69V-560.609, F.A.C., to conform to and implement Chapter No. 2023-130, Laws of Florida. Once amended, the rule will no longer require check cashers to file a suspicious activity report for check cashing transactions involving corporate payment instruments that exceed check cashing limits established by Rule 69V-560.704, as such limits are being repealed via rulemaking.

Rule 69V-560.704, F.A.C.: The Office proposes to amend Rule 69V-560.704, F.A.C, to conform to and implement Chapter No. 2023-130, Laws of Florida. Once amended, the rule will no longer require documentation of a payee’s annual volume of check cashing and annual check cashing limits, will require check cashers to maintain documentation of a payee’s payroll amount, and will require check cashers to maintain documentation from a corporate customer stating the exemption from or circumstances under which the corporate customer is not required to obtain a workers’

compensation policy. In addition, the amended rule will require check cashers to review and update active customer files annually.

Rule 69V-560.7044, F.A.C.: The Office proposes to amend Rule 69V-560.704, F.A.C, to conform to and implement Chapter No. 2023-130, Laws of Florida. Once amended the rule will define the time period during which the 200 percent limit applies and specify who is/is not subject to the 200 percent limitation.

### **Proposed Text of Rules**

69V-40.111 Disciplinary Guidelines. (AMEND)  
69V-560.1000 Disciplinary Guidelines. (AMEND)  
69V-560.609 Suspicious Activity Report Filings. (AMEND)  
69V-560.704 Records to Be Maintained by Check Cashers. (AMEND)  
69V-560.7044 Limit on Cashing Corporate Checks. (NEW)

#### **69V-40.111 Disciplinary Guidelines.**

(1) Pursuant to Section 494.00255, F.S., Office of Financial Regulation, Division of Consumer Finance, Form OFR-494-14, Disciplinary Guidelines for Mortgage Loan Originators and Mortgage Entities, Form OFR-494-14, effective XX/XXXX 11/30/2015, available on the Office's website at [www.flofr.gov](http://www.flofr.gov) and available at [www.flrules.org/Gateway/reference.asp?No=Ref-XXXX](http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXX) ~~[www.flrules.org/Gateway/reference.asp?No=Ref-06055](http://www.flrules.org/Gateway/reference.asp?No=Ref-06055)~~, are applicable to each ground for disciplinary action that may be imposed by the Office against a person for a violation of Chapter 494, F.S. For purposes of this rule, the order of penalties, ranging from lowest to highest is: notice of noncompliance, written agreement, reprimand, fine, suspension, and revocation. In determining an appropriate penalty within the range of penalties prescribed in this rule for each citation as based upon the violation, the Office shall consider the circumstances set forth in subsection (3). The third column of the guidelines provides a summary of the statutory violations solely for the purpose of ease of reference. Persons subject to the rule should review the full text of the ~~Florida~~ Statute cited in the second column of the guidelines for the complete description of the violation. For the purposes of this rule and the disciplinary guidelines, the term "citation" means: a notice of non-compliance; written agreement; or any ~~any~~ final order docketed by the agency that specifies a violation of Chapter 494, F.S., or any rule promulgated under that chapter.

(2) Consistent with the disciplinary guidelines contained in the Office of Financial Regulation, Division of Consumer Finance, Form OFR-494-14, Disciplinary Guidelines for Mortgage Loan Originators and Mortgage Entities, the Office may issue: a written agreement which includes an administrative fine, but not adopted by final order; orders to revoke or suspend a license; orders to impose an administrative fine; orders denying applications; notices of non-compliance; and/or bring an action for injunction. Also, consistent with the disciplinary guidelines, to determine penalties, the Office may consider the combined effect of violations.

(a) For first citations identified in the disciplinary guidelines as minor violations, the Office shall issue a notice of non-compliance except when the Office identifies aggravating circumstances that would warrant a more severe penalty.

(b) For second citations identified in the disciplinary guidelines as minor violations, the Office

may issue a written agreement which is not adopted by final order imposing an administrative fine. Written agreements may be used only when the violations are limited to minor violations.

~~In accordance with this rule:~~

~~(a) (c)~~ Depending on the severity and repetition of specific violations, the Office may impose an administrative fine, suspension of a person, or revocation of a person or any combination thereof;

~~(b) (d)~~ The Office may impose a cease and desist order, a suspension, or both in conjunction with and in addition to any of the designated sanctions set forth in this rule when appropriate under the circumstances; and,

~~(e) The Office will consider the person's disciplinary history for the past 5 years in determining an appropriate penalty and may impose a more severe penalty when the disciplinary history includes past violations.~~

(3) In accordance with Section 494.00255, F.S., the Office shall consider the following circumstances in determining an appropriate penalty within the range of penalties prescribed in this rule for each violation. The Office also shall consider these circumstances when determining whether a deviation from the range of sanctions prescribed in the disciplinary guidelines is warranted:

(a) The following circumstances are considered mitigating factors:

1. If the violation rate is less than 5% when compared to the overall sample size reviewed;
2. No prior administrative actions by the Office against the licensee or control person within the past 10 years;
3. If the licensee detected and voluntarily instituted corrective responses or measures to avoid the recurrence of a violation prior to detection and intervention by the Office;
4. If the violation is attributable to a single control person or employee, and if the licensee removed or otherwise disciplined the individual prior to detection or intervention by the Office;
5. If the licensee is responsive to the Office's requests or inquiries or made no attempt to impede or delay the Office in its examination or investigation of the underlying misconduct; or
6. Other control, case-specific circumstances.

(b) The following circumstances are considered aggravating factors:

1. If the violation rate is more than 95% when compared to the overall sample size reviewed (sample size must be equal to or greater than 25 transactions and cover a date range of at least 6 months);
2. The potential for harm to the customers or the public is significant;
3. Prior administrative action by the Office against the licensee or an affiliated party of the licensee within the past 5 years;
4. If the licensee's violation was the result of willful misconduct or recklessness;
5. The licensee attempted to conceal the violation or mislead or deceive the Office; or
6. Other control relevant, case-specific circumstances.

(4) The list of violations cited in this rule is intended to be comprehensive, but the omission of a violation from the list does not preclude the Office from taking any action authorized by Section 494.00255, F.S.

(5) The ranges for administrative fines imposed by this rule are \$1,000 to \$3,500 for an "A" level fine; \$3,500 to \$7,500 for a "B" level fine; and \$7,500 to \$10,000 for a "C" level fine.

(6) The ranges for suspensions imposed by this rule are 3 to 10 days for an "A" level suspension; 10 to 20 days for a "B" level suspension; 20 to 30 days for a "C" level suspension; and up to 90 days for a "D" level suspension. A "D" level suspension may be terminated early if

licensee cures the violation.

*Rulemaking Authority 494.0011(2) FS. Law Implemented 494.0016, ~~494.00165, 494.0023, 494.0025, 494.00255, 494.0026, 494.00296, 494.00331, 494.0035, 494.0036, 494.0038, 494.0039, 494.004, 494.0042, 494.0043, 494.0063, 494.00665, 494.0065, 494.0067, 494.0069, 494.007, 494.0071, 494.00721, 494.0075, 494.0076~~ FS. History—New 3-20-91, Amended 7-25-96, Formerly 3D-40.111, Amended 11-9-15, XX-XX-XX.*

#### **69V-560.1000 Disciplinary Guidelines.**

(1) Pursuant to Section 560.1141, F.S., disciplinary guidelines applicable to each ground for disciplinary action that may be imposed by the Office against a person for a violation of Chapter 560 F.S., are hereby adopted. The disciplinary guidelines are contained in Office of Financial Regulation, Division of Consumer Finance, Form OFR-560-09, Disciplinary Guidelines for Money Services Businesses, which is hereby incorporated by reference, effective ~~XX-XXXX 08-2023~~. A copy of the disciplinary guidelines is available on the Office's website at [www.flofr.gov](http://www.flofr.gov) and <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXX> ~~http://www.flrules.org/Gateway/reference.asp?No=Ref-15704~~. For the purpose of this rule and the disciplinary guidelines, the term "citation" means: a notice of non-compliance; written agreement; or final order docketed by the agency that specifies a violation of Chapter 560, F.S., or any rule promulgated under that chapter.

(2) Consistent with the disciplinary guidelines contained in the Office of Financial Regulation, Division of Consumer Finance, Form OFR-560-09, Disciplinary Guidelines for Money Services Businesses, the Office may issue: a written agreement which includes an administrative fine, but not adopted by final order; orders to revoke or suspend a license; orders to impose an administrative fine; orders of prohibition; orders of removal; orders denying applications; notices of non-compliance; and/or bring an action for injunction. Also, consistent with the disciplinary guidelines, to determine penalties, the Office may consider the combined effect of violations.

(a) For first citations identified in the disciplinary guidelines as minor violations, the Office shall issue a notice of non-compliance except when the Office identifies aggravating circumstances that would warrant a more severe penalty.

(b) For second citations identified in the disciplinary guidelines as minor violations, the Office may issue a written agreement which is not adopted by final order imposing an administrative fine. Written agreements may be used only when the violations are limited to minor violations.

(3) In accordance with Section 560.1141, F.S., the Office shall consider the following circumstances in determining an appropriate penalty within the range of penalties prescribed in the disciplinary guidelines for each violation. The Office shall also consider the circumstances when determining whether a deviation from the range of penalties in the disciplinary guidelines is warranted:

(a) The following circumstances are considered mitigating factors which will be used to reduce the penalty:

1. The violation rate is less than 5% when compared to the overall sample size reviewed;
2. No prior citation by the Office against the money services business or control person of the money services business within the past 10 years;
3. The money services business detected and voluntarily instituted corrective action or measures to avoid the recurrence of the violation prior to the detection and intervention by the Office;
4. The violation is attributable to a single person or employee, and the money services business

removed or otherwise disciplined the individual prior to detection or intervention by the Office;

5. The money services business is responsive to the Office's requests or inquiries or made no attempt to impede or delay the Office in its examination or investigation of the underlying misconduct; or

6. Other relevant, case-specific circumstances.

(b) The following circumstances are considered aggravating factors which will be used to increase the penalty:

1. The violation rate is more than 95% when compared to the overall sample size reviewed (sample size must be equal to or greater than 50 transactions and cover a date range of at least 6 months);

2. There is a potential for harm to customers or the public;

3. Prior citations by the Office against the money services business or control person of the money services business within the past 5 years which contain the same violations;

4. The violation was the result of willful misconduct or recklessness;

5. The money services business or control person of the money services business attempted to conceal the violation or mislead the Office; or

6. Other relevant, case-specific circumstances.

(4) The list of violations cited in the disciplinary guidelines is intended to be comprehensive, but the omission of a violation from the list does not preclude the Office from taking any action authorized by Chapter 560, F.S.

(5) The ranges for administrative fines imposed by the disciplinary guidelines are \$1,000 to \$3,500 for an "A" level fine; \$3,500 – \$7,500 for a "B" level fine; and \$7,500 – \$10,000 for a "C" level fine.

(6) The ranges for suspension imposed by the disciplinary guidelines are 3 to 10 days for an "A" level suspension; 10 to 20 days for a "B" level suspension; and 20 to 30 days for a "C" level suspension; ~~and up to 90 days for a "D" level suspension. A "D" level suspension may be terminated early if the money services business cures the violation.~~

*Rulemaking Authority 560.105, 560.1141 FS. Law Implemented 560.109, 560.1092, 560.1105, 560.111, 560.113, 560.114, 560.1141, 560.118, 560.123, 560.1235, 560.125, 560.126, 560.128, 560.208, 560.2085, 560.209, 560.210, 560.211, 560.213, 560.303, 560.309, 560.310, 560.403, 560.404, 560.405, 560.406 FS. History—New 6-7-09, Amended 11-28-19, 2-16-23, 08-03-23, XX-XX.*

### **69V-560.609 Suspicious Activity Report Filings.**

(1) Pursuant to Section 560.1235(1), F.S., licensees and authorized vendors must comply with all state and federal laws and rules relating to the detection and prevention of money laundering, including, as applicable, 31 C.F.R. s. 1022.320, relating to reports by money services businesses of suspicious transactions. For purposes of Section 560.1235(1), F.S., the federal law requirement to report suspicious transactions applies to the following money services businesses: payment instrument sellers that sell money orders or traveler's checks, money transmitters, and foreign currency exchangers. These entities are required to report suspicious transactions to FinCEN using FinCEN Form 111, Suspicious Activity Report by Money Service Business, and failure to do so is a violation of Section 560.1235, F.S.

(2) Under federal law, check cashers may, but are not required to, file reports of suspicious transactions; however, pursuant to Section 560.309(5), F.S., check cashers are required to report suspicious activity to the office or an appropriate regulator based on the criteria set forth in 31 C.F.R. 1022.320. The Commission designates FinCEN as the appropriate regulator to receive such reports, which shall be submitted to FinCEN on FinCEN Form 111, Suspicious Activity Report by Money Service Business. Suspicious Activity Reports filed with FinCEN shall be deemed to have also been filed with the Office. Failure of a check casher to report suspicious activity to FinCEN is a violation of Section 560.309(5), F.S.

(3) FinCEN Form 111, Suspicious Activity Report by Money Service Business is incorporated by reference in Rule 69V-560.1012, F.A.C.

~~(4) Check cashing transactions involving corporate payment instruments that exceed the check cashing limits established pursuant to subparagraph 69V-560.704(4)(d)7., F.A.C. are deemed suspicious and require the check casher to file a suspicious activity report pursuant to this rule for each transaction.~~

*Rulemaking Authority 560.105, 560.123, 560.309 FS. Law Implemented 560.123, 560.1235, 560.309 FS. History—New 1-13-09, Amended 11-28-19, XX-XX-XX.*

#### **69V-560.704 Records to Be Maintained by Check Cashers.**

(1) For purposes of this rule the term:

(a) “Dormant customer” shall include any customer who has not transacted business with the licensee within the past one hundred eighty (180) days.

(b) The phrase “its own commercial account” as referenced in Section 560.309(3), F.S., means a depository account in a federally insured financial institution listing the licensee as the exclusive owner of the account. The authorized signatories must be a control person as defined in Section 560.103(10), F.S. A licensee may not grant, through power of attorney, written agreement, or any other means, another person access to its own commercial account to withdraw, withhold, or deposit money.

(2) Every check casher shall maintain legible records of all payment instruments cashed. The records shall include the following information with respect to each payment instrument accepted by the licensee:

(a) A copy of all payment instruments accepted and endorsed by the licensee to include the face and reverse (front and back) of the payment instrument. Copies shall be made after each payment instrument has been endorsed with the legal name of the licensee.

(b) The fee charged to cash the payment instrument;

(c) The verification fee, if any, imposed on the customer.

(3) The following additional information shall be maintained:

(a) Records relating to all returned payment instruments that shall include the following:

1. A copy, face and reverse (front and back), of all returned payment instruments;

2. The date of deposit by the licensee;

3. The date the payment instrument was returned to the licensee;

4. Documentation of all fees and charges paid by the customer in the collection of the returned item; and,

5. The date on which collection is made from the customer or charged-off by the licensee.



(b) A daily summary of the business activities including the following documents:

1. Bank deposit receipts,
2. Copies of checks or withdrawal receipts evidencing withdrawal of funds from accounts maintained by the licensee; and,
3. A daily cash reconciliation summarizing each day's activities and reconciling cash on hand at the close of business. The daily cash reconciliation shall be sufficiently detailed to provide an audit trail of each day's business activity. Where the licensee provides multiple business services through the same legal entity the daily cash reconciliation shall be maintained in such manner as to separate business activities such as check cashing.

(c) Bank statements of the licensee received and maintained no less often than monthly for all accounts from which the licensee operates.

(4) In addition to the records required in subsections (2) and (3), for payment instruments exceeding \$1,000.00, the check casher shall:

(a) Affix an original thumbprint of the conductor to the original of each payment instrument accepted which is taken at the time of acceptance;

(b) Secure and maintain a copy of the original payment instrument, including the thumbprint of the conductor;

(c) Secure and maintain a legible copy of the personal identification, as defined by Section 560.310(2)(b), F.S., presented by conductor at the time of acceptance;

(d) Create and maintain a customer file for each entity listed as the payee on corporate payment instruments accepted by the licensee. Each customer file must include, at a minimum, the following information:

1. Documentation from the Secretary of State verifying registration as a corporation or fictitious entity showing the listed officers and FEID registration number. If a sole proprietor uses a fictitious name or is a natural person, then the customer file shall include the social security number of the business owner and documentation of the fictitious name filing with the Secretary of State.

2. Articles of Incorporation or other such documentation which establishes a legal entity in whatever form authorized by law. For purposes of this rule a sole proprietor operating under a fictitious name registered with the Secretary of State shall not have to present such documentation.

3. Documentation of the business license/occupational license, business tax receipt, or its equivalent from the county where the entity is located.

4. A copy of the search results screen page from Compliance Proof of Coverage Query Page webpage from the Florida Department of Financial Services – Division of Workers' Compensation website (<https://dwcdataportal.fldfs.com/ProofOfCoverage.aspx>).

5. If the entity has an active workers' compensation policy, the licensee must also maintain a copy of the policy declaration page or other document provided by the insurer indicating the amount of policy payroll amount coverage. For purposes of this rule, payroll may also be identified in the workers' compensation policy as "annual remuneration."

6. Documentation of individuals authorized to negotiate payment instruments on the corporation or fictitious entity's behalf including corporate resolutions. Payment instruments for insurance claims where there are multiple payees shall be exempt from this provision provided that the maker of the check is an insurance company and the licensee has obtained and retained documentation as to the identity of the natural person listed as a payee on such payment instrument. For purposes of this rule, the term "individuals authorized" is limited to an officer of the corporate payee named on the instrument's face.

7. A written corporate customer profile which includes: the full legal name of each beneficial owner, as defined in 31 C.F.R. s. 1010.230(d), effective July 1, 2018, is hereby incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-11464>, of the corporate customer; an explanation of the customer's business model; type(s) of services offered; and a written statement signed by the authorized officer of the corporate customer stating under what circumstances the corporate customer is not required or is exempt from obtaining a workers' compensation policy, if there is no active workers' compensation policy projected annual volume of check cashing; and annual check cashing limits as they relate to the corporate customer's workers' compensation policy coverage limits.

(e) All check cashers shall review and update all active customer files at least every twelve months annually. The required review and update shall be attested to by the compliance officer or their designee, and such documentation shall be maintained within each customer's file. For purposes of this rule it shall not be necessary to update dormant customer files. Should a customer previously identified as being dormant, resume transacting business with the licensee, the customer file information shall be updated before accepting any payment instrument.

(5) Check Cashing Database: A check casher must in accordance with Section 560.310(2)(d), F.S., submit the following information into the check cashing database prior to the check casher providing currency (or payment instrument if a Part II licensee):

- (a) Transaction date;
- (b) Payor name as displayed on the payment instrument;
- (c) Payee name as displayed on the payment instrument;
- (d) Conductor name, if different from the payee name;
- (e) Amount of the payment instrument;
- (f) Amount of currency provided;
- (g) Type of payment instrument;
- (h) Amount of the fee charged for cashing of the payment instrument;
- (i) Branch or location where the payment instrument was accepted;
- (j) The type of identification and identification number presented by the payee or conductor;
- (k) Payee's workers' compensation insurance policy number or exemption certificate number, if a corporate payment instrument and an active policy exists;
- (l) Payee Corporate Document Number as issued by the Secretary of State, if a corporate payment instrument; and
- (m) Payee Federal Employer Identification Number, if a corporate payment instrument.

*Rulemaking Authority 560.105, 560.310 FS. Law Implemented 560.1105, 560.310 FS. History—New 9-24-97, Amended 11-4-01, Formerly 3C-560.704, Amended 1-13-09, 10-12-15, 1-6-20, 2-16-23, XX-XX-XX.*

#### **69V-560.7044 Limit on Cashing Corporate Checks.**

It is unlawful for a check casher to cash corporate checks for a payee where the aggregate face amount of corporate checks cashed for the payee statewide exceeds 200 percent of the payroll amount listed in the payee's current workers' compensation policy. The 200 percent limit is calculated from the date the payee's policy coverage begins and continues until the date the policy coverage expires or is cancelled. The 200 percent limitation does not apply to payees exempt from or not required to obtain a workers compensation policy.

*Rulemaking Authority 560.105 FS. Law Implemented 560.309 FS. History—New \_\_\_\_\_*

**Material Incorporated by Reference**

[BEGINS ON NEXT PAGE]

**Office of Financial Regulation**  
**Division of Consumer Finance**  
**Disciplinary Guidelines for Mortgage Loan Originators and Mortgage Entities**  
**Form OFR-494-14, Incorporated by Reference in Rule 69V-40.111, F.A.C., Effective: XX/XXXX**  
**11/2015**

<b>Violation #</b>	<b>Statute</b>	<b>Violation Description Summary</b>	<b>1st Citation</b>	<b>2nd Citation</b>	<b>3rd &amp; Subsequent Citations</b>
(1)	494.0016(1)	Failure to maintain, at the principal place of business, all books, accounts, records, and documents necessary to determine the licensee's compliance with ss. 494.001-494.0077.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(2)	494.0016(2)	Failure to produce and make books, accounts, and records at a reasonable and convenient location in this state as required.	Fine: A Suspension: D	Fine: B Suspension: D	Fine: C Suspension: D Revocation
(3)	494.0016(3)	All books, accounts, records, documents, and receipts for expenses paid by the licensee on behalf of the borrower, including each closing statement signed by a borrower, shall be preserved and kept available for examination by the Office for at least 3 years after the date of original entry.	Fine: A Suspension: D Revocation	Fine: B Suspension: D Revocation	Fine: C Suspension: D Revocation
(4)	494.00165(1)(a)	Advertise that an applicant shall have unqualified access to credit without disclosing the material limitations on the availability of such credit. Material limitations include, but are not limited to, the percentage of down payment required, that a higher rate or points could be required, or that restrictions on the maximum principal amount of the loan offered could apply.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(5)	494.00165(1)(b)	Advertise a mortgage loan at an expressed interest rate unless the advertisement specifically states that the expressed rate could change or not be available at commitment or closing.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(6)	494.00165(1)(c)	Advertise mortgage loans, including rates, margins, discounts, points, fees, commissions, or other material information, including material limitations on such loans, unless the person is able to make such mortgage loans available to a reasonable number of qualified applicants.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation

Fine A = \$1,000 to \$3,500; Fine B = \$3,500 to \$7,500; Fine C = \$7,500 to \$10,000  
Suspension A = 3 to 10 days; Suspension B = 10 to 20 days; Suspension C = 20 to 30 days; Suspension D = up to 90 days  
Statutory Authority: Section 494.00255 ~~494.105~~, Florida Statutes

**Office of Financial Regulation**  
**Division of Consumer Finance**  
**Disciplinary Guidelines for Mortgage Loan Originators and Mortgage Entities**  
**Form OFR-494-14, Incorporated by Reference in Rule 69V-40.111, F.A.C., Effective: XX/XXXX**  
**11/2015**

<b>Violation #</b>	<b>Statute</b>	<b>Violation Description Summary</b>	<b>1st Citation</b>	<b>2nd Citation</b>	<b>3rd &amp; Subsequent Citations</b>
(7)	494.00165(1)(d)	Falsely advertise or misuse names indicating a federal agency pursuant to 18 U.S.C. s. 709.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(8)	494.00165(1)(e)	Engage in unfair, deceptive, or misleading advertising regarding mortgage loans, brokering services, or lending services.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Suspension: C Revocation
(9)	494.00165(2)	Each person required to be licensed under this chapter must maintain a record of samples of each of its advertisements, including commercial scripts of each radio or television broadcast, for examination by the Office for 2 years after the date of publication or broadcast.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(10)	494.0023(1)	Failure to disclose any conflicting interest.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(11)	494.0025(6)	To violate s. 655.922(2), subject to ss. 494.001-494.0077.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(12)	494.0025(7)	To pay a fee or commission in any mortgage loan transaction to any person or entity other than a licensed mortgage broker or mortgage lender, or a person exempt from licensure under this chapter.	Fine: B Suspension: B Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(13)	494.0025(8)	To record a mortgage broker agreement or any other document, not rendered by a court of competent jurisdiction, which purports to enforce the terms of the agreement.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation

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Statutory Authority: Section 494.00255 ~~494.105~~, Florida Statutes

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(14)	494.0025(9)	To use the name or logo of a financial institution, as defined in s. 655.005(1), or its affiliates or subsidiaries when marketing or soliciting existing or prospective customers if such marketing materials are used without the written consent of the financial institution and in a manner that would lead a reasonable person to believe that the material or solicitation originated from, was endorsed by, or is related to or the responsibility of the financial institution or its affiliates or subsidiaries.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(15)	494.0025(10)	To knowingly alter, withhold, conceal, or destroy any books, records, computer records, or other information relating to a person's activities which subject the person to the jurisdiction of this chapter.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(16)	494.00255(1)(a)	Failure to immediately place upon receipt, and maintain until authorized to disburse, any money entrusted to the licensee as a licensee in a segregated account of a federally insured financial institution in this state.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(17)	494.00255(1)(b)	Failure to account or deliver to any person any property that is not the licensee's, or that the licensee is not entitled to retain, under the circumstances and at the time that has been agreed upon or as required by law or, in the absence of a fixed time, upon demand of the person entitled to such accounting and delivery.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(18)	494.00255(1)(c)	Failure to disburse funds in accordance with agreements.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(19)	494.00255(1)(d)	Any misuse, misapplication, or misappropriation of personal property entrusted to the licensee's care to which the licensee had no current property right at the time of entrustment.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Suspension: C Revocation

