

1 517.021 Definitions.--When used in this chapter,
2 unless the context otherwise indicates, the following terms
3 have the following respective meanings:

4 (20) "Security" includes any of the following:

5 (w) A viatical settlement investment.

6 (22) "Viatical settlement investment" means an
7 agreement for the purchase, sale, assignment, transfer,
8 devise, or bequest of any legal or equitable interest in a
9 viaticated policy as defined in chapter 626. The term does not
10 include:

11 (a) The transfer or assignment of an interest in a
12 previously viaticated policy from a natural person who
13 transfers or assigns no more than one such interest in a
14 calendar year.

15 (b) The provision of stop-loss coverage to a viatical
16 settlement provider, financing entity, or related provider
17 trust, as defined in s. 626.9911, by an authorized or eligible
18 insurer.

19 (c) The transfer or assignment of a viaticated policy
20 from a licensed viatical settlement provider to another
21 licensed viatical settlement provider, a related provider
22 trust, or a financing entity, as defined in s. 626.9911, or a
23 contingency insurer, if the transfer or assignment is not the
24 direct or indirect promotion of a scheme or enterprise with
25 the intent to violate or evade this chapter.

26 (d) The transfer or assignment of a viaticated policy
27 to a bank, trust company, savings institution, insurance
28 company, dealer, or investment company, as defined by the
29 Investment Company Act of 1940, a pension or profit-sharing
30 trust, or qualified institutional buyer, as defined by
31 Securities and Exchange Commission Rule 