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(20)	494.00255(1)(e)	Fraud, misrepresentation, deceit, negligence, or incompetence in any mortgage financing transaction.	Fine: C Revocation	Fine: C Revocation	Fine: C Revocation
(21)	494.00255(1)(f)	Requesting a specific valuation, orally or in writing, from an appraiser for a particular property, implying to an appraiser that a specific valuation is needed for a particular property, or in any manner conditioning the order for an appraisal on the appraisal meeting a specific valuation. The numeric value of the specific valuation sought need not be stated, but rather the mere statement that a specific valuation is sought violates this section.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Suspension: C Revocation
(22)	494.00255(1)(g)	Consistently and materially underestimating maximum closing costs.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(23)	494.00255(1)(h)	Disbursement, or an act which has caused or will cause disbursement, to any person in any amount from the Mortgage Guaranty Trust Fund, the Securities Guaranty Fund, or the Florida Real Estate Recovery Fund, regardless of any repayment or restitution to the disbursed fund by the licensee or any person acting on behalf of the licensee.	Revocation	Revocation	Revocation
(24)	494.00255(1)(i)	Commission of fraud, misrepresentation, concealment, or dishonest dealing by trick, scheme, or device; culpable negligence; breach of trust in any business transaction in any state, nation, or territory; or aiding, assisting, or conspiring with any other person engaged in any such misconduct and in furtherance thereof.	Fine: C Revocation	Fine: C Revocation	Fine: C Revocation
(25)	494.00255(1)(j)	Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, any felony or any crime involving fraud, dishonesty, breach of trust, money laundering, or act of moral turpitude.	Revocation	Revocation	Revocation

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(26)	494.00255(1)(k)	Having a final judgment entered against the licensee in a civil action upon grounds of fraud, embezzlement, misrepresentation, or deceit.	Fine: C Revocation	Fine: C Revocation	Fine: C Revocation
(27)	494.00255(1)(l) 1.	Having been the subject of any decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, or administrative order by any court, administrative law judge, state or federal agency, national securities exchange, national commodities exchange, national option exchange, national securities association, national commodities association, or national option association involving a violation of any federal or state securities or commodities law or rule or regulation adopted under such law or involving a violation of any rule or regulation of any national securities, commodities, or options exchange or association.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(28)	494.00255(1)(l) 2.	Having been the subject of any injunction or adverse administrative order by a state or federal agency regulating banking, insurance, finance or small loan companies, real estate, mortgage brokers or lenders, money transmitters, or other related or similar industries.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(29)	494.00255(1) (m)	In any mortgage transaction, violating any provision of the federal Real Estate Settlement Procedures Act, as amended, 12 U.S.C. ss. 2601 et seq.; the federal Truth in Lending Act, as amended, 15 U.S.C. ss. 1601 et seq.; or any regulations adopted under such acts.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(30)	494.00255(1)(n)	Having a loan originator, mortgage broker, or mortgage lender license, or the equivalent of such license, revoked in any jurisdiction.	Fine: B Revocation	Fine: C Revocation	Fine: C Revocation

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(31)	494.00255(1)(o)	Having a license, or the equivalent of such license, to practice any profession or occupation revoked, suspended, or otherwise acted against, including the denial of licensure by a licensing authority of this state or another state, territory, or country.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(32)	494.00255(1)(p)	Acting as a loan originator, mortgage broker, or mortgage lender without a current license issued under part II or part III of this chapter.	Fine: <u>\$500 per day. The total amount of the fine shall not exceed \$25,000</u> <u>\$1,000 per day up to \$25,000</u>	Fine: <u>\$500 per day. The total amount of the fine shall not exceed \$25,000</u> <u>\$1,000 per day up to \$25,000</u>	Fine: <u>\$500 per day. The total amount of the fine shall not exceed \$25,000</u> <u>\$1,000 per day up to \$25,000</u>
(33)	494.00255(1)(q)	Operating a mortgage broker or mortgage lender branch office without a current license issued under part II or part III of this chapter.	Fine: <u>\$500 per day. The total amount of the fine shall not exceed \$25,000</u> <u>\$1,000 per day up to \$25,000</u>	Fine: <u>\$500 per day. The total amount of the fine shall not exceed \$25,000</u> <u>\$1,000 per day up to \$25,000</u>	Fine: <u>\$500 per day. The total amount of the fine shall not exceed \$25,000</u> <u>\$1,000 per day up to \$25,000</u>
(34)	494.00255(1)(r)	Conducting any mortgage brokering or mortgage lending activities in the absence of a properly designated principal loan originator or mortgage brokering or mortgage lending activities at any particular branch office without a properly designated branch manager.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(35)	494.00255(1)(s)	Made a material misstatement or omission of fact on an initial or renewal license application.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(36)	494.00255(1)(t)	Payment to the Office for a license or permit with a check or electronic transmission of funds which is dishonored by the applicant's or licensee's financial institution.	Fine: A Suspension: D Revocation	Fine: B Suspension: D Revocation	Fine: C Suspension: D Revocation

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(37)	494.00255(1)(u)	Failure to comply with, or violations of, any provision of ss. 494.001-494.0077, or any rule or order made or issued under ss. 494.001-494.0077.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(38)	494.00255(1)(v)	Failure to maintain, preserve, and keep available for examination all books, accounts, or other documents required by ss. 494.001-494.0077 and the rules of the commission.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(39)	494.00255(1)(w) )	Refusal to permit an investigation or examination of books and records, or refusal to comply with an office subpoena or subpoena duces tecum.	Fine: B Suspension: B Revocation	Fine: C Revocation	Fine: C Revocation
(40)	494.00255(1)(x)	Failure to timely pay any fee, charge, or fine imposed or assessed pursuant to ss. 494.001-494.0077 or related rules.	Fine: A Suspension: D Revocation	Fine: B Suspension: D Revocation	Fine: C Suspension: D Revocation
(41)	494.00255(1)(y)	Pursuant to an investigation by the Mortgage Testing and Education Board acting on behalf of the registry, being found in violation of Nationwide Mortgage Licensing System and Registry Rules of Conduct.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(42)	494.0026(1)	Failure to promptly endorse a check, draft, or other negotiable instrument payable jointly to the mortgagee or assignee and the insured by the insurance company.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(43)	494.0026(2)	Failure to promptly deposited the insurance proceeds received by a mortgagee or assignee that relate to compensation for damage to property or contents insurance coverage in which the mortgagee or assignee has a security interest into a segregated account of a federally insured financial institution.	Fine: B Suspension: D Revocation	Fine: B Suspension: D Revocation	Revocation
(44)	494.0026(3)	Failure to promptly distribute to the insured insurance proceeds received by a mortgagee or assignee that relate to contents insurance coverage in which the mortgagee or assignee does not have a security interest in the contents.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation

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(45)	494.0026(4)	Failure to promptly distribute to the insured insurance proceeds received by a mortgagee or assignee that relate to additional living expenses.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(46)	494.00296(1)(a)	Engaged in or initiate loan modification services without first executing a written agreement for loan modification services with the borrower.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(47)	494.00296(1)(b)	Executed a loan modification without the consent of the borrower after the borrower is made aware of each modified term.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(48)	494.00296(1)(c)	Solicit, charge, receive, or attempt to collect or secure payment, directly or indirectly, for loan modification services before completing or performing all services included in the agreement for loan modification services.	Fine: B Suspension: B Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(49)	494.00296(2)(a)	The written agreement for loan modification services must be printed in at least 12-point uppercase type and signed by both parties. The agreement must include the name and address of the person providing loan modification services, the exact nature and specific detail of each service to be provided, the total amount and terms of charges to be paid by the borrower for the services, and the date of the agreement. The date of the agreement may not be earlier than the date the borrower signed the agreement. The mortgage broker or mortgage lender must give the borrower a copy of the agreement to review at least 1 business day before the borrower is to sign the agreement.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation

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(50)	494.00296(2)(b)	The borrower has the right to cancel the written agreement without any penalty or obligation if the borrower cancels the agreement within 3 business days after signing the agreement. The right to cancel may not be waived by the borrower or limited in any manner by the loan originator, mortgage broker, or mortgage lender. If the borrower cancels the agreement, any payments made must be returned to the borrower within 10 business days after receipt of the notice of cancellation.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(51)	494.00296(2)(c)	In an agreement for loan modification services, failure to contain, immediately above the signature line, a statement in at least 12-point uppercase type which substantially complies the statement provided in 494.00296(2)(c).	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(52)	494.00296(2)(e)	Failure to give the borrower a copy of the signed loan modification agreement within 3 hours after the borrower signs the agreement.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(53)	494.00331(1)	An individual may not act as a loan originator unless he or she is an employee of, or an independent contractor for, a mortgage broker or a mortgage lender, and may not be employed by or contract with more than one mortgage broker or mortgage lender, or either simultaneously.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(54)	494.00331(3)	An individual may not act as an in-house loan processor unless he or she is an employee of a mortgage broker or a mortgage lender and may not be employed by more than one mortgage broker or mortgage lender, or either, simultaneously. An in-house loan processor must work at the direction of and be subject to the supervision and instruction of a loan originator licensed under this part.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation

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(55)	494.0035(1)	Each mortgage broker must be operated by a principal loan originator who shall have full charge, control, and supervision of the mortgage broker. The principal loan originator must have been licensed as a loan originator for at least 1 year before being designated as the principal loan originator, or must demonstrate to the satisfaction of the office that he or she has been actively engaged in a mortgage-related business for at least 1 year before being designated as a principal loan originator. Each mortgage broker must keep the office informed of the person designated as the principal loan originator as prescribed by commission rule. If the designation is inaccurate, the mortgage broker shall be deemed to be operated under the full charge, control, and supervision of each officer, director, or ultimate equitable owner of a 10-percent or greater interest in the mortgage broker, or any other person in a similar capacity. A loan originator may not be a principal loan originator for more than one mortgage broker at any given time.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(56)	494.0035(2)	Each branch office of a mortgage broker must be operated by a branch manager who shall have full charge, control, and supervision of the branch office. The designated branch manager must be a licensed loan originator pursuant to s. 494.00312. Each branch office must keep the office informed of the person designated as the branch manager as prescribed by commission rule, which includes documentation of the individual's acceptance of such responsibility. If the designation is inaccurate, the branch office shall be deemed to be operated under the full charge, control, and supervision of each officer, director, or ultimate equitable owner of a 10-percent or greater interest in the mortgage broker, or any other person in a similar capacity.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation

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(57)	494.0038(1)	Any third-party fee entrusted to a mortgage broker must immediately, upon receipt, be placed into a segregated account with a financial institution located in the state the accounts of which are insured by the Federal Government. Such funds shall be held in trust for the payor and shall be kept in the account until disbursement. Such funds may be placed in one account if adequate accounting measures are taken to identify the source of the funds.	Fine: B Suspension: B Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(58)	494.0038(2)	A mortgage broker may not pay a commission to any person not licensed pursuant to this chapter.	Fine: B Suspension: B Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(59)	494.004(1)(a)	Each licensee under this part shall report to the Office in writing, any conviction of, or plea of nolo contendere to, regardless of adjudication, any felony or any crime or administrative violation that involves fraud, dishonesty, breach of trust, money laundering, or any other act of moral turpitude, in any jurisdiction, by the licensee or any control person within 30 days after the date of conviction, entry of a plea of nolo contendere, or final administrative action.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(60)	494.004(1)(b)	Failure to report to the Office in a form prescribed by rule of the commission, any conviction of, or plea of nolo contendere to, regardless of adjudication, any felony committed by the licensee or any control person within 30 days after the date of conviction or the date the plea of nolo contendere is entered.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(61)	494.004(1)(c)	Failure to report to the Office any action in bankruptcy, voluntary or involuntary, within 30 days after the action is instituted.	(Minor Violation) Notice of Non-Compliance <del>Fine: A</del> <del>Suspension: A</del> <del>Revocation</del>	Fine: A Suspension: A Revocation <del>Fine: B</del> <del>Suspension: B</del> <del>Revocation</del>	Fine: B <del>Suspension: B</del> <del>Revocation</del> <del>Fine: C</del> <del>Suspension: C</del> <del>Revocation</del>

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Violation #	Statute	Violation Description Summary	1st Citation	2nd Citation	3rd & Subsequent Citations
(62)	494.004(1)(d)	Failure to report to the Office on a form prescribed by rule of the commission, any change to the information contained in any initial application form or any amendment to the application within 30 days after the change is effective.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(63)	494.004(1)(e)	Failure to report to the Office any change in the principal loan originator, any addition or subtraction of a control person, or any change in the form of business organization, by written amendment in the form and at the time the commission specifies by rule.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(64)	494.004(1)(f)	Any addition of a control person who has not previously filed a Uniform Mortgage Biographical Statement & Consent Form, MU2, or has not previously complied with the fingerprinting and credit report requirements of ss. 494.00321 and 494.00322, is subject to the provisions of these sections. If, after the addition of a control person, the office finds that the licensee does not continue to meet licensure requirements, the office may bring an administrative action in accordance with s. 494.00255 to enforce the provisions of this chapter.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(65)	494.004(2)	Failure to submit to the registry reports of condition pursuant to the requirements of rule 69V-40.176. <u>The report of condition was filed after the deadline in rule 69V-40.176 or the information in the report was inaccurate.</u>	<u>(Minor Violation)</u> Notice of Non-Compliance <del>Fine: A</del>	Fine: A Suspension: <u>(A)D</u>	Fine: B Suspension: <u>(B)D</u> Revocation
<u>(66)</u>	<u>494.004(2)</u>	<u>Failure to submit to the registry reports of condition pursuant to the requirements of rule 69V-40.176. The deadline to file the report in rule 69V-40.176 has passed and the report has not been received.</u>	<u>Fine: A</u> <u>Suspension: A</u> <u>Revocation</u>	<u>Fine: B</u> <u>Suspension: B</u> <u>Revocation</u>	<u>Fine: C</u> <u>Suspension: C</u> <u>Revocation</u>
<del>(67)</del> <del>(66)</del>	494.004(2)	Charge or exact, directly or indirectly, from the borrower a fee or commission in excess of the maximum fee or commission specified in this section.	Fine: B Suspension: D Revocation	Fine: C Suspension: D Revocation	Fine: C Suspension: D Revocation

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Suspension A = 3 to 10 days; Suspension B = 10 to 20 days; Suspension C = 20 to 30 days; Suspension D = up to 90 days  
Statutory Authority: Section 494.00255 ~~494.105~~, Florida Statutes

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<b>Violation #</b>	<b>Statute</b>	<b>Violation Description Summary</b>	<b>1st Citation</b>	<b>2nd Citation</b>	<b>3rd &amp; Subsequent Citations</b>
<del>(68)</del> (67)	494.0042(3)	At the time of accepting a mortgage loan application, a mortgage broker may receive from the borrower a nonrefundable application fee. If the mortgage loan is funded, the nonrefundable application fee shall be credited against the amount owed as a result of the loan being funded. A person may not receive any form of compensation for acting as a loan originator other than a nonrefundable application fee or a fee based on the mortgage amount being funded.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<del>(69)</del> (68)	494.0043(1)(a)	A loan originator, when arranging a mortgage loan for a noninstitutional investor, shall before any payment of money by the noninstitutional investor, provide an opinion of value from an appraiser stating the value of the security property unless the opinion is waived in writing. The opinion must state the value of the property as it exists on the date of the opinion. If any relationship exists between the loan originator or mortgage broker and the appraiser, that relationship shall be disclosed to the investor.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<del>(70)</del> (69)	494.0043(1)(b)	A loan originator, when arranging a mortgage loan for a noninstitutional investor, shall provide to the noninstitutional investor a mortgagee's title insurance policy or an opinion of title by an attorney licensed to practice law in the state, or a copy thereof.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<del>(71)</del> (70)	494.0043(1)(c)	A loan originator, when arranging a mortgage loan for a noninstitutional investor, shall provide, if the loan is other than a first mortgage, a statement showing the balance owed by the mortgagor on any existing mortgages prior to this investment and the status of such existing mortgages.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation

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<del>(72)</del> <del>(71)</del>	494.0043(1)(d)	A loan originator, when arranging a mortgage loan for a noninstitutional investor, shall provide a disclosure if the licensee is directly or indirectly acting as a borrower or principal in the transaction.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<del>(73)</del> <del>(72)</del>	494.0043(2)	Each original or certified copy of the mortgage, or other instrument securing a note or assignment thereof, must be recorded before being delivered to the noninstitutional investor. A mortgage broker shall cause the properly endorsed original note to be delivered to the noninstitutional investor.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Revocation
<del>(74)</del> <del>(73)</del>	494.0043(3)	Failure to record each mortgage and assignment as soon as practical, but no later than 30 business days after the date of closing.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<del>(75)</del> <del>(74)</del>	494.0043(4)	Any money from a noninstitutional investor for disbursement at a mortgage loan closing must be deposited with and disbursed by an attorney duly licensed in this state or by a title company duly licensed in this state. A person acting as a loan originator may not have control of any money from a noninstitutional investor. This subsection does not prohibit a licensee under this part from receiving a loan origination fee upon the closing of the mortgage loan funded by the noninstitutional investor.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Revocation

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<del>(76)</del> (75)	494.0063	All audited financial statements required by ss. 494.001-494.0077 must be prepared by an independent licensed certified public accountant. A mortgage lender must obtain an annual financial audit report as of the date of the licensee's fiscal year end, as disclosed to the office on the application or a subsequent amendment to the application. The mortgage lender shall submit a copy of the report to the office within 120 days after the end of the licensee's fiscal year.	Fine: B Suspension: D Revocation	Fine: B Suspension: D Revocation	Fine: C Suspension: D Revocation
<del>(77)</del> (76)	494.00665(1)	Each mortgage lender business must be operated by a principal loan originator who shall have full charge, control, and supervision of the mortgage lender business. The principal loan originator must be licensed as a loan originator pursuant to s. 494.00312. Each mortgage lender must keep the office informed of the person designated as the principal loan originator as prescribed by commission rule. If the designation is inaccurate, the business shall be deemed to be operated under the full charge, control, and supervision of each officer, director, or ultimate equitable owner of a 10-percent or greater interest in the mortgage lender business, or any other person in a similar capacity during that time.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation

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<del>(78)</del> (77)	494.00665(2)	Each branch office of a mortgage lender must be operated by a branch manager who shall have full charge, control, and supervision of the branch office. The designated branch manager must be a licensed loan originator pursuant to s. 494.00312. Each mortgage lender must keep the office informed of the person designated as the branch manager as prescribed by commission rule, which includes documentation of the individual's acceptance of such responsibility. If the designation is inaccurate, the branch office shall be deemed to be operated under the full charge, control, and supervision of each officer, director, or ultimate equitable owner of a 10-percent or greater interest in the mortgage lender business, or any other person in a similar capacity during that time.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<del>(79)</del> (78)	494.0067(1)	A mortgage lender that makes mortgage loans on real estate in this state shall transact business from a principal place of business, <u>branch office, or remote location</u> . Each principal place of business, <u>and each branch office, and remote location</u> shall be operated under the full charge, control, and supervision of the licensee pursuant to this part.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<del>(80)</del> (79)	494.0067(3)	Failure to report, on a form prescribed by rule of the commission, any change in the information contained in any initial application form, or any amendment thereto, within 30 days after the change is effective.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation

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<del>(81)(80)</del>	494.0067(4)	Failure to report any changes in the principal loan originator, any addition or subtraction of a control person, or any change in the form of business organization by written amendment in such form and at such time that the commission specifies by rule. Any addition of a control person who has not previously filed a Uniform Mortgage Biographical Statement & Consent Form, MU2, or has not previously complied with the fingerprinting and credit report requirements of s. 494.00611 is subject to the provisions of this section. If, after the addition of a control person, the Office determines that the licensee does not continue to meet licensure requirements, the Office may bring administrative action in accordance with s. 494.00255 to enforce this section.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<del>(82)(81)</del>	494.0067(5)	Failure to report in a form prescribed by rule of the commission any indictment, information, charge, conviction, or plea of guilty or nolo contendere, regardless of adjudication, to any felony or any crime or administrative violation that involves fraud, dishonesty, breach of trust, money laundering, or any other act of moral turpitude, in any jurisdiction, by the licensee or any principal officer, director, or ultimate equitable owner of 10 percent or more of the licensed corporation, within 30 business days after the indictment, information, charge, conviction, or final administrative action.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<del>(83)(82)</del>	494.0067(6)	Failure to report any action in bankruptcy, voluntary or involuntary, to the Office, within 30 business days after the action is instituted.	<u>(Minor Violation)</u> <u>Notice of Non-Compliance</u> <del>Fine: A-</del> <del>Suspension: A-</del> <del>Revocation</del>	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation

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Suspension A = 3 to 10 days; Suspension B = 10 to 20 days; Suspension C = 20 to 30 days; Suspension D = up to 90 days

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Violation #	Statute	Violation Description Summary	1st Citation	2nd Citation	3rd & Subsequent Citations
(84)(83)	494.0067(7)	Failure to designate a registered agent in this state for service of process.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(85)(84)	494.0067(8)	A mortgage lender may close loans in its own name but may not service the loan for more than 6 months unless the lender has a servicing endorsement.	Fine: \$1,000 per day up to \$25,000	Fine: \$1,000 per day up to \$25,000	Fine: \$1,000 per day up to \$25,000
(86)(85)	494.0067(9)	Failure to report to the Office the failure to meet the applicable net worth requirements of s. 494.00611 within 2 days after the mortgage lender's knowledge of such failure or after the mortgage lender should have known of such failure.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Revocation
(87)(86)	494.0067(10)	Failure to submit to the registry reports of condition which are in a form and which contain such information as the registry may require. The commission may adopt rules prescribing the time by which a mortgage lender must file a report of condition. For purposes of this section, the report of condition is synonymous with the registry's Mortgage Call Report. <u>Registry report was received after the deadline in rule 69V-40.176, F.A.C., or the information in the report was inaccurate.</u>	<u>(Minor Violation)</u> Notice of Non-Compliance <del>Suspension: D</del>	Fine: A Suspension: <del>A</del> <del>D</del>	Fine: B Suspension: <del>B</del> <del>D</del> Revocation
(88)	494.0067(10)	<u>Failure to submit to the registry reports of condition which are in a form and which contain such information as the registry may require. The commission may adopt rules prescribing the time by which a mortgage lender must file a report of condition. For purposes of this section, the report of condition is synonymous with the registry's Mortgage Call Report. The deadline to file the registry report in rule 69V-40.176 has passed and the report has not been received.</u>	<u>Fine: A</u> <u>Suspension: D</u> <u>Revocation</u>	<u>Fine: B</u> <u>Suspension: D</u> <u>Revocation</u>	<u>Fine: C</u> <u>Suspension: D</u> <u>Revocation</u>

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<del>(89)</del> (87)	494.0069(1)	Each lock-in agreement must be in writing and must contain the following, if any: expiration date of the lock-in, interest rate locked in, the discount points locked in, the commitment fee locked in, the lock-in fee, and a statement advising of the provisions of this part regarding lock-in agreements.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<del>(90)</del> (88)	494.0069(2)	Failure of a mortgage lender to make a good faith effort to process the mortgage loan application and stand ready to fulfill the terms of its commitment before the expiration date of the lock-in agreement or any extension thereof.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<del>(91)</del> (89)	494.0069(3)	Any lock-in agreement received by a mortgage lender by mail or through a mortgage broker must be signed by the mortgage lender in order to become effective. The borrower may rescind any lock-in agreement until a written confirmation of the agreement has been signed by the lender and mailed to the borrower or to the mortgage broker pursuant to its contractual relationship with the borrower. If a borrower elects to so rescind, the mortgage lender shall promptly refund any lock-in fee paid.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<del>(92)</del> (90)	494.0069(4)	Before issuing a mortgage loan rate lock-in agreement, a mortgage lender must have the ability to timely advance funds on all mortgage loans for which rate lock-in agreements have been issued. As used in this section, "ability to timely advance funds" means having sufficient liquid assets or a line of credit necessary to cover all rate lock-in agreements issued with respect to which a lock-in fee is collected.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Revocation

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<del>(93)</del> (91)	494.007(2)	The provisions of a commitment cannot be changed prior to expiration of the specified period within which the borrower must accept it. If any information necessary for an accurate disclosure required by subsection (1) is unknown to the mortgage lender at the time disclosure is required, the lender shall make the disclosure based upon the best information reasonably available to it and shall state that the disclosure is an estimate.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<del>(94)</del> (92)	494.0071	If a lock-in agreement has been executed and the loan does not close before the expiration date of the lock-in agreement or any commitment issued consistent therewith through no substantial fault of the borrower, the borrower may withdraw the application or reject or terminate any commitment, whereupon the mortgage lender shall promptly refund to the borrower any lock-in fee and any commitment fee paid by the borrower.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<del>(95)</del> (93)	494.00721(1)	Failure to continually maintain the net worth requirements in s. 494.00611 as a condition of licensure.	Fine: B Suspension: D Revocation	Fine: B Suspension: D Revocation	Fine: C Suspension: D Revocation
<del>(96)</del> (94)	494.00721(2)	If a mortgage lender fails to satisfy the net worth requirements, failure of the mortgage lender to immediately cease taking any new mortgage loan applications.	Fine: B Suspension: D Revocation	Fine: B Suspension: D Revocation	Fine: C Suspension: D Revocation
<del>(97)</del> (95)	494.0075(2)	Failure of each mortgage, or other instrument securing a note or assignment thereof recorded before being delivered to the noninstitutional investor.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Suspension: C Revocation
<del>(98)</del> (96)	494.0075(3)	Failure to record each mortgage and assignment as soon as practical, but within 30 business days after the date of purchase.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation

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<del>(99)</del> (97)	494.0075(4)	If the loan is to be serviced by a licensee under this part for a noninstitutional investor, failure to complete a written servicing agreement.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Suspension: C Revocation
<del>(100)</del> (98)	494.0075(5)	Failure of the mortgage lender <u>to</u> cause the original note to be properly endorsed showing the assignment of the note to the noninstitutional investor.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Suspension: C Revocation
<del>(101)</del> (99)	494.0076(1)(a)	Failure of each licensee under this part who services mortgage loans to maintain a segregated set of records for accounts that are serviced by the licensee and have a separate, segregated depository account for all receipts relating to servicing.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Suspension: C Revocation
<del>(102)</del> (100)	494.0076(1)(b)	For fiscal years ending after January 1, 1992, such records and receipts shall be audited annually pursuant to the Uniform Single Audit Program for Mortgage Bankers as approved by the Mortgage Bankers Association of America with the cooperation of the American Institute of Certified Public Accountants.	Fine: B Suspension: D Revocation	Fine: C Suspension: D Revocation	Fine: C Revocation
<del>(103)</del> (101)	494.0076(1)(c)	The audited statement shall be maintained at the licensee's place of business.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<del>(104)</del> (102)	494.0076(2)(a)	In lieu of the audit referred to in subsection (1), a person who services an aggregate value of less than \$7.5 million in outstanding mortgage loans, excluding mortgage loans serviced under contract as an agent for federal, state, or municipal agencies, may obtain a fidelity bond, financial guaranty bond, fidelity insurance, or other financial guaranty providing protection against theft, loss, or other illegal diversion of funds for any amounts normally held by such person.	Fine: B Suspension: D Revocation	Fine: C Suspension: D Revocation	Fine: C Revocation

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**Division of Consumer Finance**  
**FORM OFR-560-09, Disciplinary Guidelines for Money Services Businesses Incorporated by**  
**reference in Rule 69V-560.1000, F.A.C. - Effective Date: ~~XX-XXXX 08-2023~~**

Violation #	Statute or Code	Short Description	1st Citation	2nd Citation	3rd Citation
1	Section 560.109(3)(a)	Failure to make available within 3 days all required books and records after notice.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
2	Section 560.1115	Engaging in an unsafe and unsound practice as prescribed in Section 560.1115, F.S.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
3	Section 560.114 (1)(a)	Failure to comply with any provision of this chapter or related rule or order, or any written agreement entered into with the office.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
4	Section 560.114(1)(b)	Fraud, misrepresentation, deceit, or gross negligence in any transaction.	Fine: C Suspension: C Revocation	Fine: C Revocation	Fine: C Revocation
5	Section 560.114(1)(c)	Fraudulent misrepresentation, circumvention, or concealment of any matter that must be stated or furnished to a customer.	Fine: C Revocation	Fine: C Revocation	Fine: C Revocation
6	Section 560.114(1)(d)	False, deceptive, or misleading advertising.	Fine: C Suspension: C	Fine: C Suspension: C Revocation	Fine: C Suspension: C Revocation
7	Section 560.114(1)(e)	Failure to maintain, preserve, keep available for examination, and produce all books, accounts, files, or other documents.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
8	Section 560.114(1)(f)	Refusing to allow the examination or inspection of books, accounts, files, or other documents or to comply with a subpoena issued.	Fine: B Suspension: B Revocation	Fine: C Revocation	Fine: C Revocation
9	Section 560.114(1)(g)	Failure to pay a judgment recovered in any court by a claimant in an action arising out of a money transmission transaction within 30 days after the judgment becomes final.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
10	Section 560.114(1)(h)	Engaging in an act prohibited under s. 560.111 or s. 560.1115, F.S.	Fine: C Revocation	Fine: C Revocation	Fine: C Revocation
11	Section 560.114(1)(i)	Insolvency	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation

Fine A = \$1,000 to \$3,500; Fine B = \$3,500 to \$7,500; Fine C = \$7,500 to \$10,000  
Suspension A = 3 to 10 days; Suspension B = 10 to 20 days; Suspension C = 20 to 30 days  
Statutory authority: Section 560.1141, Florida Statutes  
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**reference in Rule 69V-560.1000, F.A.C. - Effective Date: ~~XX-XXXX 08-2023~~**

Violation #	Statute or Code	Short Description	1st Citation	2nd Citation	3rd Citation
12	Section 560.114(1)(j)	Failure to remove an affiliated party after the Office has issued and served a final order setting forth a finding that the affiliated party has violated a provision of chapter 560, F.S.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
13	Section 560.114(1)(k)	Making a material misstatement, misrepresentation, or omission in an application, any amendment, or appointment of an authorized vendor.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
14	Section 560.114(1)(l)	Committing any act that results in a license or its equivalent, to practice any profession or occupation being denied, suspended, revoked, or otherwise acted against by a licensing authority in any jurisdiction.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
15	Section 560.114(1)(m)	Being the subject of final agency action or its equivalent, issued by an appropriate regulator, for engaging in unlicensed activity as a money services business or deferred presentment provider in any jurisdiction.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
16	Section 560.114(1)(n)	Committing any act resulting in a license or its equivalent to practice any profession or occupation being denied, suspended, revoked, or otherwise acted against by a licensing authority in any jurisdiction for a violation of 18 U.S.C. s. 1956, 18 U.S.C. s. 1957, 18 U.S.C. s. 1960, 31 U.S.C. s. 5324, or any other law or rule of another state or of the United States.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation

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Violation #	Statute or Code	Short Description	1st Citation	2nd Citation	3rd Citation
17	Section 560.114(1)(o)	Having been convicted of, or entered a plea of guilty or nolo contendere to, any felony or crime punishable by imprisonment of 1 year or more under the law of any state or the United States which involves fraud, moral turpitude, or dishonest dealing, regardless of adjudication.	Revocation	Revocation	Revocation
18	Section 560.114(1)(p)	Having been convicted of, or entered a plea of guilty or nolo contendere to, a crime under 18 U.S.C. s. 1956 or 31 U.S.C. s. 5324, regardless of adjudication.	Revocation	Revocation	Revocation
19	Section 560.114(1)(q)	Having been convicted of, or entered a plea of guilty or nolo contendere to, misappropriation, conversion, or unlawful withholding of moneys belonging to others, regardless of adjudication.	Revocation	Revocation	Revocation
20	Section 560.114(1)(r)	Failure to inform the office in writing within 30 days after having pled guilty or nolo contendere to, or being convicted of, any felony or crime punishable by imprisonment of 1 year or more under the law of any state or the United States, or any crime involving fraud, moral turpitude, or dishonest dealing.	Fine: A	Fine: B Revocation	Fine: C Revocation
21	Section 560.114(1)(s)	Aiding, assisting, procuring, advising, or abetting any person in violating a provision of this chapter or any order or rule.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Suspension: C Revocation
22	Section 560.114(1)(t)	Failure to pay any fee, charge, or cost imposed or assessed.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation

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23	Section 560.114(1)(u)	Failing to pay a fine assessed by the office within 30 days after the due date as stated in a final order.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
24	Section 560.114(1)(v)	Failure to pay any judgment entered by any court within 30 days after the judgment becomes final.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
25	Section 560.114(1)(w)	Engaging or advertising engagement in the business of a money services business or deferred presentment provider without a license, unless exempted.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
26	Section 560.114(1)(x)	Payment to the office for a license or other fee, charge, cost, or fine with a check or electronic transmission of funds that is dishonored by the applicant's or licensee's financial institution.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
27	Section 560.114(1)(y)	Violations of 31 C.F.R. ss. 1010.306, 1010.311, 1010.312, 1010.340, 1010.410, 1010.415, 1022.210, 1022.320, 1022.380, and 1022.410, and United States Treasury Interpretive Release 2004-1. Note: For purposes of the application of this violation, the distinct federal codes referenced shall be treated as separate violations and penalties shall be applied separately for each code violation cited.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Suspension: C Revocation
28	Section 560.114(1)(z)	Engaging in any practice or conduct that creates the likelihood of material loss, insolvency, or dissipation of assets of a money services business or otherwise materially prejudices the interests of its customers.	Fine: C Suspension: C Revocation	Fine: C Suspension: C Revocation	Fine: C Suspension: C Revocation

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29	Section 560.114(1)(aa)	Failure of a check casher to maintain a federally insured depository account.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
30	Section 560.114(1)(bb)	Failure of a check casher to deposit into its own federally insured depository account any payment instrument cashed.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Suspension: C Revocation
31	Section 560.114(1)(cc)	Violating any provision of the Military Lending Act, 10 U.S.C. s. 987, or the regulations adopted under that act in 32 C.F.R. part 232, in connection with a deferred presentment transaction conducted.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
32	Section 560.118(2)	Failure to submit quarterly reports in the format and include information as specified by rule. Quarterly report was received after the forty-five day deadline in rule 69V-560.602, F.A.C., or the information in the quarterly report was inaccurate.	(Minor Violation) Notice of Non-Compliance	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation
33	Section 560.118(2)	Failure to submit quarterly reports in the format and include information as specified by rule. The forty-five day deadline in rule 69V-560.602, F.A.C., has passed and a quarterly report has not been received.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
34	Section 560.123(3)(a) - (b)	Failure to maintain a record of every transaction, which occurs in this state that involves currency greater than \$10,000.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
35	Section 560.123(3)(c)	Failure to file a currency transaction report.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation

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36	Section 560.123(4)	Failure to comply with the money laundering, enforcement, and reporting provisions of section 655.50, F.S., involving currency transactions and payment instruments, and chapter 896, F.S., concerning offenses relating to financial transactions.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
37	Section 560.1235(1)	Failure to comply with all state and federal laws and rules relating to money laundering.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
38	Section 560.1235(2)	Failure to maintain, review, and update an anti-money laundering program.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
39	Section 560.1235(3)	Failure to comply with United States Treasury Interpretive Release 2004-1.	Fine: B Suspension: B Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
40	Section 560.125(1)	A person may not engage in the business of a money services business or deferred presentment provider in this state unless the person is licensed or exempted.	\$500 per day	\$500 per day	\$500 per day
41	Section 560.126(1)(a)	Failure to provide notice within 30 days after occurrence of a bankruptcy filing.	(Minor Violation) Notice of Non-Compliance	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation
42	Section 560.126(1)(b)	Failure to provide notice within 30 days after occurrence of the commencement of an administrative or judicial suspension, revocation, or denial of a license from any other state in the United States.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
43	Section 560.126(1)(c)	Failure to provide notice within 30 days after occurrence of a felony indictment relating to a money services business or deferred presentment provider involving the licensee, a vendor, or affiliated party.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation

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44	Section 560.126(1)(d)	Failure to provide notice within 30 days after occurrence of a felony conviction, guilty plea, or plea of nolo contendere, regardless of adjudication, of a licensee, vendor, or affiliated party.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
45	Section 560.126(1)(e)	The interruption of any corporate surety bond	Fine: B Suspension: B Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
46	Section 560.126(1)(g)	Failure to provide written notice within 30 days after the occurrence or knowledge of the notification by law enforcement or a prosecutorial agency that the licensee or vendor is under criminal investigation.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
47	Section 560.126(2)	Failure to report any change in the information contained in an initial license application or any amendment to such application within 30 days after the change.	Fine: A Suspension: A	Fine: B Suspension: B	Fine: C Suspension: C Revocation
48	Section 560.126(3)	Failure to report the removal of or change to a control person of the licensee.	(Minor Violation) Notice of Non-Compliance	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation
49	Section 560.126(3)	Failure to report the addition of a control person of the licensee.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
50	Section 560.126(4)	A licensee must notify the office within 5 business days after the licensee ceases to maintain a federally insured depository account and, before resuming check cashing, must reestablish such an account and notify the office of the account.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation

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Violation #	Statute or Code	Short Description	1st Citation	2nd Citation	3rd Citation
51	Section 560.128(1)	A money services business and authorized vendor must provide each customer with a toll-free telephone number for the purpose of contacting the money services business or authorized vendor or, in lieu of a toll-free telephone number, the address and telephone number of the office may be provided.	Fine: A	Fine: A Suspension: A	Fine: B Suspension: B Revocation
52	Section 560.208(4)	Failure to place assets that are the property of a customer in a segregated account in a federally insured institution or the failure to maintain separate accounts for operating capital and the clearing of customer funds.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Suspension: C Revocation
53	Section 560.208(5)	Failure to ensure that money transmitted is available to the designated recipient within 10 business days after receipt.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
54	Section 560.208(6)	Failure to immediately upon receipt of currency or payment instrument provide a confirmation or sequence number to the customer verbally, by paper, or electronically.	Fine: A Suspension: A	Fine: B Suspension: B	Fine: C Suspension: C Revocation
55	Section 560.2085(1)	Failure to notify the Office within 60 days after a vendor commences licensed activity.	Fine: A Suspension: A	Fine: B Suspension: B	Fine: C Suspension: C Revocation
56	Section 560.2085(1)	Failure to notify the Office within 60 days after a vendor terminates licensed activity.	(Minor Violation) Notice of Non-Compliance	Fine: A Suspension: A	Fine: B Suspension: B Revocation
57	Section 560.2085(2)(a)	Failure to enter into a written contract with an authorized vendor, signed by the licensee and the authorized vendor.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
58	Section 560.2085(2)(b)	Failure to enter into a written contract that includes requirements of sections 560.2085(2)(b)1.-8., F.S.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation



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59	Section 560.2085(3)	Failure to develop and implement written policies and procedures to monitor compliance with applicable state and federal law by a licensee's authorized vendors.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
60	Section 560.209(1)	Failure to maintain at all times net worth of at least \$100,000 plus an additional \$10,000 for each location up to \$2 million. Note: Suspension will be ordered until adequate net worth has been obtained and accepted by the Office.	Fine: B Suspension: B Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
61	Section 560.209(2)	Failure to obtain an annual financial audit report and submit it to the Office within 120 days after the end of the licensee's fiscal year end. Financial audit report was received after the one hundred twenty day deadline in rule 69V-560.606, F.A.C.	(Minor Violation) Notice of Non-Compliance	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation
62	Section 560.209(2)	Failure to obtain an annual financial audit report and submit it to the Office within 120 days after the end of the licensee's fiscal year end. The one hundred twenty day deadline in rule 69V-560.606, F.A.C., has passed and a financial audit report has not been received.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
63	Section 560.209(3)(a)-(b)	Failure to provide and pledge to the Office a surety bond not less than \$50,000 or more than \$2 million.	Fine: B Revocation	Fine: C Revocation	Fine: C Revocation
64	Section 560.209(3)(c)	Canceling a surety bond without written notice to the Office by registered mail or canceling a bond within 30 days after receipt by the Office of the written notice. Note: Suspension will be ordered until adequate surety device has been obtained and accepted by the Office.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Suspension: C Revocation

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65	Section 560.209(3)(e)	Failure to furnish a new or additional surety bond so that the total or aggregate principal sum of the bond equals the required bond under section 560.209(3)(e), F.S.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Suspension: C Revocation
66	Section 560.209(4)(a)-(b)	Failure to deposit collateral cash, securities, or alternative security devices as provided by rule 69V-560.402, F.A.C., in at least the amount required by Form OFR-560-07.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Suspension: C Revocation
67	Section 560.209(4)(c)	Failure to pledge collateral cash, securities, or alternative security devices on Form OFR-560-05, which is incorporated by reference in rule 69V- 560.1012, F.A.C., or to maintain such collateral in an insured financial institution as set forth in rule 69V- 560.402, F.A.C.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Suspension: C Revocation
68	Section 560.209(5)	A licensee must at all times maintain the bond or collateral deposit in the required amount.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Suspension: C Revocation
69	Section 560.209(6)	Failure to maintain the bond and collateral deposit for 5 years after the licensee ceases licensed operations in this state.	Fine: B	Fine: C	Fine: C
70	Section 560.210(1)	Failure to possess, at all times, permissible investments with an aggregate market value of at least the aggregate face amount of all outstanding money transmissions and payment instruments issued or sold by the licensee or authorized vendor in the United States.	Fine: B Suspension: B Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation

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Violation #	Statute or Code	Short Description	1st Citation	2nd Citation	3rd Citation
71	Section 560.211(1)	Failure to maintain all records required to be kept by section 560.211, F.S., for 5 years.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
72	Section 560.211(1)(a)	Failure to maintain a daily record of payment instruments sold and money transmitted.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
73	Section 560.211(1)(b)	Failure to maintain a general ledger containing all asset, liability, capital, income, and expense accounts, which must be posted at least monthly.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
74	Section 560.211(1)(c)	Failure to maintain daily settlement records received from authorized vendors.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
75	Section 560.211(1)(d)	Failure to maintain monthly financial institution statements and reconciliation records.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
76	Section 560.211(1)(e)	Failure to maintain records of outstanding payment instruments and money transmitted.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
77	Section 560.211(1)(f)	Failure to maintain records of each payment instrument paid and money transmission delivered.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
78	Section 560.211(1)(g)	Failure to maintain a list of the names and addresses of all of the licensee's authorized vendors.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
79	Section 560.211(1)(h)	Failure to maintain records that document the establishment, monitoring, and termination of relationships with authorized vendors and foreign affiliates.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
80	Section 560.211(1)(i)	Failure to maintain any records, as prescribed by rule, designed to detect and prevent money laundering as set forth in rules 69V-560.608, 69V-560.609, 69V-560.610, 69V-560.702, 69V-560.703, and 69V-560.706, F.A.C.	Fine: B Suspension: B Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation

Fine A = \$1,000 to \$3,500; Fine B = \$3,500 to \$7,500; Fine C = \$7,500 to \$10,000  
Suspension A = 3 to 10 days; Suspension B = 10 to 20 days; Suspension C = 20 to 30 days  
Statutory authority: Section 560.1141, Florida Statutes  
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81	Section 560.213	Failure of each payment instrument sold or issued by a licensee, directly or through its authorized vendor, to bear the name of the licensee.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
82	Section 560.303(3)	Charging fees in excess of those provided by section 560.309, F.S., by a person exempt from licensure under chapter 560, part III, F.S.	Fine: A	Fine: B	Fine: C
83	Section 560.309(1)	Failure to transact business under chapter 560, part III, F.S. under the legal name under which the person is licensed.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
84	Section 560.309(2)	Failure to endorse a payment instrument that is accepted or cashed by the licensee using the legal name under which the licensee is licensed.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
85	Section 560.309(3)	Failure of a licensee to maintain and deposit payment instruments into its own commercial account at a federally insured financial institution.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Suspension: C Revocation
86	Section 560.309(4)	Accepting or cashing a payment instrument from a person who is not the original payee or from a conductor who is not an authorized officer of a corporate payee.	Fine: B Suspension: B Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
87	Section 560.309(5)	Failure to report all suspicious activity to the office in accordance with the criteria set forth in 31 C.F.R. s. 1022.320.	Fine: B Suspension: B Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation

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Violation #	Statute or Code	Short Description	1st Citation	2nd Citation	3rd Citation
88	Section 560.309(6)	Failure to equip each location of a licensee where checks are cashed with a security camera system that is capable of recording and retrieving an image in order to assist in identifying and apprehending an offender unless the licensee has installed a bulletproof or bullet-resistant partition or enclosure in the area where checks are cashed.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
89	Section 560.309(7)	Failure to post a notice listing the charges for cashing payment instruments.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
90	Section 560.309(8)(a) – (c)	Charge excessive fees for cashing payment instruments.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
91	Section 560.309(9)	Assessed the cost of collections, other than fees for insufficient funds provided by law, without judgment from a court of competent jurisdiction.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
92	Section 560.309(10)	Failed to comply with the provisions of section 68.065, F.S. and failed to comply with the prohibitions against harassment or abuse, false or misleading representations, and unfair practices in the Fair Debt Collections Practices Act, 15 U.S.C. ss. 1692d, 1692e, 1692f.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>93</u>	<u>Section 560.309(11)</u>	<u>Cashing corporate checks where the aggregate face amount of all corporate checks cashed for each payee exceeds 200 percent of the payee's workers' compensation policy payroll amount during the same dates as the workers' compensation policy coverage period.</u>	<u>Fine: B</u> <u>Suspension: B</u> <u>Revocation</u>	<u>Fine: C</u> <u>Suspension: C</u> <u>Revocation</u>	<u>Fine: C</u> <u>Suspension: C</u> <u>Revocation</u>

**Office of Financial Regulation**  
**Division of Consumer Finance**  
**FORM OFR-560-09, Disciplinary Guidelines for Money Services Businesses Incorporated by**  
**reference in Rule 69V-560.1000, F.A.C. - Effective Date: XX-XXXX 08-2023**

<b>Violation #</b>	<b>Statute or Code</b>	<b>Short Description</b>	<b>1st Citation</b>	<b>2nd Citation</b>	<b>3rd Citation</b>
<u>9493</u>	<u>Section</u> 560.310(1)	Failed to maintain a copy of each payment instrument cashed.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>9594</u>	Section 560.310(2)(a)	Failed to maintain customer files on all customers who cash corporate payment instruments.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>9695</u>	Section 560.310(2)(b)	Failed to maintain a copy of acceptable personal identification used as identification and presented by the customer.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>9796</u>	Section 560.310(2)(c)	Failed to maintain a thumbprint of the customer, taken by the licensee.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>9897</u>	Section 560.310(2)(d)	Failure to submit information to the check cashing database, before entering into each check cashing transaction for each payment instrument being cashed.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>9998</u>	Section 560.403	A person may not engage in a deferred presentment transaction unless the person is licensed as a money services business under part II or part III of this chapter and has on file with the office a declaration of intent to engage in deferred presentment transactions.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>10099</u>	Section 560.404(1)	Failed to document each deferred presentment transaction in a written agreement signed by the deferred presentment provider and the drawer.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Suspension: C Revocation
<u>101400</u>	Section 560.404(2)	Failed to execute the agreement on the day the deferred presentment provider furnishes currency or a payment instrument to the drawer.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>102404</u>	Section 560.404(3)(a) – (h)	Deferred presentment agreement failed to contain all information required.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation

Fine A = \$1,000 to \$3,500; Fine B = \$3,500 to \$7,500; Fine C = \$7,500 to \$10,000  
Suspension A = 3 to 10 days; Suspension B = 10 to 20 days; Suspension C = 20 to 30 days  
Statutory authority: Section 560.1141, Florida Statutes  
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<u>103402</u>	Section 560.404(4)	Failed to furnish a copy of the deferred presentment transaction agreement to the drawer.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>104403</u>	Section 560.405(5)	Accepting a check for a deferred presentment transaction where the face amount of the check taken exceeds the amount allowed exclusive of fees.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>105404</u>	Section 560.404(6)(a)	Charged excessive fees for a deferred presentment transaction.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>106405</u>	Section 560.404(6)(c)	Charged fees for a deferred presentment installment transaction using a calculation other than simple interest or charged a prepayment penalty.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>107406</u>	Section 560.404(7)	Collecting the fees authorized for a deferred presentment transaction before the drawer's check is presented or redeemed.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>108407</u>	Section 560.404(8)	Accepting a deferred presentment transaction for a term longer than allowed.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>109408</u>	Section 560.404(9)	Requiring a drawer to provide additional security or guaranty.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>110409</u>	Section 560.404(10)(a) – (e)	Including unlawful provisions in a deferred presentment agreement.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>111410</u>	Section 560.404(11)	Failed to immediately provide the drawer with the full amount of any check to be held, less the allowable fee.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation

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<u>112444</u>	Section 560.404(12)	Executing a deferred presentment agreement where the agreement date and date of drawer's initial check(s) are different; deferment period is not applicable to each check; or the dates on the agreement or check(s) are altered.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>113442</u>	Section 560.404(13)	Failure to ensure that each deferred presentment transaction complies with the disclosure requirements of 12C.F.R., Part 1026, relating to the federal Truth-in-Lending Act, and Regulation Z of the Consumer Financial Protection Bureau.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>114443</u>	Section 560.404(14)	Accepting or holding an undated check or a check dated on a date other than the date on which the deferred presentment provider agreed to hold the check and signed the deferred presentment transaction agreement	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>115444</u>	Section 560.404(15)	Failure to hold the drawer's check for the agreed number of days, unless the drawer chose to redeem the check before the presentment date.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>116445</u>	Section 560.404(16)	Charging an additional fee for issuing or cashing a deferred presentment provider's payment instrument, if licensed under part II of chapter 560, F.S.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>117446</u>	Section 560.404(17)	Requiring a drawer to accept a payment instrument issued by the licensee in lieu of currency.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation



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<u>118</u> 117	Section 560.404(18)	Engaging in the rollover of a deferred presentment agreement. Redeeming, extending, or otherwise consolidating a deferred presentment agreement with the proceeds of another deferred presentment transaction made by the same deferred presentment provider or an affiliate.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Suspension: C Revocation
<u>119</u> 118	Section 560.404(19) :	Entering into a deferred presentment transaction with a drawer who has an outstanding deferred presentment transaction with that provider or with any other deferred presentment provider, or with a person whose previous deferred presentment transaction with that provider or with any other provider has been terminated for less than 24 hours.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Suspension: C Revocation
<u>120</u> 119	Section 560.404(19)(a)	Failure to verify whether the deferred presentment provider or an affiliate has an outstanding deferred presentment transaction with a particular person or has terminated a transaction with that person within the previous 24 hours.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Suspension: C Revocation
<u>121</u> 120	Section 560.404(19)(b)	Failure to access the office's database and verify whether any other deferred presentment provider has an outstanding deferred presentment transaction with a particular person or has terminated a transaction with that person within the previous 24 hours.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Suspension: C Revocation
<u>122</u> 121	Section 560.404(20)	Failure to provide notice on each deferred presentment agreement and obtain signature of drawer.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation

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<u>123</u> 122	Section 560.404(21)	Presenting a drawer's check if the drawer informs the provider in person that the drawer cannot redeem or pay in full in cash.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>124</u> 123	Section 560.404(22)	Failure to provide a grace period extending the term of an agreement.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>125</u> 124	Section 560.404(22)(a) - (c)	Failure to comply with not depositing the drawer's check before the end of the 60-day grace period, to provide verbal notice of the availability of the 60-day grace period, to provide a drawer a list of approved consumer credit counseling agencies, to provide a drawer the written notice, and to pay one-half of the drawer's fee for a deferred presentment agreement to the consumer credit counseling agency.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>126</u> 125	Section 560.404(23)	Failed to provide the drawer the opportunity to defer the scheduled payment, at no additional fee or charge, until after the last scheduled payment.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>127</u> 126	Section 560.404(24)(a)	Failed to submit the required information into the deferred presentment database.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>128</u> 127	Section 560.404(24)(b)	Failure of the deferred presentment provider to remit \$1 fee for each transaction or \$1 for each 30-day period for each installment transaction.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine C: Suspension: C Revocation
<u>129</u> 128	Section 560.404(25)	Accepting more than one check or authorization to initiate more than one automated clearinghouse transaction to collect on a deferred presentment transaction for a single deferred presentment transaction, except for deferred presentment installment transactions in which such checks or authorizations represent multiple scheduled payments.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation

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<u>130</u> <del>129</del>	Section 560.404(26)	Originating deferred presentment installment transactions not fully amortized or payable in consecutive equal payments.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>131</u> <del>130</del>	Section 560.405(1)	Presenting a drawer's check before the end of the deferment period.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>132</u> <del>131</del>	Section 560.405(2)	Failure to endorse a drawer's check.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>133</u> <del>132</del>	Section 560.405(3)	Failure to return a drawer's check, upon redemption, and provide a receipt.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>134</u> <del>133</del>	Section 560.405(4)	Required the drawer to redeem the check in full before the agreed-upon date.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>135</u> <del>134</del>	Section 560.406(1)	Seeking to collect treble damages on worthless checks.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>136</u> <del>135</del>	Section 560.406(2)	Failure to comply with the prohibitions against harassment or abuse, false or misleading representations, and unfair practices that are contained in the Fair Debt Collections Practices Act, 15 U.S.C. ss. 1692d, 1692e, 1692f and Chapter 559, Part VI, F.S.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
<u>137</u> <del>136</del>	Section 560.406(3)	Assessing the cost of collection, other than charges for insufficient funds as allowed by law, without a judgment from a court of competent jurisdiction for a deferred presentment transaction.	Fine: A Suspension: A	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation

## ATTACHMENT 2

**FINANCIAL SERVICES COMMISSION  
OFFICE OF FINANCIAL REGULATION**

**AGENDA ITEM #\_2\_: REQUEST APPROVAL TO PUBLISH NOTICES OF PROPOSED RULE AND FILE  
FOR FINAL ADOPTION**

**Action Requested:**

The OFR respectfully requests approval to publish Notices of Proposed Rule to:

1. Amend Rules 69W-200.001, 69W-200.002, 69W-400.001, 69W-500.006, 69W-500.011, 69W-600.001, 69W-600.0011, 69W-600.0012, 69W-600.0015, 69W-600.0016, 69W-600.0017, 69W-600.0019, 69W-600.002, 69W-600.0022, 69W-600.0024, 69W-600.012, 69W-600.013, 69W-600.0131, 69W-600.0132, 69W-600.0133, 69W-600.014, 69W-600.0151, 69W-600.0161, 69W-700.001, 69W-700.002, 69W-700.003, 69W-700.006, 69W-700.007, 69W-700.008, 69W-700.012, 69W-700.014, 69W-700.015, 69W-700.030, 69W-800.001, 69W-800.004, and 69W-1000.001, Florida Administrative Code (F.A.C.).
2. Repeal Rules 69W-100.005, 69W-100.010, 69W-600.0013, 69W-600.0023, and 69W-600.0033, F.A.C.

**Summary and Justification of Rules:**

The OFR proposes to repeal Rules 69W-100.005 and 69W-100.010, F.A.C, because they are antiquated and no longer necessary or utilized.

The OFR incorporates by reference several general industry standards into its rules. Over time these industry standards are revised and updated, consequently OFR now proposes to amend Rule 69W-200.002, F.A.C., to incorporate the current versions of those industry standards, as well as Regulation Best Interest (17 C.F.R. §240.151-1).

The OFR incorporates by reference forms, including the Uniform Application to Register Securities (Form U-1), the Uniform Application for Investment Adviser Registration (Form ADV), the Form ADV-E, the Small Corporate Offering Registration (Form U-7), and the Uniform Application for Broker-Dealer Registration (Form BD) into its rules. Over time these forms are revised and updated, consequently OFR now proposes to amend Rules 69W-600.001, 69W-600.0012, 69W-600.0016, 69W-600.0017, 69W-600.0132, 69W-700.002, 69W-800.001, and 69W-800.004, F.A.C., to incorporate the current versions of such forms.

The OFR proposes to amend Rule 69W-200.001, F.A.C., to clarify where the definitions are applicable, to move definitions to the rule to which they pertain, and to delete unnecessary definitions.

The OFR proposes to amend Rules 69W-400.001, 69W-500.006, 69W-500.011, 69W-600.0011, 69W-600.002, 69W-600.0022, 69W-600.012, 69W-600.013, 69W-600.0131, 69W-600.0133, 69W-600.014 and 69W-600.0151, F.A.C., and to repeal Rules 69W-600.0013, 69W-600.0023, 69W-600.0033, F.A.C., and the Issuer/Dealer Compliance Form (OFR-DA-5-91) (effective 9/15), to conform to Chapter 203-205, Laws of Florida, which amended chapter 517, Florida Statutes, to 1) no longer require the registration of issuers or their associated persons and 2) to remove “demonstrations of unworthiness” as a grounds for denying an application for registration or for revoking, restricting, or suspending a registration.

The OFR proposes to amend Rule 69W-600.0019, F.A.C., to incorporate the updated version of the the Registration of Crowdfunding Intermediary Application (Form FL-INT).

The OFR proposes to amend Rule 69W-600.001, F.A.C., to toll the time period for abandoning an application filed with the Office for registration as a Financial Industry Regulatory Authority (“FINRA”) member dealer until FINRA has made a determination on its application where the applicant has simultaneously applied for FINRA membership.

The OFR proposes to amend Rules 69W-600.0016 and 69W-600.0024, F.A.C., to clarify how applicants for registration as associated persons of investment advisers or federal covered advisers may satisfy exam requirements. The rules are further amended to incorporate the North American Securities Administrators Association’s (“NASAA”) model rule concerning its Examination Validity Extension Program (“EVEP”) for associated persons of investment advisers and federal covered advisers. This program is similar to the FINRA Maintaining Qualifications Program (“MQP”) for associated persons of dealers, already incorporated in the Office’s rules. Participation in the EVEP is voluntary. Participants must meet certain eligibility criteria, pay an annual participation fee to NASAA, and satisfy applicable continuing education requirements. Individuals who terminate their registrations with investment advisers or federal covered advisers and elect to

participate in the EVEP may have a maximum of five years, instead of two years, in which to reregister with a firm without having to requalify by exam.

The OFR proposes to amend Rule 69W-600.012, F.A.C., to clarify the requirements for written confirmations of transactions and to remove a redundant section concerning a dealer's net worth.

The OFR proposes to amend Rule 69W-600.013, F.A.C., to include, as a prohibited business practice, a violation of Section 240.151-1 of Regulation Best Interest (17 C.F.R. §240.151-1), and to update the "Florida Guide to Small Business Investments."

The OFR proposes to amend Rule 69W-600.0131, F.A.C., to replace the term "customer" with "client" for consistency.

The OFR proposes to amend Rule 69W-600.0132, F.A.C., to clarify the definition of custody, to define "supervised person," and to specify how an independent certified public accountant is to provide notice to the Office upon its resignation or dismissal from, or other termination of, the engagement, or upon removing itself or being removed from consideration for being reappointed.

The OFR proposes to amend Rule 69W-600.0133, F.A.C., to clarify that the rule concerns "senior-specific professional designations."

The OFR proposes to amend Rule 69W-600.014, F.A.C., to include section 240.151-1 of Regulation Best Interest (17 C.F.R. §240.151-1).

The OFR proposes to amend Rule 69W-600.0161, F.A.C., to clarify that the net capital requirements for investment advisers must be maintained at all times.

The OFR proposes to amend Rule 69W-700.001, F.A.C., to incorporate the updated versions of Form OFR-S-1-91, Application for Registration of Securities, Form OFR-S-12-97, SCOR (Small Corporate Offering Registration) Application to Register Securities, and OFR-S-7-91, Exhibit 1 (General Issue).

The OFR proposes to amend Rule 69W-700.003, F.A.C., to replace “Federal Savings and Loan Insurance Corporation” with “Federal Deposit Insurance Corporation.” The Federal Savings and Loan Insurance Corporation’s duties were transferred to the Federal Deposit Insurance Corporation in 1989.

The OFR proposes to amend Rule 69W-700.006, F.A.C., to clarify when registration involving the sale of non-voting common stock or other equity security interest will not be permitted.

The OFR proposes to amend Rule 69W-700.007, F.A.C., to specifically include limited liability companies.

The OFR proposes to amend Rule 69W-700.012, F.A.C., to replace the term “broker/dealers” with “dealers” for consistency.

The OFR proposes to amend Rule 69W-700.015, F.A.C., to incorporate the definition of “promotional securities” from Rule 69W-200.001, F.A.C., that pertains only to this rule.

The OFR proposes to amend Rule 69W-700.030, F.A.C., to clarify the requirements for use of advertising in connection with a registered securities offering.

The OFR proposes to amend Rule 69W-1000.001, F.A.C., to incorporate the updated version of the disciplinary guidelines.

The OFR proposes to update cross-references, typos, and capitalization throughout the proposed rules.



## **Proposed Text of Rules:**

### **69W-100.005 Advice Concerning Exemptions.**

Rulemaking Authority 517.03 FS. Law Implemented 517.051, 517.061, 120.53(1)(b) FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-100.05, 3E-100.005, Repealed.

### **69W-100.005 Advice Concerning Exemptions.**

~~Responses to inquiries concerning the availability of exemptions may take the following forms, provided sufficient relevant facts are furnished and the situation is not hypothetical:~~

- ~~(1) An opinion that no exemption appears available in the specific fact situation;~~
- ~~(2) An opinion that the availability of the specific exemption is questionable or doubtful in the given fact situation;~~
- ~~(3) An opinion that, under the facts as stated by the inquiring party, a specific exemption appears to be available; this opinion must be followed by a caveat that the Office of Financial Regulation has no authority to grant or confer to exemption in question, and that section 517.171, F.S., places the burden of proof on the party claiming the exemption.~~

Rulemaking Authority 517.03 FS. Law Implemented 517.051, 517.061, 120.53(1)(b) FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-100.05, 3E-100.005.

### **69W-100.010 Internet or Other Electronic System Information.**

Rulemaking Authority 517.03(1) FS. Law Implemented 517.021(12), (16), 517.07, 517.12 FS. History—New 11-21-96, Formerly 3E-100.010, Repealed.

### **69W-100.010 Internet or Other Electronic System Information.**

~~(1) The provisions of sections 517.07 and 517.12, F.S., requiring compliance with the registration requirements of the Florida Securities and Investor Protection Act, if applicable, shall not be deemed to prevent the use of the Internet, provided the following:~~

- ~~(a) The posted information or communication, directly or indirectly, indicates that the securities are not being offered to any person in this state;~~
- ~~(b) The posted information or communication is not directed to any person in this state; and,~~
- ~~(c) No sales occur as a result of the posted information or communication.~~
- ~~(2) Sales may be made via the Internet upon registration of securities by dealers registered in Florida unless otherwise exempt.~~

~~(3) For purposes of the Florida Securities and Investor Protection Act, “Internet” is defined as the global information system comprised of independent computer networks which are interconnected and share information without the use of a central processing center by use of the Transmission Control Protocol/Internet Protocol (TCP/IP) suite, to include without limitation, the World Wide Web, proprietary or “common carrier” electronic delivery systems, or similar medium.~~

Rulemaking Authority 517.03(1) FS. Law Implemented 517.021(12), (16), 517.07, 517.12 FS. History—New 11-21-96, Formerly 3E-100.010.

### **69W-200.001 Definitions.**

As used in ~~the Rules and Regulations of the Financial Services Commission and Office of Financial Regulation, pursuant to Chapter 517, F.S., and the rules promulgated thereunder,~~ unless the context otherwise specifically requires:

- (1) No change.

(2) “Advertising” means any circular, prospectus, advertisement or other material or any communication by radio, television, internet ~~Internet~~, pictures or similar means used in connection with a sale or purchase or an offer to sell or purchase any security.

(3) No change.

(4) ~~The term~~ “Applicant” shall mean a person ~~natural or otherwise~~, executing or submitting an application for registration.

~~(5) “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.~~

~~(5)(a)~~ ~~(6)(a)~~ “Associated person” as defined in Section 517.021(3), F.S., shall include any person who for compensation refers, ~~solicits, offers, or negotiates~~ for the purchase or sale of securities and/or of investment advisory services. A person whose activities fall within this definition is required to register with the Office of Financial Regulation as an associated person pursuant to Section 517.12(1) or (3), F.S.

~~(b) Notwithstanding the provisions of paragraph (a), an associated person registered with the Office of Financial Regulation and operating in compliance with paragraph 69W-600.0034(4)(b), F.A.C., shall not be deemed an associated person of any investment adviser other than the investment adviser or dually registered dealer/investment adviser with which such associated person is registered.~~

~~(c)~~ A natural person receiving compensation from a federal covered adviser or an investment adviser acting in compliance with S.E.C. Rule 206(4)-1 (17 C.F.R. §275.206(4)-1), which is incorporated by reference in Rule 69W-200.002, F.A.C., shall not be deemed an associated person of such investment adviser or federal covered adviser.

~~(6)~~ ~~(7)~~ No change.

~~(7)(a)~~ ~~(8)(a)~~ Except as otherwise provided in this subsection, the term “Branch Office” shall mean any location in this state of a dealer or investment adviser at which one or more associated persons regularly conduct the business of rendering investment advice or effecting any transactions in, or inducing or attempting to induce the purchase or sale of, any security or any location that is held out as such. Pursuant to Section 517.021(5), F.S., the Financial Services Commission may adopt exceptions to this definition. The following locations shall not be deemed branch offices for purposes of Section 517.12(4), F.S., and are considered exceptions to the definition of a branch office under Section 517.021(5), F.S.:

1. through 9. No change.

(b) through (c) No change.

~~(8)~~ ~~(9)~~ “Carrying Dealer” means any dealer maintaining a fully/principally disclosed agreement/arrangement with an introducing dealer, whereby the carrying dealer is responsible for customer monies and securities, and confirms transactions to the customer accounts introduced; such dealer who carries accounts for Florida residents must be registered pursuant to the provisions of Section 517.12, F.S.

~~(9)~~ ~~(10)~~ “Developmental Stage Entities” shall be defined as those entities which are devoting substantially all of their efforts to establishing a new business and for which either of the following conditions exists:

(a) Planned principal operations have not commenced; or

(b) Planned principal operations have commenced but whose annual net earnings for each of the last two (2) consecutive fiscal years or whose average annual net earnings for the last five (5) fiscal years prior to the public offering have been less than five percent (5%) of the aggregate public offering.

(10) ~~(14)~~ “Dilution” for purposes of Rules 69W-700.008 and 69W-700.015, F.A.C., shall be determined by subtracting the maximum sales commissions and expenses set forth in the prospectus from the gross proceeds of the offering and adding the net worth prior to the offering. Divide this sum by the total number of shares to be outstanding at the conclusion of the offering to determine book value. Subtract the book value from the proposed offering price and divide the result by the proposed offering price to arrive at the percentage of dilution. For the purpose of calculating “dilution” or “book value,” intangible assets such as patents, copyrights, franchises, trademarks, operating rights and goodwill are deducted from total assets.

Dilution Formula:

NP = Gross Proceeds minus Maximum Sales Commissions and Expenses

NW = Net Worth prior to the offering

TS = Total Number of shares to be outstanding after a successful offering

BV = Book Value

OP = Offering Price

Example:

$$\frac{NP + NW}{TS} = BV$$

$$\frac{OP - BV}{OP} = \text{Dilution}$$

~~(12) “Established Market Price” for purposes of Rule 69W 700.015, F.A.C., shall be the price for a security published by in The Wall Street Journal in the Over The Counter Markets Section, Quotations from the NASDAQ System of such publication or the price for a security published on any stock exchange registered pursuant to the Securities Exchange Act of 1934.~~

~~(13) “Fair Value of the Equity Investment” for purposes of subsection 69W 700.005(1), F.A.C., of the promoters or insiders shall mean the total of all sums contributed to the issuer in cash together with the reasonable value of all tangible assets contributed to the issuer, and as adjusted by the earned surplus or deficit of the issuer subsequent to the dates of contribution. In determining the reasonable value of tangible assets contributed, the Office of Financial Regulation shall take into consideration any values as determined by independent appraisal.~~

~~(11) (14) “Independent Director” shall be defined as a member of the issuer’s board of directors Issuer’s Board of Directors who:~~

(a) Is not an officer or employee of the issuer Issuer, its subsidiaries, or their affiliates or associates and has not been an officer or employee of the Issuer, its subsidiaries or their affiliates or associates within the last two years; and,

(b) No change.

(c) Does not have a material business or professional relationship with the issuer or any of its affiliates or associates. For purposes of determining whether or not a business or professional relationship is material, the gross revenue derived by the independent director Independent Director from the issuer Issuer, its affiliates and associates shall be deemed material if it exceeds 5% of the independent director’s Independent Director’s;

1. through 2. No change.

~~(12) (15) “Introducing Dealer” means any dealer maintaining a formal agreement/arrangement with another dealer whereby the introducing dealer does not carry (i.e., holds funds or securities, or confirms transactions) customer accounts; such dealer who introduces Florida resident accounts must be registered pursuant to Section 517.12, F.S.~~

~~(13) (46)~~ “Issuer” for purposes of in Rules 69W-400.001, 69W-500.005, 69W-500.006 and 69W-500.008, F.A.C., shall mean any person who proposes to issue or has issued or shall hereafter issue any securities. For purposes of this subsection only, the term “issuer” shall not include a promoter of the issuer ~~for the purposes of these rules.~~

~~(17)~~ “Issuers” Within the Meaning of Section 517.021(14), F.S.

(a) For the purposes of determining whether a person is an issuer within the meaning of Section 517.021(14), F.S., the term “promoter” shall be deemed to include:

1. Any person who, acting alone or in conjunction with one or more other persons, directly or indirectly initiates the founding or organizing of the business or enterprise of an issuer; or

2. Any person who, in connection with the founding and organizing of the business or enterprise of an issuer, directly or indirectly receives in consideration of services, or a combination of services and property, 10% or more of any class of securities of the issuer or 10% or more of the proceeds from the sale of any class of securities of the issuer; provided that any person who receives securities or proceeds from the sale of securities either solely as underwriting commissions or solely in consideration of property shall not be deemed a promoter if such person does not otherwise take part in founding and organizing the enterprise of the issuer.

(b) Notwithstanding the provisions of subsection (1) of this rule, no person shall be deemed to be a promoter with respect to any issuer which is duly qualified to transact business under the laws of the jurisdiction in which it is organized and which has actively been engaged in business for a continuous period of one year.

~~(18)~~ “Issuer/Dealer” means any issuer who through either persons directly or indirectly compensated or controlled by the issuer engages, either for all or part of his time, directly or indirectly, in the business of offering or selling securities which are issued or are proposed to be issued by said issuer.

~~(14) (49)~~ “Principal Office” or “Home Office” shall mean the place where the chief or principal affairs and business of the applicant or registrant are transacted.

~~(20)~~ “Promotional Securities” for purposes of Rule 69W 700.015, F.A.C., shall mean securities that are to be issued or were issued:

(a) By an issuer which is a development stage company to promoters for cash or other consideration, including services rendered, patents, copyrights, and other intangibles, that will be or was less than eighty five percent (85%) of the proposed offering price; or

(b) Within three (3) years prior to the filing of an application to register securities with the Office of Financial Regulation by an issuer, which is not a development stage company, to promoters for cash or other considerations, including services rendered, patents, copyrights and other intangibles, that will be or was less than eighty five percent (85%) of the proposed offering price. (Shares issued pursuant to conversion or exercise rights shall be included as promoters shares).

(15) “Promoter” shall not include a person with respect to an issuer which is duly qualified to transact business under the laws of the jurisdiction in which it is organized and which has actively been engaged in business for a continuous period of one year.

~~(21)~~ “Publication” means advertising printed in any newspaper, magazine, periodical or other publication and mailed or delivered to its subscribers or addresses, or communicated by radio, television or similar means.

~~(16) (22)~~ “Qualified Institutional Buyer” for purposes of Section 517.061(7), F.S., shall be defined as provided in Securities and Exchange Commission rule 144A(a) (17 C.F.R. §230.144A(a)), which is incorporated by reference in Rule 69W-200.002, F.A.C.

~~(23)~~ “Reaffiliation” refers to those associated persons leaving one registered dealer or investment adviser and reaffiliating with another registered dealer or investment adviser.

~~(17)~~ (24) "Registrant" shall mean an applicant for whom a registration has been declared effective by the Office of Financial Regulation.

~~(18)~~ (25) "Reportable Act" shall mean:

(a) through (d) No change.

~~(26) "Renewal Applicant" shall mean an applicant who is a registrant who seeks a timely renewal of the license.~~

~~(19)~~ (27) "Securities Act of 1933," 15 U.S.C. §§77a through 77mm, "Securities Exchange Act of 1934," 15 U.S.C. §§78a through 78oo, "Investment Company Act of 1940," 15 U.S.C. §§80a-1 through 80a-64, "Investment Advisers Act of 1940," 15 U.S.C. §§80b-1 through 80b-21, and "Internal Revenue Code," 26 U.S.C. Subtitles A through K, means the federal statutes of those names.

~~(28) "State" means any state, territory or possession of the United States, the District of Columbia and Puerto Rico.~~

~~(29) "Total Equity Investment" for purposes of subsection 69W-700.005(1), F.A.C., shall mean the total of (1) par or stated values of all equity securities offered or proposed to be offered; and (2) the amount of surplus of any kind, regardless of description and whether or not restricted.~~

~~(30) "Wholesaler" is defined as any dealer conducting business exclusively with other dealers in this State, and such dealer need not be registered as a dealer under Section 517.12, F.S.~~

*Rulemaking Authority 517.03(1) FS. Law Implemented 517.07, 517.12, 517.021, 517.051, 517.061, 517.081, 517.161 FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-200.01, Amended 12-8-87, 10-14-90, 7-31-91, 6-16-92, 1-10-93, 5-5-94, 10-20-97, 8-9-98, 8-19-99, 10-30-03, Formerly 3E-200.001, Amended 5-15-07, 9-30-10, 11-11-13, 9-22-14, 11-15-16, 1-18-21, 2-14-23,\_\_\_\_\_.*

#### **69W-200.002 General Industry Standards Incorporated by Reference.**

The following general industry standards as expressed in the statutes, rules and regulations of the various federal and self-regulatory agencies and regulatory associations and referenced in Division 69W, F.A.C., are hereby incorporated by reference and adopted by this rule. The material incorporated by reference in this rule may also be obtained from the Florida Office of Financial Regulation (Office), Division of Securities' website at <https://flofr.gov/sitePages/MaterialsDS.htm>, except where noted for copyright restrictions. Materials subject to copyright restrictions may be inspected and examined by contacting the Florida Office of Financial Regulation, Division of Securities, at 200 E. Gaines Street, Tallahassee, Florida 32399, (850) 487-9687 or the Florida Department of State at 500 S. Bronough Street, Tallahassee, Florida 32399, (850) 245-6500.

(1) No change.

(2) Sections 2, 3, 4, 5, 6, 7, 8, and 10(a) of the Securities Act of 1933, (15 U.S.C. §§77b, 77c, 77d, 77e, 77f, 77g, 77h, and 77j) ~~(7-6-23)~~ ~~(6-4-19)~~, accessible at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>  
~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-11282>.~~

(3) Securities Exchange Act of 1934 (15 U.S.C. §§78a through 78qq) ~~(7-6-23)~~ ~~(4-12-22)~~, accessible at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>  
~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-15083>.~~

(4) Investment Company Act of 1940 (15 U.S.C. §§80a-1 through 80a-64) ~~(7-6-23)~~ ~~(4-3-19)~~, accessible at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>  
~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-11284>.~~

(5) The Investment Advisers Act of 1940 (15 U.S.C. §§80b-1 through 80b-21) ~~(7-6-23)~~ ~~(3-11-19)~~, accessible at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>  
~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-11285>.~~

(6) through (13) No change.

(14) SEC Rules 134, 134a, 135a, 144, 156, 419, 481 and 482, (17 C.F.R. §§230.134, 230.134a, 230.135a, 230.144, 230.156, 230.419, 230.481 and 230.482) (~~4-1-22 4-1-21~~ edition as amended in 87 FR 72846-72847 (Nov. 25, 2022) and 88 FR 17710 (Mar. 24, 2023)), accessible at ~~http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX~~  
http://www.flrules.org/Gateway/reference.asp?No=Ref-15085.

(15) through (16) No change.

(17) SEC Rule 415 (17 C.F.R. §230.415) (~~4-1-22 4-1-21~~ edition as amended in 87 F.R. 70166, 70199 (Dec. 9, 2021)), accessible at ~~http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX~~ http://www.flrules.org/Gateway/reference.asp?No=Ref-15088.

(18) through (29) No change.

(30) Regulation Best Interest (17 C.F.R. §240.151-1) (4-1-22 edition), accessible at http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX.

(31) ~~(30)~~ SEC Rules 17a-3 and 17a-4 (17 C.F.R. §§240.17a-3 and 240.17a-4) (~~4-1-22 4-1-20~~ edition as amended in 88 F.R. 39994 (June 20, 2023)), accessible at ~~http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX~~  
http://www.flrules.org/Gateway/reference.asp?No=Ref-12531.

(32) ~~(31)~~ SEC Rules 17a-5 (17 C.F.R. §240.17a-5) (6-1-14) and 17a-10 (17 C.F.R. §240.17a-10) (12-9-81), accessible at http://www.flrules.org/Gateway/reference.asp?No=Ref-04523.

(33) ~~(32)~~ SEC Rules 17a-11 and 17a-14 (17 C.F.R. §§240.17a-11 and 240.17a-14) (4-1-20 edition), accessible at http://www.flrules.org/Gateway/reference.asp?No=Ref-12532.

(34) ~~(33)~~ SEC Rule 17f-2 (17 C.F.R. §240.17f-2) (4-1-13 edition), accessible at http://www.flrules.org/Gateway/reference.asp?No=Ref-04533.

(35) ~~(34)~~ Regulation M (17 C.F.R. §§242.100 through 242.105) (~~4-1-22 4-1-21~~ edition as amended in 88 86 F.R. 39994 (June 20, 2023) 18596, 18809 (Apr. 9, 2021)), accessible at ~~http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX~~  
http://www.flrules.org/Gateway/reference.asp?No=Ref-15093.

(36) ~~(35)~~ Regulation SHO (17 C.F.R. §§242.200-242.203) (~~4-1-22 4-1-21~~ edition as amended in 86 F.R. 18596, 18809 (Apr. 9, 2021)), accessible at ~~http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX~~  
http://www.flrules.org/Gateway/reference.asp?No=Ref-15094.

(37) ~~(36)~~ SEC Rule 601 (17 C.F.R. §242.601) (4-1-14 edition), accessible at http://www.flrules.org/Gateway/reference.asp?No=Ref-04543.

(38) ~~(37)~~ Regulation S-P §248.30 (17 C.F.R. §248.30) (4-1-18 edition), accessible at http://www.flrules.org/Gateway/reference.asp?No=Ref-11294.

(39) ~~(38)~~ SEC Rules 204-1, 204-2, 204-3, 205-1, 205-2, 205-3, 206(3)-1, 206(3)-2, 206(4)-1 (17 C.F.R. §§275.204-1; 275.204-2; 275.204-3; 275.205-1; 275.205-2; 275.205-3; 275.206(3)-1; 275.206(3)-2; 275.206(4)-1 (4-1-21 edition as amended in 86 FR 13024, 13138-13142 (Mar. 5, 2021) and 87 F.R. 22444, 22447 (April 15, 2022)), accessible at http://www.flrules.org/Gateway/reference.asp?No=Ref-15095.

(40) ~~(39)~~ FASB Rule ASC 946-210-50 (existing as of 7-5-23 2-3-15), available for inspection at the Office due to copyright restrictions.

(41) ~~(40)~~ FINRA Rules 1020 and 1240 (existing as of 7-5-23 5-9-22), accessible at ~~http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX~~  
http://www.flrules.org/Gateway/reference.asp?No=Ref-15096.

(42) ~~(41)~~ FINRA Rule 2000 Series (2010 through 2370) (existing as of 7-5-23 5-9-22), accessible at http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX  
http://www.flrules.org/Gateway/reference.asp?No=Ref-15097.

(43) (42) FINRA Rule 3000 Series (3110 through 3310) (existing as of 7-5-23 ~~5-9-22~~), accessible at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>  
~~http://www.flrules.org/Gateway/reference.asp?No=Ref-15098.~~

(44) (43) FINRA Rule 4000 Series (4110 through 4590) (existing as of 7-5-23 ~~5-9-22~~), accessible at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>  
~~http://www.flrules.org/Gateway/reference.asp?No=Ref-15099.~~

(45) (44) FINRA Rule 5000 Series (5110 through 5350) (existing as of 7-5-23 ~~5-10-22~~), accessible at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>  
~~http://www.flrules.org/Gateway/reference.asp?No=Ref-15100.~~

(46) (45) FINRA Rule 6000 Series (6110 through 6898) (existing as of 7-5-23 ~~5-10-22~~), accessible at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>  
~~http://www.flrules.org/Gateway/reference.asp?No=Ref-15101.~~

(47) (46) FINRA Rule 7000 Series (7110 through 7730) (existing as of 7-5-23 ~~5-11-22~~), accessible at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>  
~~http://www.flrules.org/Gateway/reference.asp?No=Ref-15102.~~

(48) (47) FINRA Rule 11000 Series (11100 through 11900) (existing as of 7-5-23 ~~5-11-22~~), accessible at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>  
~~http://www.flrules.org/Gateway/reference.asp?No=Ref-15103.~~

(49) (48) MSRB Definitional Rules D-1 to D-15, and General Rules G-1 to G-48 (existing as of 10-1-22 ~~10-1-24~~), accessible at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>  
~~http://www.flrules.org/Gateway/reference.asp?No=Ref-15105.~~

(50) (49) NYSE American Rule 341A (existing as of 7-5-23 ~~3-11-19~~), available for inspection at the Office due to copyright restrictions.

(51) (50) NYSE Rule 345A (existing as of 7-5-23 ~~3-10-19~~), available for inspection at the Office due to copyright restrictions.

(52) (51) NYSE Rules 412 and 435 (existing as of 2-21-19), available for inspection at the Office due to copyright restrictions.

(53) (52) NYSE Chicago Inc. Article 6, Rule 11 (existing as of 7-5-23 ~~3-11-19~~), available for inspection at the Office due to copyright restrictions.

*Rulemaking Authority 517.03(1), 517.1215(2), 517.1217 FS. Law Implemented 517.081, 517.12(4), 517.1215, 517.1217, 517.161(1) FS. History—New 9-22-14, Amended 5-6-15, 11-26-19, 1-18-21, 2-14-23,\_\_\_\_\_.*

#### **69W-400.001 Rules for Eleemosynary and Religious Organizations Under the Requirements of Section 517.051(9), F.S.**

The requirement of section 517.051(9), F.S., that no persons shall directly or indirectly offer or sell securities under this section except by an offering circular containing full and fair disclosure shall be deemed satisfied if the following information is contained in the offering circular which is provided to each offeree prior to sale.

(1) In the case of an offering not in excess of \$250,000 of securities in reliance upon the exemption:

(a) through (c) No change.

(d) Name ~~Names~~ and address ~~addresses~~ of the ~~registered associated persons of the issuer or the~~ registered broker dealer offering the securities.

(e) through (h) no change.

(2) through (4) No change.

Rulemaking Authority 517.03(1) FS. Law Implemented 517.051(9), ~~517.12(2)~~ FS. History—New

12-5-79, Amended 9-20-82, Formerly 3E-400.01, Amended 10-14-90, Formerly 3E-400.001, Amended 5-15-07,\_\_\_\_\_.

**69W-500.006 Commissions and Compensation Payable in Connection with an Offering Exempted Pursuant to Section 517.061(11), F.S.**

(1) Commissions and compensation may be paid for the sale of an issuer's securities to any person who:

(a) Is registered as a dealer in the State of Florida pursuant to Section 517.12, F.S.

(b) ~~Is not located in this State and sells~~ Consummates a sale to a person not in this State.

(c) ~~For purposes of Section 517.061(11), F.S., is an associated person of an issuer meeting the qualification for exclusion from the definition of a dealer pursuant to Section 517.021(6), F.S.~~

(2) No change.

*Rulemaking Authority 517.03 FS. Law Implemented 517.061(11) FS. History--New 12-5-79, Amended 9-20-82, Formerly 3E-500.06, Amended 7-31-91, Formerly 3E-500.006, Amended \_\_\_\_\_.*

**69W-500.011 Registration of Issuer Under Section 517.061(11), F.S., as Dealer.**

An issuer of securities who elects to offer or sell its own securities pursuant to Section 517.061(11), F.S., may register as a dealer pursuant to Section 517.12(1), F.S. The issuer shall comply with the rules of the Financial Services Commission for registration as a dealer as set forth under Rule 69W-600.001 and ~~paragraph 69W-600.0013(5)(a), F.A.C.,~~ in addition to the following requirements:

(1) through (2) No change.

(3) The outside front page of the offering circular shall bear the following in bold face type: "THE SECURITIES BEING OFFERED HAVE NOT BEEN REGISTERED WITH THE OFFICE OF FINANCIAL REGULATION. THE FIRM IS REGISTERED AS A DEALER ~~AN ISSUER/DEALER~~ TO SELL ITS OWN SECURITIES."

*Rulemaking Authority 517.03 FS. Law Implemented 517.061(11), 517.12(1) FS. History--New 9-20-82, Formerly 3E-500.11, Amended 7-31-91, Formerly 3E-500.011, Amended 5-6-15, 11-15-16,\_\_\_\_.*

**69W-600.001 Application for Registration as a Dealer (FINRA).**

(1) New Applications.

(a) No change.

(b) An application shall include the following:

1. Form BD (1-08). A sample form is hereby incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>

~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-06078>,~~

2. through 7. No change.

(2)(a) Request for Additional Information. All information required by subsection (1) of this rule, shall be submitted with the original application filing. Any request for additional documents or information shall be made by the Office within thirty (30) days after receipt of the application.

(b) Additional information shall be submitted directly with the Office within sixty (60) days after a request has been made by the Office. The Office shall grant a request for an additional thirty (30) days to submit the additional information. The Office shall not grant a request after the original sixty (60) day deadline has passed. Failure to provide timely all additional information shall result in the application being deemed abandoned, which shall result in the application being removed from further consideration by the Office and closed.



(c) The time periods specified in paragraph (b) are tolled while an applicant's FINRA Membership Application is pending with FINRA. The tolling period ends when the applicant's FINRA membership application has been approved by FINRA or when the Office is notified by FINRA that the applicant is no longer pursuing its registration with FINRA.

(3) through (9) No change.

(10) Notice of Civil, Criminal or Administrative Action. A dealer shall:

(a) through (b) No change.

(c) Such notifications shall be filed with the Office through the CRD of the FINRA in accordance with subsection (3) of this rule. When specifically requested by the Office ~~pursuant to Section 517.021, F.S.~~, one (1) copy of such complaint, answer or reply to any complaint, decision, order, or sanction shall be filed directly with the Office. Responses to requests by the Office for additional information shall be filed directly with the Office.

(11) Changes in Name and Successor Registration Requirements.

Rulemaking Authority 517.03(1), 517.12, 517.121(1) FS. Law Implemented 517.12 FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.01, Amended 7-29-90, 8-1-91, 6-16-92, 1-11-93, 11-14-93, 4-30-96, 6-22-98, 5-10-00, 9-19-00, 7-31-02, Formerly 3E-600.001, Amended 3-16-06, 5-15-07, 11-22-10, 10-29-12, 11-11-13, 12-29-15, 11-26-19, 1-18-21, 2-14-23,\_\_\_\_\_.

**69W-600.0011 Effect of Law Enforcement Records on Applications for Registration as Dealer, ~~Issuer/Dealer~~, Intermediary, or Investment Adviser.**

(1) General Procedure Regarding Law Enforcement Records. For purposes of this rule, an “applicant” is any Dealer, ~~Issuer/Dealer~~, Intermediary, or Investment Adviser seeking registration in Florida. Any member, principal, or director of the applicant or any person having similar status or performing similar functions; any person directly or indirectly controlling the applicant; direct owners, principals, or indirect owners that are required to be reported on behalf of the applicant on Form BD or Form ADV pursuant to Section 517.12(14) ~~517.12(15)~~, F.S. shall be referred to collectively as “relevant persons”. As part of the application review process for each Dealer, ~~Issuer/Dealer~~, Intermediary, or Investment Adviser, submitted on Form BD, Form FL-INT (10/15), or Form ADV, the Office is required to consider all relevant persons’ respective law enforcement records when deciding whether to approve an application for registration. When conducting this review, the Office reviews the criminal history information derived from the fingerprint check, any responses made by the applicant or a relevant person, and information from other resources such as the Financial Industry Regulatory Authority. In the event of a question regarding a relevant person’s criminal history, the Office may request additional information from the applicant to determine the status of a criminal event, the specific facts and circumstances surrounding a criminal event, or to address other issues determined relevant to the review of the law enforcement record. The Office will notify the applicant of any specific documents that it requires in order to complete its review of a relevant person’s law enforcement record. Documentation that is typically requested includes:

(a) through (e) No change.

(2) through (17) No change.

Rulemaking Authority 517.1611(2) FS. Law Implemented 517.12, 517.161 FS. History—New 9-2-10, Amended 12-5-19, 2-14-23,\_\_\_\_\_.

**69W-600.0012 Application for Registration as a Dealer (Non-FINRA).**

(1) New Applications.

(a) No change.

(b) An application shall include the following:

1. Form BD (1-08), which is hereby incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>  
~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-06078>~~;

2. through 7. No change.

(2) through (9) No change.

(10) Notice of Civil, Criminal or Administrative Action. A broker dealer shall:

(a) through (b) No change.

(c) Such notifications shall be filed with the Office through the REAL System in accordance with subsection (3) of this rule. When specifically requested by the Office pursuant to Section 517.021, F.S., one (1) copy of such complaint, answer or reply to any complaint, decision, order, or sanction shall be filed with the Office through the REAL System. Responses to requests by the Office for additional information shall be filed directly with the Office through the REAL System.

(11) Changes in Name and Successor Registration Requirements

*Rulemaking Authority 517.03(1), 517.12, ~~517.121(1)~~ FS. Law Implemented 517.12 FS. History—New 12-29-15, Amended 11-26-19, 1-18-21, 2-14-23, \_\_\_\_\_.*

#### **~~69W-600.0013 Application for Registration as an Issuer/Dealer.~~**

*Rulemaking Authority 517.03(1), 517.12 FS. Law Implemented 517.12 FS. History—New 12-29-15, Amended 11-26-19, 1-18-21, 2-14-23, Repealed.*

#### **~~69W-600.0013 Application for Registration as an Issuer/Dealer.~~**

~~(1) New Applications.~~

~~(a) Applicants for initial registration of issuer/dealers shall file the Uniform Application for Broker-Dealer Registration (Form BD) electronically on the Office of Financial Regulation's website at <https://real.flofr.com> through the Regulatory Enforcement and Licensing (REAL) System as prescribed by the Financial Services Commission (Commission). The application shall include all information required by such forms, any other information the Office may require, and payment of the statutory fees required by Sections 517.12(10) and 517.131, F.S. The application shall be deemed received on the date the Office issues a confirmation of submission and payment to the applicant via the Office's website. Every application or amendment filed pursuant to this rule shall constitute a "written application" within the meaning of Section 517.12(6), F.S.~~

~~(b) An application shall include the following:~~

~~1. Form BD (1-08), which is hereby incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-06078>;~~

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

~~3. A Uniform Application for Securities Industry Registration or Transfer (Form U4) (05/2009), to register at least one principal as set forth in this rule. The Form U4 is hereby incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-12553>. In conjunction with filing its Form BD with the Office, the issuer/dealer shall provide the Office written notification of the principal's name and social security number. Social security numbers are collected by the Office pursuant to Section 517.12(7)(a), F.S., and are used to verify the identity of individuals;~~

~~4. Financial statements and reports required under paragraph 69W-600.0151(5)(a), and Rule 69W-600.017, F.A.C.;~~

~~5. Any direct or indirect owner or control person required to be reported on Form BD, pursuant to Section 517.12(7), F.S., who is not currently registered in Florida with the firm they are seeking to~~

join or act as a direct or indirect owner or control person shall comply with the fingerprinting requirements in accordance with subsection (7) of this rule;

6. Applicants for registration as an issuer/dealer must file Issuer/Dealer Compliance Form (OFR-DA-5-91) (effective 9/15), to meet requirements under subsections (5), (6), and (11) of this rule. The form is hereby incorporated by reference and is available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-06081>;

7. A copy of the articles of incorporation and amendments thereto, if a partnership, a copy of the partnership agreement, or if a limited liability company, a copy of the articles of organization.

(2) Request for Additional Information. All information required by subsection (1) of this rule, shall be submitted with the original application filing. Any request for additional documents or information shall be made by the Office within thirty (30) days after receipt of the application. Additional information shall be submitted directly with the Office within sixty (60) days after a request has been made by the Office. The Office shall grant a request for an additional thirty (30) days to submit the additional information. The Office shall not grant a request after the original sixty (60) day deadline has passed. Failure to provide timely all additional information shall result in the application being deemed abandoned, which shall result in the application being removed from further consideration by the Office and closed.

(3) Amendment of Application. If the information contained in any application for registration as an issuer/dealer or in any amendment thereto, becomes inaccurate for any reason, the issuer/dealer shall file an amendment on the Form BD correcting such information within 30 days. Applicants and registrants shall file such amendments directly with the Office electronically through the REAL System.

(4) Obligations Related to Acts of Associated Persons. An issuer/dealer shall be responsible for the acts, practices, and conduct of their registered associated persons in connection with the purchase and sale of securities or in connection with the rendering of investment advice until such time as they have been properly terminated as provided in this rule; and such issuer/dealer may be subject to assessment under Section 517.12(11), F.S., for such associated persons as have been terminated but for whom the appropriate termination notices have not been filed at date of license renewal.

(5) Requirement to Maintain Principal and Exam Exemption for Associated Persons.

(a) An issuer required to be registered or who elects to be registered pursuant to Section 517.12(1), 517.051(9) or 517.061(11), F.S., selling its own securities exclusively through its principals or agents (as those terms are defined in section 517.021, F.S., and Rule 69W-200.001, F.A.C., respectively) may obtain registration as an issuer/dealer by filing as required under subsection (1) or (11) of this rule, or Rule 69W-500.011, F.A.C., as appropriate, provided that:

1. The associated persons of said issuer/dealer comply with the registration requirements of Section 517.12, F.S., and subsections (6) and (7) of this rule, provided that such person primarily performs, or is intended to perform at the end of the distribution, substantial duties for, or on behalf of, the issuer other than in connection with transactions in securities; and,

2. Said issuer/dealer may register up to five (5) associated persons, which persons shall be exempted from the examination requirements of subsection (6) of this rule, provided such issuer/dealer shall register no more than five (5) associated persons, and at the time of application for registration advises the Office of its intention to register no more than five (5) associated persons. Failure to so advise the Office shall require all associated person applicants to fulfill the examination requirements of subsection (6) of this rule. Registration of more than five (5) such associated persons, at any one time, shall void this exemption, and all such associated persons shall be required to meet the examination requirements of subsection (6) of this rule.

(b) Every applicant for registration and registrant under Section 517.12, F.S., as an issuer/dealer (as those terms are defined under Section 517.021, F.S.), unless effectively registered with the Office as

an issuer/dealer prior to December 4, 1977, shall have and maintain at least one associated person qualified and registered as principal pursuant to Section 517.12, F.S., and the rules thereunder.

1. In the event a registered issuer/dealer fails to maintain at least one person registered as principal for more than thirty (30) days, the registration of such issuer/dealer shall be suspended until such time as a qualified principal is so registered.

2. Any applicant or registrant issuer/dealer may elect to register more than one person as principal; there is no limitation as to the number of associated persons that may be registered as principal as long as such persons meet the qualification standards as prescribed in subsection (6) of this rule, and the appropriate fees as specified in Section 517.12(10), F.S., have been paid.

(6) Examinations/Qualifications Requirements.

(a) Every applicant for registration shall execute and submit a statement attesting to said applicant's knowledge and review of the Florida Securities and Investor Protection Act, as contained in the Form U4.

(b) Every applicant for initial registration as a principal or agent of an issuer/dealer shall evidence securities general knowledge by:

1. Submitting to the Office proof of passing, within two years of the date of application for registration, an examination relating to the position to be filled administered by a national securities exchange registered with the Securities and Exchange Commission (SEC); or

2. Submitting to the Office evidence of effective registration, within the preceding two years, with a national securities association or national stock exchange registered with the SEC, relating to the position to be filled as principal or agent; or

3. Having remained continuously registered in the capacity to be filled with the State of Florida without interruption of more than two years; or

4. Having complied with the provisions of paragraph (5)(a) of this rule.

5. Submitting to the Office proof of passing, within two years of the date of application for registration, an examination relating to the position to be filled administered by a national securities association and proof of passing, within four years of the date of application for registration, the Securities Industry Essentials (SIE) Examination. The following individuals will be considered to have passed the SIE Examination:

a. Individuals whose registration as an associated person was terminated between October 1, 2014, and September 30, 2018, provided they re-register as an associated person within four years from the date of their last registration;

b. Individuals who registered as an associated person prior to October 1, 2018, and who continue to maintain those registrations on or after October 1, 2018; or

6. Submitting to the Office proof of participation in the FINRA Maintaining Qualification Program (MQP) as set forth in FINRA Rule 1240(c), which is incorporated by reference in Rule 69W-200.002, F.A.C., and maintenance of the validity of the examinations relating to the position to be filled administered by a national securities association to be demonstrated by meeting the conditions of participation in the MQP. Participation in the MQP shall not extend the validity period for the Uniform Investment Adviser Law Examination (Series 65) or the Uniform Combined State Law Examination (Series 66) for purposes of associated person of an investment adviser or federal covered adviser registration.

(c) The examination requirement for associated persons of issuer dealers shall not apply to an individual who currently holds one of the following professional designations:

1. Certified Financial Planner (TM) or CFP® awarded by the Certified Financial Planner Board of Standards, Inc.;

2. Chartered Financial Consultant (ChFC) awarded by the American College, Bryn Mawr, PA;

3. Personal Financial Specialist (PFS) awarded by the American Institute of Certified Public Accountants;

4. Chartered Financial Analyst (CFA) awarded by the Institute of Chartered Financial Analysts; or

5. Chartered Investment Counselor (CIC) awarded by the Investment Counsel Association of America, Inc.

(7) Fingerprint Requirements.

(a) Fingerprints filed in accordance with Section 517.12(7), F.S., shall be submitted to the Office through a live scan vendor approved by the Florida Department of Law Enforcement (FDLE) and published on FDLE's website for submission to FDLE and the Federal Bureau of Investigation (FBI) for a state criminal background check and a federal criminal background check. The cost of fingerprint processing shall be borne by the applicant and paid directly to the live scan vendor.

(b) Any direct owner, principal, or indirect owner that is required to be reported on Form BD, 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 fingerprints to the Office through a live scan vendor approved by FDLE and published on FDLE's website for submission to FDLE and the FBI for a state criminal background check and a federal criminal background check. The cost of fingerprint processing shall be borne by the applicant and paid directly to the live scan vendor.

(8) Renewal Requirement.

(a) Every issuer/dealer registered with the Office shall annually verify all registrations of associated persons and branch office notice-filings prior to December 31.

(b) In addition to verifying registration or notice-filings as provided in paragraph (8)(a), to renew its registration and the registrations of its associated persons and branch office notice-filings, each issuer/dealer shall pay all renewal fees as required by Sections 517.12(11) and 517.1202(3), F.S.

(c) Renewal fees for issuer/dealers, associated persons of issuer/dealers and all branch offices of issuer/dealers shall be filed electronically on the Office's website at <https://real.flofr.com> through the REAL System and shall be deemed received on the date the Office issues a confirmation of submission and payment to the applicant via the Office's website. All renewal fees must be received by the Office by December 31 of the year the registration or notice-filing expires.

(d) For issuer/dealers, failure to submit the requisite amount of fees as provided for in paragraph (8)(b), by December 31 of the year of expiration of the registration shall result in the firm registration, agent registration, or branch office notice-filing not being renewed. If December 31 falls on a Saturday, Sunday or legal holiday pursuant to Section 110.117, F.S., the renewals received on the next business day shall be considered timely received. However, an expired registration or notice-filing may be reinstated in accordance with Section 517.12(11) or 517.1202(3), F.S., provided that all requisite information and fees are filed electronically on the Office's website at <https://real.flofr.com> through the REAL System on or before January 31 of the year following the year of expiration. Failure to submit the requisite amount of fees necessary to reinstate registration by January 31 of the year following the year of expiration shall result in such registration or notice-filing not being reinstated. If January 31 falls on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., the reinstatement received on the next business day shall be considered timely received. If the renewal or reinstatement is withdrawn or not granted, any fees filed to renew or reinstate registration or notice-filing shall become the revenue of the state pursuant to the provisions of Section 517.12(10) or 517.1202(8), F.S., and shall not be returnable.

(9) Termination of Registration as Issuer/Dealer, Principal or Agent, or Notification of Branch Office.

(a) Where a registrant withdraws, cancels, or otherwise terminates registration, or is terminated for any reason, notice of such fact shall be electronically filed with the Office through the REAL

System using the forms incorporated in paragraph (9)(c) of this rule, within thirty (30) calendar days of the date of termination.

(b) The Office may deny any request to terminate or withdraw any application or registration as provided under Section 517.161(5), F.S.

(c) The forms to be utilized for providing notice to the Office under paragraphs (9)(a) and (9)(b) are:

1. Uniform Request for Broker Dealer Withdrawal (Form BDW) (04-07), which is hereby incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-06079>.

2. Uniform Branch Office Registration Form (Form BR) (04/2014), which is hereby incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-06080>.

3. Uniform Termination Notice for Securities Industry Registration (Form U5) (05-09), which is hereby incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-12550>.

(10) Notice of Civil, Criminal or Administrative Action. An issuer/dealer shall:

(a) Notify the Office within thirty (30) calendar days of the date a complaint is served, of any civil, criminal or administrative charges filed against the firm or owner which directly or indirectly relate to the registration or sale of securities, or which directly or indirectly relate to the activities as a dealer, investment adviser, principal or agent, or any other activity where a breach of a fiduciary trust is alleged. This shall not include minor traffic violations; but shall include any notification of investigation by any recognized regulatory agency.

(b) Notify the Office within thirty (30) calendar days of the date of decision, order, or sanction rendered, or any appeal filed with respect to such decision with regard to any complaint outlined in paragraph (10)(a).

(c) Such notifications shall be filed with the Office through the REAL System in accordance with subsection (3) of this rule. When specifically requested by the Office pursuant to Section 517.021, F.S., one (1) copy of such complaint, answer or reply to any complaint, decision, order, or sanction shall be filed with the Office through the REAL System. Responses to requests by the Office for additional information shall be filed directly with the Office through the REAL System.

(11) Registration of Issuer as an Issuer/Dealer under Section 517.051(9), F.S. An issuer of securities who elects to offer or sell its own securities pursuant to Section 517.051(9), F.S., is required to be registered as an issuer/dealer pursuant to Section 517.12(2), F.S. The issuer shall comply with the rules of the Commission for registration as an issuer/dealer as set forth under subsection (1) of this rule, in addition to the following requirements:

(a) The financial statements required for registration as an issuer/dealer shall be prepared in accordance with the provisions of subparagraph 69W-600.0151(5)(b)2., F.A.C.

(b) The applicant for registration as an issuer/dealer or principal shall comply with the examination requirements of subsection (6) of this rule.

(c) The issuer/dealer shall comply with the net capital requirements of paragraph 69W-600.0151(3)(b), F.A.C.

*Rulemaking Authority 517.03(1), 517.12 FS. Law Implemented 517.12 FS. History—New 12-29-15, Amended 11-26-19, 1-18-21, 2-14-23.*

#### **69W-600.0015 Canadian Dealer Notice-Filing.**

(1) through (5) No change.

(6) Notice of Civil, Criminal or Administrative Action. A Canadian dealer shall:

(a) through (b) No change.

(c) Such notifications shall be filed with the Office through the REAL System in accordance with subsection (3) of this rule. When specifically requested by the Office pursuant to ~~Section 517.021, F.S.~~, one (1) copy of such complaint, answer or reply to any complaint, decision, order, or sanction shall be filed with the Office through the REAL System. Responses to requests by the Office for additional information shall be filed directly with the Office through the REAL System.

*Rulemaking Authority 517.03, 517.12, 517.121(1) FS. Law Implemented 517.12 FS. History—New 5-15-07, Amended 11-22-10, 12-29-15, 1-18-21.*

**69W-600.0016 Application for Registration as an Investment Adviser (State Registered).**

(1) New Applications.

(a) No change.

(b) An application shall include the following:

1. Form ADV, Uniform Application for Investment Adviser Registration ~~(08-22)~~ ~~(09-19)~~. A sample form is hereby incorporated by reference and is available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>  
~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-12548>~~;

2. through 6. No change.

(2) through (3) No change.

(4) through (5) No change.

(6) Examinations/Qualifications Requirements.

(a) through (b) No change.

(c) Principals who meet one of the following conditions satisfy the examination requirements of paragraph (6)(b) of this rule, except the Office may require additional examinations for any principals found to have violated any state or federal securities law:

1.a. No change.

b. Have not had a lapse in registration as an associated person of an investment adviser or federal covered adviser in any jurisdiction in the United States for a period exceeding two years ~~immediately preceding the date the Office receives the application for registration.~~

c. No change.

2.a. Principals who were previously registered with the Office as an associated person of an investment adviser or federal covered adviser; and

b. Have not had a lapse in registration as an associated person of an investment adviser or federal covered adviser in any jurisdiction in the United States for a period exceeding two years ~~immediately preceding the date the Office receives the application for registration.~~

(d) Grandfathering Provision: The examination requirements of paragraph (6)(b) of this rule shall not apply to principals who were registered as an associated person of an investment adviser or a federal covered adviser in any jurisdiction in the United States pursuant to a transition request submitted prior to January 1, 2005, and who have not had a lapse in registration as an associated person of an investment adviser or federal covered adviser in any jurisdiction in the United States for a period exceeding two years ~~immediately preceding the date the Office receives the application for registration.~~ The Office may require additional examinations for any applicant found to have violated any state or federal securities law.

(e) Examination Validity Extension Program: Notwithstanding paragraph (b), a principal who terminates their registration as an associated person of an investment adviser may maintain the validity of their Series 65 or the investment adviser representative portion of the Series 66, as applicable, without being employed by or associated with an investment adviser or federal covered

adviser for a maximum of five years following the termination of the effectiveness of the associated person's registration if the individual meets all of the following:

1. The individual previously took and passed the examination for which they seek to maintain validity under this paragraph;

2. The individual was registered as an associated person of an investment adviser or federal covered adviser for at least one year immediately preceding the termination of the associated person's registration with an investment adviser or federal covered adviser;

3. The individual was not subject to a statutory disqualification as defined in Section 3(a)(39) of the Exchange Act (15 U.S.C. §78c(a)(39)), which is incorporated by reference in Rule 69W-600.002, F.A.C., while registered as an associated person of an investment adviser or federal covered adviser or at any period after termination of such registration;

4. The individual elects to participate in the Exam Validity Extension Program ("EVEP") under this paragraph within two years from the effective date of the termination of the associated person's registration with an investment adviser or federal covered adviser;

5. The individual does not have a deficiency under s. 517.1214, F.S., at the time the associated person's registration becomes ineffective;

6.a. The individual maintains annual compliance with s. 517.1214, F.S.

b. An individual who complies with the FINRA Maintaining Qualification Program under FINRA Rule 1240(c) shall be considered in compliance with Section 517.1214(2)(b), F.S.

(f) The examination requirement for an associated person of an investment adviser designated as principal shall not apply to a principal who currently holds one of the following professional designations:

1. through 5. No change.

(7) Fingerprint Requirements.

(a) Fingerprints filed in accordance with Section 517.12(6) ~~517.12(7)~~, F.S., shall be submitted to the Office through a live scan vendor approved by the Florida Department of Law Enforcement (FDLE) and published on FDLE's website for submission to FDLE and the Federal Bureau of Investigation (FBI) for a state criminal background check and a federal criminal background check. The cost of fingerprint processing shall be borne by the applicant and paid directly to the live scan vendor.

(b) Notwithstanding any exemptions found in SEC rule 17f-2 (17 C.F.R. §240.17f-2), which is incorporated by reference in Rule 69W-200.002, F.A.C., any direct owner, principal, or indirect owner that is required to be reported on Form ADV pursuant to Section 517.12(6) ~~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 fingerprints to the Office through a live scan vendor approved by FDLE and published on FDLE's website for submission to FDLE and the FBI for a state criminal background check and a federal criminal background check. The cost of fingerprint processing shall be borne by the applicant and paid directly to the live scan vendor.

(c) The requirement to submit fingerprints is waived for any direct owner, principal, or indirect owner that is required to be reported on Form ADV pursuant to Section 517.12(6) ~~517.12(7)~~, F.S., if fingerprints have been submitted and processed by FINRA on behalf of the member firm with which the owner or principal is affiliated, pursuant to the provisions of SEC Rule 17f-2 (17 C.F.R. §240.17f-2).

(8) Renewal Requirement.

(a) No change.

(b) In addition to verifying registration or notice-filings as provided in paragraph (8)(a), to renew its registration and the registrations of its associated persons and branch office notice-filings, each investment adviser shall pay all renewal fees as required by Sections 517.12(10) ~~517.12(11)~~ and 517.1202(3), F.S.



(c) No change.

(d) Failure to submit the requisite amount of fees as provided for in paragraph (8)(b), by December 31 of the year of expiration of the registration shall result in the firm registration, associated person registration, or branch office notice-filing not being renewed. If December 31 falls on a Saturday, Sunday or legal holiday pursuant to Section 110.117, F.S., the renewals received on the next business day shall be considered timely received. However, an expired registration or notice-filing may be reinstated in accordance with the provisions of Section 517.12(10) ~~517.12(11)~~ or 517.1202(3), F.S., provided that all requisite information and fees are date stamped by the cashier's office of the Department of Financial Services on or before January 31 of the year following the year of expiration. Failure to submit the requisite amount of fees necessary to reinstate registration or notice-filing by January 31 of the year following the year of expiration shall result in such registration or notice-filing not being reinstated. If January 31 falls on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., the reinstatement received on the next business day shall be considered timely received. In the event that the renewal or reinstatement is withdrawn or not granted, any fees filed to renew or reinstate registration or notice-filing shall become the revenue of the state pursuant to the provisions of Section 517.12(9) ~~517.12(10)~~ or 517.1202(8), F.S., and shall not be returnable.

(9) through (10) No change.

(11) Notice of Civil, Criminal or Administrative Action. An investment adviser shall:

(a) through (b) No change.

(c) Such notifications shall be filed with the Office through the IARD in accordance with subsection (3) of this rule. When specifically requested by the Office pursuant to Section ~~517.021~~, F.S., one (1) copy of such complaint, answer or reply to any complaint, decision, order, or sanction shall be filed directly with the Office. Responses to requests by the Office for additional information shall be filed directly with the Office.

(12) No change.

*Rulemaking Authority 517.03(1), 517.12, 517.121(1) FS. Law Implemented 517.12 FS. History—New 12-29-15, Amended 11-26-19, 1-18-21, 2-14-23, \_\_\_\_.*

#### **69W-600.0017 Notice-Filing for Federal Covered Advisers.**

(1) New Notice-Filings.

(a) No change.

(b) All federal covered advisers making or amending a notice-filing in this state shall file the Form ADV, Part 1, including copies of any amendments filed or required to be filed with the SEC, and the assessment fee required by Section 517.1201(1) or (2), F.S., with the IARD in accordance with subsection (1). Form ADV, Uniform Application for Investment Advisor Registration ~~(08-22)~~ ~~(09-19)~~ is hereby incorporated by reference, and a sample form is available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXXX>  
~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-12567>~~.

(2) through (4) No change.

*Rulemaking Authority 517.03(1), 517.1201 FS. Law Implemented 517.1201 FS. History—New 12-29-15, Amended 11-26-19, 1-18-21, \_\_\_\_.*

#### **69W-600.0019 Registration of Florida Intrastate Crowdfunding Intermediaries.**

(1) New Applications.

(a) No change.

(b) An application shall include the following:

1. Form FL-INT (10/15) A sample form (which includes its instructions, which define certain terms in Section 517.12(19), F.S.) is hereby incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-06074> or <http://www.flrules.org/Gateway/reference.asp?No=Ref-06074>, or <https://flofr.gov/sitePages/documents/FormFL-INT.pdf>;

2. through 4. No change.

(2) through (6) No change.

(7) Notice of Civil, Criminal or Administrative Action. An intermediary shall:

(a) through (b) No change.

(c) Such notifications shall be filed with the Office through the REAL System in accordance with subsection (3) of this rule. When specifically requested by the Office pursuant to ~~Section 517.021, F.S.~~, one (1) copy of such complaint, answer or reply to any complaint, decision, order, or sanction shall be filed directly with the Office. Responses to requests by the Office for additional information shall be filed directly with the Office.

*Rulemaking Authority 517.03(1), 517.12(19) ~~517.12(20)~~, 517.121(1), 517.1611 FS. Law Implemented 517.12(19) ~~517.12(20)~~, 517.1611 FS. History—New 12-29-15, Amended 1-18-21,\_\_\_\_\_.*

#### **69W-600.002 Application for Registration as Associated Person (FINRA Dealer).**

(1) through (3) No change.

(4) Multiple Registration. An applicant for registration as an associated person may apply to be registered as an associated person of more than one dealer, ~~issuer/dealer~~, federal covered adviser or investment adviser, or any combination thereof, by the filing of separate applications by each registered dealer, ~~issuer/dealer~~, federal covered adviser or investment adviser, and payment of separate application fees as required.

(5) through (6) No change.

(7) Fingerprint Requirements.

(a) Fingerprints filed in accordance with Section 517.12(6) ~~517.12(7)~~, F.S., shall be submitted to the Office through a live scan vendor approved by the Florida Department of Law Enforcement (FDLE) and published on FDLE's website for submission to FDLE and the Federal Bureau of Investigation (FBI) for a state criminal background check and a federal criminal background check. The cost of fingerprint processing shall be borne by the applicant and paid directly to the live scan vendor.

(b) No change.

(8) through (9) No change.

(10) Notice of Civil, Criminal or Administrative Action. An associated person shall:

(a) through (b) No change.

(c) Such notifications shall be filed with the Office through the CRD of the FINRA in accordance with subsection (3) of this rule. When specifically requested by the Office pursuant to ~~Section 517.021, F.S.~~, one (1) copy of such complaint, answer or reply to any complaint, decision, order, or sanction shall be filed directly with the Office. Responses to requests by the Office for additional information shall be filed directly with the Office.

(11) Continuing Education Requirement. Failure to comply with any of the applicable continuing education requirements set forth in any one of the following shall be deemed a violation ~~a demonstration of unworthiness~~ by an associated person under Section 517.161(1)(a) ~~517.161(1)(h)~~, F.S.:

(a) through (e) No change.

*Rulemaking Authority 517.03(1), 517.12, 517.121(1) FS. Law Implemented 517.12 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, 5-29-12, 11-11-13, 12-29-15, 9-25-18, 11-26-19, 1-18-21, 2-14-23,\_\_\_\_\_.

**69W-600.0022 Application for Registration as Associated Person (Non-FINRA Dealer).**

(1) through (3) No change.

(4) Multiple Registration. An applicant for registration as an associated person may apply to be registered as an associated person of more than one dealer, ~~issuer/dealer~~, federal covered adviser or investment adviser, or any combination thereof, by the filing of separate applications by each registered dealer, ~~issuer/dealer~~, federal covered adviser or investment adviser, and payment of separate application fees as required.

(5) through (9) No change.

(10) Notice of Civil, Criminal or Administrative Action. An associated person shall:

(a) through (b) No change.

(c) Such notifications shall be filed with the Office through the REAL System in accordance with subsection (3) of this rule. When specifically requested by the Office pursuant to Section 517.021, F.S., one (1) copy of such complaint, answer or reply to any complaint, decision, order, or sanction shall be filed with the Office through the REAL System. Responses to requests by the Office for additional information shall be filed with the Office through the REAL System.

*Rulemaking Authority 517.03(1), 517.12, 517.121(1) FS. Law Implemented 517.12 FS. History—New 12-29-15, Amended 9-25-18, 11-26-19, 1-18-21, 2-14-23,\_\_\_\_\_.*

**~~69W-600.0023 Application for Registration as Associated Person (Issuer/Dealer).~~**

~~*Rulemaking Authority 517.03(1), 517.12 FS. Law Implemented 517.12 FS. History—New 12-29-15, Amended 9-25-18, 11-26-19, 1-18-21, 2-14-23, Repealed \_\_\_\_\_.*~~

**~~69W-600.0023 Application for Registration as Associated Person (Issuer/Dealer).~~**

~~(1) New Applications.~~

~~(a) Applicants for initial registration as a principal or associated person of an issuer/dealer shall file the Uniform Application for Securities Industry Registration or Transfer (Form U4) electronically on the Office of Financial Regulation's website at <https://real.flofr.com> through the Regulatory Enforcement and Licensing (REAL) System as prescribed by the Financial Services Commission (Commission). The application shall include all information required by such form, any other information the Office of Financial Regulation (Office) may require, and payment of the statutory fees required by Section 517.12(10), F.S. The application shall be deemed received on the date the Office issues a confirmation of submission and payment to the applicant via the Office's website. Every application or amendment filed pursuant to this rule shall constitute a "written application" within the meaning of Section 517.12(6), F.S.~~

~~(b) An application shall include the following:~~

~~1. Form U4 (05/2009), which is hereby incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-12572>.~~

~~2. Statutory fee, for each application, in the amount as required by Section 517.12(10), F.S.~~

~~3. Persons requesting a fee waiver as set forth in Section 517.12(10), F.S., shall submit Office of Financial Regulation Active Military Member/Veteran/Spouse Fee Waiver and Military Service Verification, Form OFR-MIL-001, effective 09/2018. A sample form is hereby incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-09913>. Form~~

OFR-MIL-001 shall be submitted within one hundred eighty (180) days after receipt of the application.

4. Evidence of examinations/qualifications set forth in subsection (6) of this rule.

5. Fingerprints shall be submitted in accordance with Section 517.12(7), F.S., and subsection (7) of this rule.

(2) Request for Additional Information. All information required by subsection (1) of this rule, shall be submitted with the original application filing. Any request for additional documents or information shall be made by the Office within thirty (30) days after receipt of the application. Additional information shall be submitted directly with the Office within sixty (60) days after a request has been made by the Office. The Office shall grant a request for an additional thirty (30) days to submit the additional information. The Office shall not grant a request after the original sixty (60) day deadline has passed. Failure to provide timely all additional information shall result in the application being deemed abandoned, which shall result in the application being removed from further consideration by the Office and closed.

(3) Amendment of Application. If the information contained in any Form U4 becomes inaccurate for any reason before or after the associated person becomes registered, the associated person through the dealer shall be responsible for correcting the inaccurate information within thirty (30) days. If the information being updated relates to the applicant's or registrant's disciplinary history, in addition to updating the Form U4, the associated person through the dealer shall also provide the Office with notice and copies of each civil, criminal or administrative action initiated against the associated person as provided in subsection (10) of this rule. Associated persons of issuer/dealers shall file such amendments electronically with the Office through the REAL System.

(4) Multiple Registration An applicant for registration as an associated person may apply to be registered as an associated person of more than one dealer, issuer/dealer, federal covered adviser or investment adviser, or any combination thereof, by the filing of separate applications by each registered dealer, issuer/dealer, federal covered adviser or investment adviser, and payment of separate application fees as required.

(5) Alternate Business Name.

(a) An issuer required to be registered or who elects to be registered pursuant to Section 517.12(1), 517.051(9) or 517.061(11), F.S., selling its own securities exclusively through its principals or agents (as those terms are defined in Section 517.021, F.S., and Rule 69W-200.001, F.A.C., respectively) may obtain registration as an issuer/dealer by filing as required under subsection (1) of this rule, Rule 69W-500.011 or 69W-600.0013, F.A.C., as appropriate, provided that:

1. The associated persons of said issuer/dealer comply with the registration requirements of Section 517.12, F.S., and subsections (6) and (7) of this rule, provided that such person primarily performs, or is intended to perform at the end of the distribution, substantial duties for, or on behalf of, the issuer other than in connection with transactions in securities,

2. Said issuer/dealer may register up to five (5) associated persons, which persons shall be exempted from the examination requirements of subsection (6) of this rule, provided such issuer/dealer shall register no more than five (5) associated persons, and at the time of application for registration advises the Office of its intention to register no more than five (5) associated persons. Failure to so advise the Office shall require all associated person applicants to fulfill the examination requirements of subsection (6) of this rule. Registration of more than five (5) such associated persons, at any one time, shall void this exemption, and all such associated persons shall be required to meet the examination requirements of subsection (6) of this rule.

(b) It is prohibited for any associated person to conduct securities business in this state under any name other than that of the dealer with which the associated person is registered unless each of the following conditions is met:

1. The business conducted does not violate or evade any provision of Chapter 517, F.S.,
  2. The business conducted does not fall within the definition of “dealer” or “investment adviser” as used in Chapter 517, F.S.; and,
  3. The dealer with which the associated person is registered has received written notice of the name under which business shall be conducted.
- (c) Associated persons exempted from the examination requirements as provided by subparagraph (5)(a)2., may not be registered with more than one (1) issuer/dealer at the same time.
- (6) Examinations/Qualifications.
- (a) Every applicant for registration shall execute and submit a statement attesting to said applicant’s knowledge and review of the Florida Securities and Investor Protection Act, as contained in the Form U4.
- (b) Every applicant for initial registration as a principal or agent of a dealer shall evidence securities general knowledge by:
1. Submitting to the Office proof of passing, within two years of the date of application for registration, an examination relating to the position to be filled administered by a national securities exchange registered with the Securities and Exchange Commission (SEC); or
  2. Submitting to the Office evidence of effective registration, within the preceding two years, with a national securities association or national stock exchange registered with the SEC, relating to the position to be filled as principal or agent; or
  3. Having remained continuously registered in the capacity to be filled with the State of Florida without interruption of more than two years; or
  4. Having complied with the provisions of subparagraph (5)(a)2. of this rule; or
  5. Submitting to the Office proof of passing, within two years of the date of application for registration, an examination relating to the position to be filled administered by a national securities association and proof of passing, within four years of the date of application for registration, the Securities Industry Essentials (SIE) Examination. The following individuals will be considered to have passed the SIE Examination:
    - a. Individuals whose registration as an associated person was terminated between October 1, 2014, and September 30, 2018, provided they re-register as an associated person within four years from the date of their last registration;
    - b. Individuals who registered as an associated person prior to October 1, 2018, and who continue to maintain those registrations on or after October 1, 2018; or
  6. Submitting to the Office proof of participation in the FINRA Maintaining Qualification Program (MQP) as set forth in FINRA Rule 1240(c), which is incorporated by reference in Rule 69W-200.002, F.A.C., and maintenance of the validity of the examinations relating to the position to be filled administered by a national securities association to be demonstrated by meeting the conditions of participation in the MQP. Participation in the MQP shall not extend the validity period for the Uniform Investment Adviser Law Examination (Series 65) or the Uniform Combined State Law Examination (Series 66) for purposes of associated person of an investment adviser or federal covered adviser registration.
- (c) The examination requirement for associated persons of issuer dealers shall not apply to an individual who currently holds one of the following professional designations:
1. Certified Financial Planner (TM) or CFP® awarded by the Certified Financial Planner Board of Standards, Inc.;
  2. Chartered Financial Consultant (ChFC) awarded by the American College, Bryn Mawr, PA;
  3. Personal Financial Specialist (PFS) awarded by the American Institute of Certified Public Accountants;
  4. Chartered Financial Analyst (CFA) awarded by the Institute of Chartered Financial Analysts; or

5. Chartered Investment Counselor (CIC) awarded by the Investment Counsel Association of America, Inc.

(7) Fingerprint Requirements. Fingerprints filed in accordance with Section 517.12(7), F.S., shall be submitted to the Office through a live scan vendor approved by the Florida Department of Law Enforcement (FDLE) and published on FDLE's website for submission to FDLE and the Federal Bureau of Investigation (FBI) for a state criminal background check and a federal criminal background check. The cost of fingerprint processing shall be borne by the applicant and paid directly to the live scan vendor.

(8) Renewal Requirement.

(a) Renewal fees for associated persons of issuer/dealer firms shall be filed by the firm electronically on the Office's website at <https://real.flofr.com> through the REAL System and shall be deemed received on the date the Office issues a confirmation of submission and payment to the applicant via the Office's website as required by Section 517.12(11), F.S. All renewal fees must be received by the Office by December 31 of the year the registration expires.

(b) Failure of the firm to submit the requisite amount of fees by December 31 of the year of expiration of the registration shall result in such registration not being renewed. If December 31 falls on a Saturday, Sunday or legal holiday pursuant to Section 110.117, F.S., the renewals received on the next business day shall be considered timely received. However, an expired registration may be reinstated in accordance with Section 517.12(11), F.S., provided that all requisite information and fees are filed electronically on the Office's website at <https://real.flofr.com> through the REAL System on or before January 31 of the year following the year of expiration. Failure to submit the requisite amount of fees necessary to reinstate registration by January 31 of the year following the year of expiration shall result in such registration not being reinstated. If January 31 falls on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., the reinstatement received on the next business day shall be considered timely received. If the renewal or reinstatement is withdrawn or not granted, any fees filed to renew or reinstate registration shall become the revenue of the state pursuant to Section 517.12(10), F.S., and shall not be returnable.

(c) Persons requesting a fee waiver as set forth in Section 517.12(11) F.S., shall submit Office of Financial Regulation Active Military Member/Veteran/Spouse Fee Waiver and Military Service Verification, Form OFR-MIL-001, effective 09/2018. A sample form is hereby incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-09913>. Form OFR-MIL-001 shall be submitted within one hundred eighty (180) days after receipt of the renewal fees.

(9) Termination of Registration of Principal or Agent.

(a) Where a registrant withdraws, cancels, or otherwise terminates registration, or is terminated for any reason, notice of such fact shall be filed with the Office within thirty (30) calendar days of the date of termination by electronically filing a Uniform Termination Notice for Securities Industry Registration (Form U5) (05/2009) with the Office through the CRD. A sample form is hereby incorporated by reference and is available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-12574>.

(b) The Office may deny any request to terminate or withdraw any application or registration as provided under Section 517.161(5), F.S.

(10) Notice of Civil, Criminal or Administrative Action. An associated person shall:

(a) Notify the Office within thirty (30) calendar days of the date a complaint is served, of any civil, criminal or administrative charges filed that directly or indirectly relate to the registration or sale of securities, or which directly or indirectly relate to activities as a principal or agent, or any other

~~activity where a breach of a fiduciary trust is alleged. This shall not include minor traffic violations; but shall include any notification of investigation by any recognized regulatory agency.~~

~~(b) Notify the Office within thirty (30) calendar days of the date of decision, order, or sanction rendered, or any appeal filed with respect to such decision with regard to any complaint outlined in paragraph (10)(a).~~

~~(c) Such notifications shall be filed with the Office through the REAL System in accordance with subsection (3) of this rule. When specifically requested by the Office pursuant to Section 517.021, F.S., one (1) copy of such complaint, answer or reply to any complaint, decision, order, or sanction shall be filed with the Office through the REAL System. Responses to requests by the Office for additional information shall be filed with the Office through the REAL System.~~

*Rulemaking Authority 517.03(1), 517.12 FS. Law Implemented 517.12 FS. History—New 12-29-15, Amended 9-25-18, 11-26-19, 1-18-21, 2-14-23.*

**69W-600.0024 Application for Registration as Associated Person (Investment Adviser and Federal Covered Adviser).**

(1) through (3) No change.

(4) Multiple Registration.

(a) An applicant for registration as an associated person may apply to be registered as an associated person of more than one dealer, ~~issuer/dealer~~, federal covered adviser or investment adviser, or any combination thereof, by the filing of separate applications by each registered dealer, ~~issuer/dealer~~, federal covered adviser or investment adviser, and payment of separate application fees as required.

(b) No change.

(5) No change.

(6) Examinations/Qualifications.

(a) through (b) No change.

(c) Applicants who meet one of the following conditions satisfy the examination requirements of paragraph (6)(b) of this rule, except the Office may require additional examinations for any applicants found to have violated any state or federal securities law:

1.a. No change.

b. Have not had a lapse in registration as an associated person of an investment adviser or federal covered adviser in any jurisdiction in the United States for a period exceeding two years ~~immediately preceding the date the Office receives the application for registration.~~

c. No change.

2.a. No change.

b. Have not had a lapse in registration as an associated person of an investment adviser or federal covered adviser in any jurisdiction in the United States for a period exceeding two years ~~immediately preceding the date the Office receives the application for registration.~~

(d) Grandfathering Provision: The examination requirements of paragraph (6)(b) of this rule shall not apply to applicants who were registered as an associated person of an investment adviser or a federal covered adviser in any jurisdiction in the United States pursuant to a transition request submitted prior to January 1, 2005, and who have not had a lapse in registration as an associated person of an investment adviser or federal covered adviser in any jurisdiction in the United States for a period exceeding two years ~~immediately preceding the date the Office receives the application for registration.~~ The Office may require additional examinations for any applicant found to have violated any state or federal securities law.

(e) Examination Validity Extension Program: Notwithstanding paragraph (b), an associated person who terminates their registration as an associated person of an investment adviser may maintain the

validity of their Series 65 or the investment adviser representative portion of the Series 66, as applicable, without being employed by or associated with an investment adviser or federal covered adviser for a maximum of five years following the termination of the effectiveness of the associated person's registration if the individual meets all of the following:

1. The individual previously took and passed the examination for which they seek to maintain validity under this paragraph;

2. The individual was registered as an associated person of an investment adviser or federal covered adviser for at least one year immediately preceding the termination of the associated person's registration with an investment adviser or federal covered adviser;

3. The individual was not subject to a statutory disqualification as defined in Section 3(a)(39) of the Exchange Act (15 U.S.C. §78c(a)(39)), which is incorporated by reference in Rule 69W-600.002, F.A.C., while registered as an associated person of an investment adviser or federal covered adviser or at any period after termination of such registration;

4. The individual elects to participate in the Exam Validity Extension Program ("EVEP") under this paragraph within two years from the effective date of the termination of the associated person's registration with an investment adviser or federal covered adviser;

5. The individual does not have a deficiency under s. 517.1214, F.S., at the time the associated person's registration becomes ineffective;

6.a. The individual maintains annual compliance with s. 517.1214, F.S.

b. An individual who complies with the FINRA Maintaining Qualification Program under FINRA Rule 1240(c) shall be considered in compliance with Section 517.1214(2)(b), F.S.

(f) The examination requirement for associated persons of an investment adviser or federal covered adviser shall not apply to an applicant who currently holds one of the following professional designations:

1. through 5. No change.

(7) through (9) No change.

(10) Notice of Civil, Criminal or Administrative Action. An associated person shall:

(a) through (b) No change.

(c) Such notifications shall be filed with the Office through the CRD system in accordance with subsection (3) of this rule. When specifically requested by the Office pursuant to Section 517.021, F.S., one (1) copy of such complaint, answer or reply to any complaint, decision, order, or sanction shall be filed directly with the Office. Responses to requests by the Office for additional information shall be filed directly with the Office.

*Rulemaking Authority 517.03(1), 517.12, 517.121(1) FS. Law Implemented 517.12 FS. History—New 12-29-15, Amended 9-25-18, 11-26-19, 1-18-21, 2-14-23, \_\_\_\_.*

### **~~69W-600.0033 Notice-Filing of Branch Office (Issuer/Dealer).~~**

*~~Rulemaking Authority 517.03(1), 517.1202 FS. Law Implemented 517.12(8), 517.1202 FS. History—New 12-29-15, Amended 11-26-19, Repealed \_\_\_\_.~~*

### **~~69W-600.0033 Notice-Filing of Branch Office (Issuer/Dealer).~~**

~~(1) New Notice-Filings.~~

~~(a) Every Florida branch office of an issuer/dealer registered in Florida shall be notice-filed with the Office of Financial Regulation (Office) prior to engaging in business therefrom. An issuer/dealer must be registered with the Office before its branch offices may notice-file. Branches of an issuer/dealer shall file the Uniform Branch Office Registration Form (Form BR) electronically on the Office's website at <https://real.flofr.com> through the Regulatory Enforcement and Licensing~~



(REAL) System as prescribed by the Financial Services Commission (Commission). The notice-filing shall include all information required by such form, any other information the Office may require, and payment of the statutory fees required by Section 517.1202(2), F.S. The notice-filing shall be deemed received on the date the Office issues a confirmation of submission and payment to the applicant via the Office's website.

(b) A notice-filing shall include the following:

1. Form BR (04/2014), which is hereby incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-06080>.

2. Statutory fee in the amount required by Section 517.1202(2), F.S.

(2) Branch Office Designation. A branch office may be designated as an Office of Supervisory Jurisdiction (OSJ) at the discretion of the registrant. For each branch office designated as an OSJ, a supervisor shall be designated as a principal and registered with the Office. The designated principal shall have passed the examination(s), administered by a national securities association or a national securities exchange registered with the Securities and Exchange Commission, to supervise the activities of the branch office and its associated persons and be registered with the Office as set forth in Rule 69W-600.002, F.A.C. For offices not designated as an OSJ, the registrant must specify the OSJ and the supervisor(s) at the specified OSJ that supervise(s) the branch office. Additionally, the registrant must specify the person(s)-in-charge physically located at the branch office. The person(s)-in-charge must be registered as set forth in Rule 69W-600.002, F.A.C.

(3) Amendment of Notice-Filing. If the information contained in the Form BR becomes inaccurate or incomplete for any reason after the branch office notice-files, including changing the location of the branch office or the supervisory personnel thereof, the issuer/dealer shall amend the information by filing a complete and originally executed Form BR with the Office within thirty (30) days of the change and denoting thereon that the information reported is an amendment to a previous filing. Issuer/dealers shall amend the branch office information by filing the Form BR electronically with the Office through the REAL System as set forth in subsection (1) of this rule. Failure to file amendments, as provided herein, shall be considered a violation of Section 517.1202(6), F.S.

(4) Alternate Business Name. It is prohibited for any branch office to conduct a securities business in this state under any name other than that of the dealer with which the branch office is notice-filed unless each of the following conditions is met:

(a) The business conducted does not violate or evade any provision of Chapter 517, F.S.;

(b) The business conducted does not fall within the definition of "dealer" or "investment adviser" as used in Chapter 517, F.S.; and,

(c) The dealer with which the branch office is notice-filed has received written notice of the name under which business shall be conducted.

(5) Renewal Requirement.

(a) Renewal fees for branch offices of issuer/dealer firms shall be filed electronically through the REAL System and shall be deemed received on the date the Office issues a confirmation of submission and payment to the applicant via the Office's website. A confirmation of submission is issued by the Office upon successful filing of a renewal and payment of all fees. All renewal fees must be received by the Office by December 31 of the year the notice-filing expires as required by Section 517.1202, F.S.

(b) For branches of issuer/dealers, failure of the firm to submit the requisite amount of fees as provided for in paragraph (5)(a), by December 31 of the year of expiration of the notice-filing shall result in such notice-filing not being renewed. If December 31 falls on a Saturday, Sunday or legal holiday pursuant to Section 110.117, F.S., the renewals received on the next business day shall be considered timely received. However, an expired notice-filing may be reinstated in accordance with Section 517.1202(3), F.S., provided that all requisite information and fees are filed electronically on

the Office's website at <https://real.flofr.com> through the REAL System on or before January 31 of the year following the year of expiration. Failure to submit the requisite amount of fees necessary to reinstate the notice-filing by January 31 of the year following the year of expiration shall result in such registration or notice-filing not being reinstated. If January 31 falls on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., the reinstatement received on the next business day shall be considered timely received. If the renewal or reinstatement is withdrawn or not granted, any fees filed to renew or reinstate the notice-filing shall become the revenue of the state pursuant to the provisions of Section 517.1202(8), F.S., and shall not be returnable.

(6) Termination of Branch Office. Where a branch office cancels, or otherwise terminates notification, or is terminated for any reason, notice of such fact shall be electronically filed with the Office on the Form BR through the CRD within thirty (30) calendar days of the date of cancellation or termination.

*Rulemaking Authority 517.03(1), 517.1202 FS. Law Implemented 517.12(8), 517.1202 FS. History—New 12-29-15, Amended 11-26-19.*

### **69W-600.012 Rules of Conduct.**

(1)(a) Confirmation of Transactions: Every dealer registered in this state, ~~including those defined as issuer/dealers under Rule 69W-200.001, F.A.C.,~~ shall give or send to the customer a written confirmation at or before completion of each transaction. Such confirmation shall set forth at least the following:

1. ~~(a)~~ A description of the security purchased or sold, the date of the transaction, the price at which the security was purchased or sold and any commission charged;

2. ~~(b)~~ A description of the designation ~~Designation~~ of capacity in which the dealer was acting: as principal for its own account, as agent for the customer, as agent for some other person, or as agent for both the customer and some other person;

3. ~~(c)~~ If ~~Where~~ the dealer acted as agent for the customer, ~~either the name of the contraparty and whether like commissions were charged, or the fact that the information will be furnished upon the request of the customer, if the information is known to, or with reasonable diligence may be ascertained by, the dealer;~~

(b) ~~(d)~~ Compliance with SEC Rule 10b-10 (17 C.F.R. §240.10b-10), which is incorporated by reference in Rule 69W-200.002, F.A.C., and the confirmation, preparation and disclosure requirements of SEC Rule 17a-3 (17 C.F.R. §240.17a-3) or MSRB Rules G-8 and G-15, which are incorporated by reference in Rule 69W-200.002, F.A.C., shall be deemed compliance with this rule.

(2) No change.

~~(3) No dealer or investment adviser shall permit or effect a withdrawal of any part of its net worth, including subordinated indebtedness, whether by redemption, retirement, repurchase, repayment or otherwise, that would cause its net capital or its aggregate indebtedness to violate any provisions of Office of Financial Regulation Rules 69W-600.0151 and 69W-600.0161, F.A.C., without prior written approval of the Office of Financial Regulation.~~

(4) Each dealer and investment adviser shall provide each customer with a confirmed copy of all contracts or agreements between such dealer or investment adviser and such customer within a timely manner.

(4) ~~(5)~~ It shall be a violation of Section 517.301(1), F.S., for any dealer or associated person to engage in any “device, scheme, or artifice to defraud” which shall include selling or effecting the purchase of any security into, in, or from offices in this state in violation of:

(a) through (h) No change.

*Rulemaking Authority 517.03(1) FS. Law Implemented 517.121, 517.301(1) FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.12, Amended 12-25-89, 10-14-90, 8-1-91, 6-16-92, 1-11-93, 4-11-94, 1-3-99, 8-19-99, 10-30-03, Formerly 3E-600.012, Amended 11-22-10, 9-22-14, 11-15-16,\_\_\_\_\_.*

**69W-600.013 Prohibited Business Practices for Dealers and Their Associated Persons.**

(1) The following are deemed violations ~~demonstrations of unworthiness~~ by a dealer under Section 517.161(1)(a) ~~517.161(1)(h)~~, F.S., without limiting that term to the practices specified herein:

(a) through (f) No change.

(g) Representing itself as a financial or investment planner, consultant, or adviser ~~advisers~~, when the representation does not fairly describe the nature of the services offered, the qualifications of the person offering the services, and the method of compensation for the services.

(h) With respect to any customer, transaction or business in this state, violating any of the following:

1. through 5. No change.

6. Section 248.30 of Regulation S-P (17 C.F.R. 248.30 ~~§248-30~~), which is incorporated by reference in Rule 69W-200.002, F.A.C.

7. Section 240.151-1 of Regulation Best Interest (17 C.F.R. §240.151-1), which is incorporated by reference in Rule 69W-200.002, F.A.C. ~~To the extent that any of the rules described in subparagraphs 1. through 6. of this section or their interpretation by the FINRA, NYSE, MSRB, or SEC, as appropriate, conflict or are inconsistent with other provisions of the Florida Securities and Investor Protection Act or rules promulgated pursuant thereto, this paragraph of this rule shall not be deemed controlling.~~

(i) Failing to furnish to a customer purchasing securities in an offering, not later than the date of confirmation of the transaction, either a final prospectus or a preliminary prospectus and an additional document, which together include all information set forth in the final prospectus, where required.

(j) through (k) No change.

(l) Recommending ~~to a customer~~ that a ~~the~~ customer engage the services of an investment adviser or federal covered adviser where in connection with which the dealer receives a fee or remuneration (other than directed business) from the investment adviser or federal covered adviser, unless advise, ~~unless~~ the dealer is registered with the Office as an investment adviser pursuant to Rule 69W-600.0016, F.A.C. or notice-filed pursuant to Rule 69W-600.0017, F.A.C.

(m) through (p) No change.

(2) The following are deemed violations ~~demonstrations of unworthiness~~ by an associated person of a dealer under section 517.161(1)(a) ~~517.161(1)(h)~~, F.S., without limiting that term to the practices specified herein:

(a) Borrowing money or securities from or lending money or securities to a customer, except when an associated person is ~~persons are~~ in compliance with FINRA Rule 3240, which is incorporated by reference in Rule 69W-200.002, F.A.C.;

(b) through (f) No change.

(g) Failing to furnish to each offeree of a Small Corporate Offering Registration (SCOR) a copy of the “Florida Guide to Small Business Investments,” OFR-S-13-97, effective XX-2023 ~~11-22-10~~, which is hereby incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXXX> ~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-11278>~~; and

(h) No change.

*Rulemaking Authority 517.03(1), 517.1217 FS. Law Implemented 517.081, 517.1217, 517.161(1) FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.13, Amended 8-1-91, 6-16-92, 1-11-93, 11-7-93, 5-5-94, 9-9-96, 10-20-97, 1-25-00, 10-30-03, Formerly 3E-600.013, Amended 10-23-06, 1-18-09, 11-22-10, 9-22-14, 11-15-16, 11-26-19, 1-18-21,\_\_\_\_\_.*

**69W-600.0131 Prohibited Business Practices for Investment Advisers and Their Associated Persons.**

(1) The following are prohibited business practices for investment advisers and associated persons pursuant to Section 517.1215(2), F.S., and are deemed violations ~~demonstrations of unworthiness~~ by an investment adviser or an associated person of an investment adviser under Section 517.161(1)(a) ~~517.161(1)(h)~~, F.S., without limiting that term to the practices specified herein:

(a) With respect to any client ~~customer~~, transaction or business in, to or from this state, engaging in any conduct prohibited by, or failing to comply with the requirements of, the following, notwithstanding the fact that the investment adviser or associated person is not registered or required to be registered under the Investment Advisers Act of 1940:

Sections 204, 204A, 205, 206, 207, 208 of the Investment Advisers Act of 1940, (15 U.S.C.A. §§80b-4, 80b-4a, 80b-5, 80b-6, 80b-7, 80b-8), or SEC Rules 204-1, 204-3, 205-1, 205-2, 205-3, 206(3)-1, 206(3)-2, 206(4)-1, (17 C.F.R. §§275.204-1, 275.204-3, 275.205-1, 275.205-2, 275.205-3, 275.206(3)-1, 275.206(3)-2, 275.206(4)-1), which are incorporated by reference in Rule 69W-200.002, F.A.C.

(b) Borrowing money or securities from a client ~~customer~~ unless the client ~~customer~~ is a dealer, an affiliate of the investment adviser, or a financial institution engaged in the business of loaning funds.

(c) Loaning money or securities to a client ~~customer~~ unless the investment adviser is a financial institution engaged in the business of making loans ~~loaning funds~~ or the client ~~customer~~ is an affiliate of the investment adviser.

(d) Recommending to a client ~~customer~~ the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client ~~customer~~ on the basis of information furnished by the client ~~customer~~ after reasonable inquiry concerning the client's ~~customer's~~ investment objectives, financial situation and needs, and any other information known by the investment adviser.

(e) Exercising any discretionary power in placing an order for the purchase or sale of securities for a client's ~~customer's~~ account without first obtaining written discretionary authority from the client ~~customer~~, unless the discretionary power relates solely to the time or price for the execution of orders.

(f) Inducing trading in a client's ~~customer's~~ account which is excessive in size or frequency in view of the financial resources, investment objectives, and character of the account.

(g) Placing an order to purchase or sell a security on behalf of a client ~~customer~~ without authority to do so.

(h) Placing an order to purchase or sell a security for a client's ~~customer's~~ account upon instruction of a third party without first having obtained a written third-party trading authorization from the client ~~customer~~.

(i) No change.

(j) Charging a client ~~customer~~ an unreasonable advisory fee.

(k) Failing to disclose to clients ~~customers~~ in writing before any advice is rendered any material conflict of interest relating to the adviser or any of its employees which could reasonably be expected to impair the rendering of unbiased and objective advice including:

1. Compensation arrangements connected with advisory services to clients ~~customers~~ which are in addition to compensation from such clients ~~customers~~ for such services; and,
2. Charging a client ~~customer~~ an advisory fee for rendering advice when a commission for executing securities transactions pursuant to such advice will be received by the adviser or its employees.
- (l) Guaranteeing a client ~~customer~~ that a specific result will be achieved with the advice to be rendered.
- (m) Recommending to a client ~~customer~~ that the client ~~customer~~ engage the services of a dealer that is not registered or exempt from registration under Chapter 517, F.S., unless the client ~~customer~~ is a person described in Section 517.061(7), F.S.
- (n) Recommending to a client ~~customer~~ that the client ~~customer~~ engage the services of a dealer in connection with which the investment adviser receives a fee or remuneration from the dealer, except as permitted in subsection 69W-600.0024(4), F.A.C.
- (o) Disclosing the identity, affairs, or investments of any client ~~customer~~ unless required to do so by law or consented to in writing by the client ~~customer~~.
- (p) Giving false or otherwise misleading client ~~customer~~ information to any financial institution or regulatory agency.
- (q) through (u) No change.
- (v) Failing to send a client ~~customer~~ an itemized invoice each time a fee is directly deducted from the client's ~~customer's~~ account in accordance with the provisions of paragraph 69W-600.0132(2)(i), F.A.C.
- (w) Failing to establish, maintain, and enforce written policies and procedures reasonably designed to achieve compliance, by the investment adviser or its associated persons, with Chapter 517, F.S., and Division 69W, F.A.C.
- (x) Charging a client ~~customer~~ an advisory fee greater than the amount authorized in the written investment advisory contract between the client ~~customer~~ and the investment adviser.
- (2) No change.

*Rulemaking Authority 517.03(1), 517.1215 FS. Law Implemented 517.12(3), 517.1215, 517.161(1) FS. History—New 1-25-00, Amended 10-30-03, Formerly 3E-600.0131, Amended 10-23-06, 1-18-09, 11-22-10, 9-22-14, 5-6-15, 11-15-16, 11-26-19, 1-18-21, 2-14-23, \_\_\_\_.*

#### **69W-600.0132 Custody Requirements for Investment Advisers.**

- (1) Definitions. For purposes of this rule:
  - (a) “Custody” means holding directly or indirectly, client funds or securities, or having any authority to obtain possession of them or has the ability to appropriate them. The investment adviser has custody if a related person holds, directly or indirectly, client funds or securities, or has any authority to obtain possession of them, in connection with advisory services the investment adviser provides to clients.
  1. Custody includes:
    - a. through b. No change.
    - c. Any capacity (~~such as general partner of a limited partnership, managing member of a limited liability company or a comparable position for another type of pooled investment vehicle, or trustee of a trust~~) that gives the investment adviser or the investment adviser’s supervised person legal ownership of or access to client funds or securities (including, but not limited to, a general partner of a limited partnership, a managing member of a limited liability company or a comparable position for any type of pooled investment vehicle, or a trustee of a trust).

2. Receipt of checks drawn by clients and made payable to third parties will not meet the definition of custody if forwarded to the third party within 24 hours of receipt and the investment adviser maintains the records required under subsection 69W-600.014(8), F.A.C.,

(b) through (e) No change.

(f) “Supervised person” means an investment adviser’s officers, partners, directors (or other persons occupying a similar status or performing similar functions), or employees, or any other person who provides investment advice on behalf of the investment adviser and is subject to the investment adviser’s supervision or control.

(2) Safekeeping required. If the investment adviser is registered or required to be registered, it is unlawful for the investment adviser to have custody of client funds or securities unless the following requirements in paragraphs (2)(a)-(i) are met:

(a) Notice to Office. The investment adviser notifies the Office of Financial Regulation (Office) within thirty (30) days in writing that the investment adviser has or may have custody. Such notification is required to be given on Form ADV, Uniform Application for Investment Adviser Registration (08-22) ~~(09-19)~~, which is hereby incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXXX>  
~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-12568>~~.

(b) through

(f) Independent Verification. The client funds and securities of which the investment adviser has custody are verified by actual examination at least once during each calendar year, by an independent certified public accountant, pursuant to a written agreement between the investment adviser and the independent certified public accountant, at a time that is chosen by the independent certified public accountant without prior notice or announcement to the investment adviser and that is irregular from year to year. The written agreement must provide for the first examination to occur within six months of becoming subject to this paragraph, except that, if the investment adviser maintains client funds or securities pursuant to this rule as a qualified custodian, the agreement must provide for the first examination to occur no later than six months after obtaining the internal control report. The written agreement must require the independent certified public accountant to:

1. File a certificate on Form ADV-E electronically through the Investment Adviser Registration Depository (IARD) of the Financial Industry Regulatory Authority (FINRA) with the Office within 120 days of the time chosen by the independent certified public accountant in paragraph (2)(f) of this rule, stating that it has examined the funds and securities and describing the nature and extent of the examination. Form ADV-E (01-13) is hereby incorporated by reference and a sample form is accessible at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXXX>  
~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-05357>~~.

2. through 3. No change.

(g) through (h) No change.

(i) Direct Fee Deduction. An investment adviser who has custody as defined in sub-subparagraph (1)(a)1.b. of this rule, as a consequence of its authority to make withdrawals from client accounts to pay its advisory fee must also provide the following safeguards:

1. through 2. No change.

3. The investment adviser must notify the Office in writing that the investment adviser intends to use the safeguards provided above. Such notification is required to be given on Form ADV, Uniform Application for Investment Adviser Registration (08-22) ~~(09-19)~~, which is hereby incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXXX>  
~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-12568>~~.

(3) Exceptions to certain safekeeping requirements.

(a) No change.

(b) Certain privately offered securities.

1. No change.

2. Notwithstanding subparagraph (3)(b)1. of this rule, the provisions of paragraph (3)(b) of this rule are available with respect to securities held for the account of a limited partnership (or limited liability company, or other type of pooled investment vehicle) only if the limited partnership is audited, the audited financial statements are distributed, as described in paragraph (3)(d) of this rule, and the investment adviser notifies the Office in writing that the investment adviser intends to provide audited financial statements, as described above. Such notification is required to be given on Form ADV, Uniform Application for Investment Adviser Registration ~~(08-22)~~ ~~(09-19)~~, which is hereby incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>  
~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-12568>~~.

(c) No change.

(d) Limited partnerships subject to annual audit. An investment adviser is not required to comply with paragraphs (2)(c) and (2)(d), and shall be deemed to have complied with paragraph (2)(f) of this rule, with respect to the account of a limited partnership (or limited liability company, or any other type of pooled investment vehicle) if each of the following conditions in subparagraphs 1. through 6. are met:

1. through 3. No change.

4. Upon liquidation, the investment adviser distributes the fund's final audited financial statements prepared in accordance with generally accepted accounting principles to all limited partners (or members or other beneficial owners) and the Office promptly after the completion of such audit;

5. The written agreement with the independent certified public accountant must require the independent certified public accountant to, upon resignation or dismissal from, or other termination of, the engagement, or upon removing itself or being removed from consideration for being reappointed, notify the Office in writing via U.S. mail to 200 E. Gaines Street, Tallahassee, FL 32399 within four business days accompanied by a statement that includes:

a. through b. No change.

6. The investment adviser must also notify the Office in writing that the investment adviser intends to employ the use of the statement delivery and audit safeguards described above. Such notification is required to be given on Form ADV, Uniform Application for Investment Adviser Registration ~~(08-22)~~ ~~(09-19)~~, which is hereby incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>  
~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-12568>~~.

7. No change.

(e) Investment Adviser as Trustee. When a trust retains an investment adviser, associated person of an investment adviser or employee, director or owner of an investment adviser as trustee and the investment adviser acts as the investment adviser to that trust, an investment adviser is not required to obtain an independent verification of client funds and securities maintained by a qualified custodian under paragraph (2)(f) of this rule, if the investment adviser instructs the qualified custodian of the trust as follows in subparagraphs 1. through 3.:

1. No change.

2. Distribution of Assets. Except as otherwise set forth in sub-subparagraph a. below, the qualified custodian may transfer funds or securities, or both, of the trust only upon the direction of the trustee. The grantor of the trust or attorneys for the trust, if it is a testamentary trust, the co-trustee (other than the investment adviser, associated person of the investment adviser or employee, director or owner of the investment adviser), or a defined beneficiary of the trust, must designate the authorized

signatory for management of the trust. The direction to transfer funds or securities, or both, can only be made to the following:

a. through b. No change.

c. To a third person independent of the investment adviser in payment of the fees or charges of the third person including, but not limited to: ~~attorney's~~ Attorney's, accountant's, or custodian's fees for the trust; and taxes, interest, maintenance or other expenses, if there is property other than securities or cash owned by the trust;

d. through e. No change.

3. through 4. No change.

(f) through (g) No change.

(4) No change.

*Rulemaking Authority 517.03(1), 517.1215 FS. Law Implemented 517.1215 FS. History—New 10-23-06, Amended 11-22-10, 9-22-14, 5-6-15, 11-26-19, 1-18-21,\_\_\_\_\_.*

**69W-600.0133 Use of Senior-Specific Certifications or Senior-Specific ~~and~~ Professional Designations by Associated Persons and Investment Advisers.**

(1) The use of a senior-specific certification or senior-specific professional designation by any person in connection with the offer, sale, or purchase of securities, or the provision of advice as to the value of or the advisability of investing in, purchasing, or selling securities, either directly or indirectly or through publications or writings, or by issuing or promulgating analyses or reports relating to securities, that indicates or implies that the user has special certification or training in advising or servicing senior citizens or retirees, ~~in such a way as to mislead any person~~ shall be a prohibited dishonest and unethical business practice in the securities industry in violation of Section 517.161(1)(a) ~~517.161(1)(d) or 517.161(1)(h)~~, F.S., by an associated person of a dealer or investment adviser. The prohibited use of such certifications or professional designation includes, but is not limited to, the following:

(a) through (d) No change.

(2) through (5) No change.

*Rulemaking Authority 517.03(1), 517.1215(2), 517.1217 FS. Law Implemented 517.1215(2), 517.1217, 517.161 FS. History—New 1-18-09, Amended 9-22-14,\_\_\_\_\_.*

**69W-600.014 Books and Records Requirements.**

Except as otherwise provided herein, every dealer, investment adviser, branch office, and associated person conducting business in this state shall prepare and maintain on a current basis, and preserve for the periods of time specified, such records, prescribed herein, as are appropriate for said dealer's, investment adviser's, branch office's, or associated person's course of business, and are sufficient to provide an audit trail of all business transactions by said dealer, investment adviser, associated person, or branch office. Associated persons who conduct business from a branch office notice-filed in this state shall be exempt from the provisions of this rule.

(1) All dealers are required to prepare and maintain appropriate books and records relating to their business as described in SEC Rules 17a-3 or 17a, (17 C.F.R. §§240.17a-3, 240.17a-4), section 248.30 of Regulation S-P (17 C.F.R. §248.30), section 240.151-1 of Regulation Best Interest (17 C.F.R. §240.151-1), and MSRB Rules G-7, G-8 and G-9; and records evidencing compliance with Financial Industry Regulatory Authority (FINRA) Rule 1020 and FINRA rules contained in the Rule 2000 Series (Duties and Conflicts), Rule 3000 Series (Supervision and Responsibilities Relating to Associated Persons), Rule 4000 Series (Financial and Operational Rules), and Rule



5000 Series (Securities Offering and Trading Standards and Practices). The foregoing rules are incorporated by reference in Rule 69W-200.002, F.A.C.

~~(2) All issuer/dealers are required to maintain at least the following records:~~

~~(a) Ledgers, journals (or other records) reflecting all assets, liabilities, income and expenses, and capital accounts properly maintained in accordance with United States generally accepted accounting principles;~~

~~(b) Copies of all promotional sales materials and correspondence used in connection with the sales of all securities as distributed;~~

~~(c) A record of all sales of securities made by, or on behalf of, the issuer as described in and in compliance with SEC Rule 17a-3(a)(1), (17 C.F.R. §240.17a-3(a)(1)), which is incorporated by reference in Rule 69W-200.002, F.A.C.;~~

~~(d) Securities certificate and securities holder records reflecting names and addresses of all holders of record, certificates issued to such holders, number of shares or bonds issued, and full details as to transfers or cancellations;~~

~~(e) In lieu of the issuer/dealer preparing and maintaining such records as detailed in paragraph (d), above, a qualified transfer agent/registrar may be appointed, provided such information is accessible to the issuer/dealer.~~

(2) ~~(3)~~ All investment advisers, notwithstanding the fact that the investment adviser is not registered or required to be registered under the Investment Advisers Act of 1940, shall prepare and maintain true, accurate and current records relating to their business as described in SEC Rule 204-2, (17 C.F.R. §275.204-2), which is incorporated by reference in Rule 69W-200.002, F.A.C. Notwithstanding SEC Rule 204-2, (17 C.F.R. §275.204-2), investment adviser records requirements do not include Form CRS. Investment advisers shall have available for the Office of Financial Regulation at least the following records:

(a) through (l) No change.

(3) ~~(4)~~ Notwithstanding other record preservation requirements of this rule, the following records or copies shall be required to be maintained in the business location of the investment adviser from which the customer or client is being provided or has been provided with investment advisory services:

(a) through (b) No change.

(4) ~~(5)~~ No provisions of this rule, unless specifically designated as a required form, shall be deemed to require the preparation, maintenance, or preservation of a dealer's or investment adviser's books and records in a particular form or system, provided that whatever form or system utilized by such dealer's or investment adviser's course of business is sufficient to provide an audit trail of all business transactions.

(5) ~~(6)~~ Every investment adviser that has its principal place of business in a state other than this state shall be exempt from the requirements of this rule, provided the investment adviser is licensed in such state and is in compliance with that state's record keeping requirements.

(6) ~~(7)~~ All books and records described in this rule shall be preserved in accordance with the following:

(a) through (e) No change.

(7) ~~(8)~~ Where the investment adviser inadvertently held or obtained a client's securities or funds and returned them to the client within three business days or has forwarded third party checks within 24 hours, the investment adviser will be considered as not having custody but shall keep a ledger or other listing of all securities or funds held or obtained, including the following information:

(a) through (j) No change.

*Rulemaking Authority 517.03(1), 517.121(1), 517.1215 FS. Law Implemented 517.121(1), 517.1215 FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.14, Amended 10-14-90, 8-1-91, 6-16-92, 1-11-93, 9-9-96, 6-22-98, 1-25-00, 10-30-03, Formerly 3E-600.014, Amended 10-23-06, 5-15-07, 11-22-10, 11-11-13, 9-22-14, 5-6-15, 11-15-16, 11-26-19, 1-18-21, 2-14-23,\_\_\_\_\_.*

**69W-600.0151 Net Capital and Financial Reporting Requirements for Dealers and Issuer/Dealers.**

(1) through (2) No change.

~~(3) Net capital requirements for issuer-dealers.~~

~~(a) Every issuer/dealer registered or required to be registered pursuant to Section 517.12, F.S., except those described in paragraph (3)(b) of this rule, shall maintain net capital of least \$5,000.~~

~~(b) An issuer who elects to offer or sell its own securities pursuant to Section 517.051(9), F.S., is required to be registered pursuant to Section 517.12(2), F.S., and shall maintain net capital of:~~

~~1. \$5,000 when the securities of the issuer which are to be offered and sold are not in excess of \$250,000.~~

~~2. \$25,000 when the securities of the issuer which are to be offered and sold are in excess of \$250,000.~~

~~(3) (4) Financial reporting requirements for dealers.~~

~~(a) Requirement for dealer applicants. Every dealer applicant, unless exempted under paragraph (3)(c) (4)(e) of this rule, shall file with the Office:~~

~~1. through 2. No change.~~

~~(b) Requirement for dealers. Every dealer registered or required to be registered pursuant to Section 517.12, F.S., shall annually file with the Office of Financial Regulation audited financial statements as of the end of the dealer's fiscal year within ninety (90) days after the conclusion of said fiscal year, unless exempted under paragraph (3)(c) (4)(e) of this rule. Financial statements required to be filed with the Office under this paragraph shall be filed by electronic means. Registrants who filed their original application through the REAL system shall file the documents required by this paragraph through the REAL system. All other registrants shall file the documents required by this subsection via the Office's online portal at: <https://www.flofr.gov/sitePages/WelcomeToOnlineServices.htm>.~~

~~(c) The financial statements and reports required by paragraphs (3)(a) (4)(a) and (3)(b) (4)(b) of this rule, are not required to be filed with the Office by a dealer applicant or registrant if the dealer registrant is a current member of a securities association registered pursuant to section 15A of the Securities Exchange Act of 1934 (15 U.S.C. §78o-3) and such association requires financial reports to be filed with it.~~

~~(d) Financial statements and reports prepared and filed in accordance with the provisions of SEC Rule 17a-5 (17 C.F.R. §240.17a-5), which is incorporated by reference in Rule 69W-200.002, F.A.C., shall be deemed to be in compliance with and fulfill the requirements of paragraphs (3)(a) (4)(a) through (3)(d) (4)(d) of this rule.~~

~~(5) Financial reporting requirements for issuer-dealers.~~

~~(a) Requirements for issuer-dealer applicants. Every issuer-dealer applicant shall file with the Office:~~

~~1. Financial statements as described in paragraph (5)(b) of this rule, as of a date within ninety (90) days prior to the date of filing for registration;~~

~~2. Written notice of designation of an independent certified public accountant, which notice shall include name, address and telephone number of the accountant so designated;~~

~~3. Written notice of fiscal year end or audit date of such issuer-dealer; and,~~

~~4. Disclosure of any contingent, civil or criminal liabilities of such issuer-dealer.~~

~~(b) Issuer-dealer applicants may file unaudited financial statements provided that the issuer-dealer applicants shall also file audited financial statements as of said applicant's most recent fiscal year end, except:~~

~~1. This paragraph (5)(b) does not apply to issuer-dealer applicants who concurrently submit an application for registration of securities pursuant to Section 517.081, F.S. and who are required to file audited financial statements under that section.~~

~~2. Issuer-dealer applicants who will offer or sell their own securities pursuant to Section 517.051(9), F.S., shall only file unaudited financial statements.~~

~~(c) Requirements for issuer-dealers. An issuer-dealer shall annually file with the Office audited financial statements as of the end of the issuer-dealer's fiscal year within ninety (90) days after the conclusion of said fiscal year, except issuer-dealer applicants offering or selling its own securities pursuant to Section 517.051(9), F.S., may file unaudited financial statements within ninety (90) days after the conclusion of the end of their fiscal year. Financial statements required to be filed with the Office under this paragraph shall be filed via the REAL system.~~

~~(4) (6) Registration as a dealer or issuer-dealer may be denied, revoked, or suspended pursuant to Section 517.161(1), F.S., if financial statements reflect:~~

~~1. through 3. No change.~~

*Rulemaking Authority 517.03(1), 517.12(8), 517.121(2) FS. Law Implemented 517.12(8), 517.121(2), 517.161(1), 517.201 FS. History—New 5-6-15, Amended 11-26-19, 3-3-21, 2-14-23,*

#### **69W-600.0161 Net Capital and Financial Reporting Requirements for Investment Advisers.**

(1) Net capital requirements for investment advisers. The net capital of an investment adviser applicant or registrant under Section 517.12, F.S., shall be maintained at all times at a level required by this rule.

(a) through (c) No change.

(2) through (3) No change.

*Rulemaking Authority 517.03(1), 517.12(8), 517.121(2) FS. Law Implemented 517.112(8), 517.121(2), 517.161(1), 517.201 FS. History—New 5-6-15, Amended 3-3-21, 2-14-23,\_\_\_\_\_.*

#### **69W-700.001 Registration of Securities.**

(1) An applicant for registration of securities pursuant to Section 517.081, F.S., shall comply with the rules contained in Chapter 69W-700, F.A.C. An applicant shall file forms and fees electronically on the Office of Financial Regulation (Office) website at <https://real.flofr.com> through the Regulatory Enforcement and Licensing (REAL) System or through the North American Securities Administrators Association Electronic Filing Depository (EFD) at <https://efdnasaa.org>. An application filed through the REAL System shall be deemed received on the date the Office issues to the applicant a confirmation of submission and payment via the Office's website. An application filed through the EFD shall be deemed received on the date the Office issues to the applicant a confirmation of submission and payment. The application shall include all information required by such forms and payment of the statutory fees, as required by Section 517.081(6), F.S. An application shall include the following:

(a) Form OFR-S-1-91, Application for Registration of Securities (~~XX-2023 12/15~~) or Form OFR-S-12-97, SCOR (Small Corporate Offering Registration) Application to Register Securities (~~XX-2023 12/15~~). These forms are hereby incorporated by reference and are available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>  
<http://www.flrules.org/Gateway/reference.asp?No=Ref-06082> or

<http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>

<http://www.flrules.org/Gateway/reference.asp?No=Ref-06086>;

(b) OFR-S-7-91, Exhibit 1 (General Issue) (XX-2023) ~~(11/22/10)~~. This form is hereby incorporated by reference and is available at

<http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>

<http://www.flrules.org/Gateway/reference.asp?No=Ref-06085>;

(c) No change.

(2) No change.

(3) Financial Reporting Requirements for Securities Registration.

(a) All applicants for registration ~~Registration~~ of securities ~~Securities~~ pursuant to Section 517.081, F.S., shall file audited financial statements. An applicant offering securities pursuant to Regulation A, Tier I of the Securities Act of 1933, is not required to file audited financial statements unless audited statements have been prepared and submitted to the Securities and Exchange Commission in perfecting the Regulation A exemption.

(b) through (d) No change.

*Rulemaking Authority 517.03 FS. Law Implemented 517.07, 517.081, 517.101 FS. History—New 9-20-82, Formerly 3E-20.011, 3E-700.01, Amended 7-31-91, Formerly 3E-700.001, Amended 9-22-14, 12-29-15, 11-25-19, 1-17-21, 8-8-21,\_\_\_\_\_.*

#### **69W-700.002 Filing of Prospectus.**

(1) No change.

(2) Any prospectus which depicts the United States Securities and Exchange Commission's statement pursuant to a registration statement filed under the Securities Act of 1933, a letter of notification under Regulation A of the Securities Act of 1933 (17 C.F.R. §§230.251 through 230.263) or Form U-7, Small Corporate Offering Registration, (Rev. 5-19-2019) ~~(9/1999)~~, will be considered to be in substantial compliance with the requirement of subsection (1), above. Regulation A is incorporated by reference in Rule 69W-200.002, F.A.C., and Form U-7 is hereby incorporated by reference and is available at

<http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>

<http://www.flrules.org/Gateway/reference.asp?No=Ref-11277>.

*Rulemaking Authority 517.03(1) FS. Law Implemented 517.081(3) FS. History—New 9-20-82, Formerly 3E-20.01, 3E-700.02, Amended 10-26-97, Formerly 3E-700.002, Amended 11-22-10, 9-22-14, 11-25-19,\_\_\_\_\_.*

#### **69W-700.003 Content of Prospectus.**

(1) through (6) No change.

(7) A prospectus which conforms with requirements of the Securities and Exchange Commission or the Federal Deposit Insurance Corporation ~~Federal Savings and Loan Insurance Corporation~~ will be considered to be in substantial compliance with this rule.

(8) No change.

*Rulemaking Authority 517.03 FS. Law Implemented 517.081(3) FS. History—New 9-20-82, Formerly 3E-20.02, 3E-700.03, 3E-700.003, Amended\_\_\_\_\_.*

### **69W-700.006 Voting Rights.**

Registration involving the sale of non-voting common stock or other equity security interests will not be permitted unless full :

~~(1) The cover of the prospectus includes a specific warning and a cross reference to a specific, appropriate risk factor; and,~~

~~(2) Full and complete disclosure is made to the prospective purchaser and imprinted on the cover of the prospectus in bold face type in a contrasting color is the following notation: "THESE SECURITIES DO NOT ENTITLE THE HOLDER THEREOF TO VOTE."~~

*Rulemaking Authority 517.03 FS. Law Implemented 517.081(7) FS. History—New 9-20-82, Formerly 3E-700.06, Amended 10-14-90, Formerly 3E-700.006, Amended 9-22-14,\_\_\_\_\_.*

### **69W-700.007 Options or Warrants Granted Underwriters.**

The Office of Financial Regulation will permit the registration of securities where options or warrants are granted to underwriters only on the condition that such options or warrants meet the criteria set forth in subsections (1) through (6), hereafter:

(1)(a) They are issued to the underwriters under a firm underwriting agreement; or

(b) No change.

(c) Option or warrants may not be transferred, except:

1. To partners of the underwriter, if the underwriter is a partnership;

2. To officers and employees of the underwriter, who are also shareholders of the underwriter, if the underwriter is a corporation; ~~or~~

3. To managers and managing members of the underwriter, if the underwriter is a limited liability corporation; or

4. By will, under the laws of descent and distribution, or by operation of law.

(2) through (6) No change.

*Rulemaking Authority 517.03 FS. Law Implemented 517.081(7) FS. History—New 9-20-82, Formerly 3E-20.06, 3E-700.07, 3E-700.007, Amended 9-22-14,\_\_\_\_\_.*

### **69W-700.008 Options and Warrants to Officers, Employees and Others.**

The Office of Financial Regulation will permit the registration of securities where options and warrants are granted to officers, employees and others only on the condition that such options or warrants meet the criteria set forth below.

(1) No change.

(2) Limitations on the total number ~~Total Number~~ of options ~~Options~~ and warrants ~~Warrants~~.

(a) through (b) No change.

(3) through (4) No change.

*Rulemaking Authority 517.03 FS. Law Implemented 517.03, 517.081(5), (7) FS. History—New 9-20-82, Formerly 3E-20.07, 3E-700.08, 3E-700.008, Amended 9-22-14,\_\_\_\_\_.*

### **69W-700.012 Oil and Gas Participation Plans.**

(1) No change.

(2) Compensation to dealers ~~broker/dealers~~ shall be a cash commission. Indeterminate compensation to dealers ~~broker/dealers~~, such as overriding interests and net profit interests are not acceptable in the absence of a firm underwriting. Warrants or options to dealers ~~broker/dealers~~ are not acceptable in the absence of a firm underwriting.

(3) through (5) No change.

*Rulemaking Authority 517.03 FS. Law Implemented 517.081(7) FS. History–New 9-20-82, Formerly 3E-20.11, 3E-700.12, 3E-700.012,\_\_\_\_\_.*

**69W-700.014 Real Estate Investment Trusts (REIT).**

A Real Estate Investment Trust (“Trust”) required to register its securities pursuant to Section 517.081, F.S., must have provisions in its Declaration of Trust, other organizational instruments or prospectus that satisfy the following conditions:

(1) No change.

(2)(a) Any property or asset purchased or sold on ~~in~~ behalf of the Trust in which the trustees ~~Trustees~~ or allied parties have an interest, directly or indirectly, must be so purchased or sold on the basis of independent appraisals of said property or asset; or

(b) No change.

(3) through (6) No change

(7) Any advisory contract entered into by the Trust prior to the initial public offering shall be for a period not longer than three (3) years and such contract entered into thereafter shall be for a period not longer than one (1) year. Any such advisory contract shall provide that it may be terminated at any time without penalty, by the trustees ~~Trustees~~ or majority of the holders of outstanding shares of beneficial interest, upon not less than sixty (60) days written notice to the adviser.

(8) through (10) No change.

*Rulemaking Authority 517.03 FS. Law Implemented 517.081(7) FS. History–New 9-20-82, Formerly 3E-20.13, 3E-700.14, 3E-700.014, Amended 9-22-14,\_\_\_\_\_.*

**69W-700.015 Offering Price of Equity Securities.**

(1) through (3) No change.

(4) “Promotional Securities” for purposes of Rule 69W-700.015, F.A.C., shall mean securities that are to be issued or were issued:

(a) By an issuer which is a development stage company to promoters for cash or other consideration, including services rendered, patents, copyrights, and other intangibles, that will be or were less than eighty-five percent (85%) of the proposed offering price; or

(b) Within three (3) years prior to the filing of an application to register securities with the Office of Financial Regulation by an issuer, which is not a development stage company, to promoters for cash or other considerations, including services rendered, patents, copyrights and other intangibles, that will be or were less than eighty-five percent (85%) of the proposed offering price. (Shares issued pursuant to conversion or exercise rights shall be included as promoters shares).

*Rulemaking Authority 517.03(1) FS. Law Implemented 517.081(3), (7) FS. History–New 9-20-82, Formerly 3E-20.15, 3E-700.15, Amended 11-30-97, Formerly 3E-700.015, Amended 11-22-10, 9-22-14,\_\_\_\_\_.*

**69W-700.030 Advertising and Sales Literature.**

(1) It is unlawful for any person, in connection with the offer or sale of any security registered pursuant to Section 517.081, F.S., to publish, circulate or use any advertising which contains an untrue statement of material fact or omits to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. All

advertising shall be filed with the Office of Financial Regulation not later than ten (10) days prior to the date of publication or circulation ~~and except as the Financial Services Commission or Office of Financial Regulation may otherwise provide by rule or order. The Office of Financial Regulation may by order prohibit the publication, circulation or use of any advertising deemed false or misleading.~~

~~(2) Every advertisement used in connection with an offering of securities registered pursuant to section 517.081, F.S., must be authorized in writing by the Office of Financial Regulation before being published or circulated unless:~~

~~(a) It is within the requirements of Financial Industry Regulatory Authority (FINRA) Rule 2210, which is incorporated by reference in rule 69W-200.002, F.A.C., concerning advertisements for use in newspapers or any other means of public communication, or~~

~~(b) Contains contains no more than the following:~~

- ~~1. (a) Date of issuance or release;~~
- ~~2. (b) Name and address of issuer;~~
- ~~3. (c) Identity or title of securities;~~
- ~~4. (d) Per unit offering price;~~
- ~~5. (e) Amount of offering;~~
- ~~6. (f) Brief statement of general character of the business;~~
- ~~7. (g) Address where prospectus or offering circular may be obtained.~~

~~(3) Any advertisement, except an offering circular or prospectus, intended to be used by a registered Florida dealer in connection with the public sale or offer for sale of any securities within the State of Florida shall be filed with the Office of Financial Regulation at least ten (10) days prior to publication or circulation if such advertisement contains more than the disclosure items listed in subsection (2), or does not meet the requirements of FINRA Rule 2210.~~

*Rulemaking Authority 517.03 FS. Law Implemented 517.081 FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-100.07, 3E-100.007, Amended 9-30-10, 9-22-14, \_\_\_\_.*

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

(1) An application for Notification Registration or a shelf filing not in conflict with the provisions of Section 517.082(3), F.S., shall be filed on the Uniform Application to Register Securities (Form U-1) electronically on the Office of Financial Regulation (Office) website at <https://real.flofr.com> through the Regulatory Enforcement and Licensing (REAL) System or through the North American Securities Administrators Association Electronic Filing Depository (EFD) at <https://efdnasaa.org>. An application filed through the REAL System shall be deemed received on the date the Office issues to the applicant a confirmation of submission and payment via the Office's website. An application filed through the EFD shall be deemed received on the date the Office issues to the applicant a confirmation of submission and payment. The application shall include all information required by such form and payment of the statutory fees, as required by Section 517.082, F.S. Exhibits which are required may not be incorporated by reference to previous filings. The application shall include:

(a) Form U-1, Uniform Application to Register Securities ~~(04/23)~~ ~~(09/16)~~, which is hereby incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX> ~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-11274>~~;

(b) through (e) No change.

(2) through (5) No change.

*Rulemaking Authority 517.03(1) FS. Law Implemented 517.082 FS. History—New 10-15-86, Amended 12-8-87, 7-31-91, 10-1-96, 10-20-97, Formerly 3E-800.001, Amended 11-22-10, 10-29-*

12, 9-22-14, 11-25-19, 8-8-21,\_\_\_\_\_.

**69W-800.004 Circulation of Preliminary Prospectus.**

A preliminary prospectus if designated as such may be used by dealers registered with the Office of Financial Regulation, provided that Form U-1, Uniform Application to Register Securities (04/23) (09/16), which is hereby incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX> ~~http://www.flrules.org/Gateway/reference.asp?No=Ref-11274~~, has been filed with the Office of Financial Regulation and each purchaser of securities is provided not later than the time of the sale of securities with the offering circular contained in the definitive registration statement effective under the Securities Act of 1933 as referenced in Section 517.082, F.S.

*Rulemaking Authority 517.03(1) FS. Law Implemented 517.082 FS. History–New 10-15-86, Amended 12-8-87, 7-31-91, 10-1-96, 10-20-97, Formerly 3E-800.004, Amended 11-22-10, 11-25-19,\_\_\_\_\_.*

**69W-1000.001 Disciplinary Guidelines.**

(1) Pursuant to Section 517.1611, F.S., disciplinary guidelines applicable to each ground for which disciplinary action may be imposed by the Office against an individual or a firm under Chapter 517, F.S., are hereby adopted. The disciplinary guidelines are contained in the Office of Financial Regulation Disciplinary Guidelines for Chapter 517, Florida Statutes (F.S.) and Division 69W, Florida Administrative Code (F.A.C.) (effective ~~XX-23 01-21~~), which is hereby incorporated by reference. A copy of the disciplinary guidelines may be obtained by mail from the Florida Office of Financial Regulation, Division of Securities, 200 E. Gaines Street, Tallahassee, Florida 32399, or may be obtained electronically through the following website: <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX> ~~http://www.flrules.org/Gateway/reference.asp?No=Ref-12591~~.

(2) through (9) No change.

*Rulemaking Authority 517.1611(1) FS. Law Implemented 517.111, 517.121, 517.161, 517.1202, 517.1611(1), 517.191(4), 517.221(3), (4) FS. History–New 11-22-10, Amended 11-14-13, 5-6-15, 11-15-16, 12-10-19, 1-18-21,\_\_\_\_\_.*

**Material Incorporated by Reference:**

A copy of the incorporated material is available on the Office’s website.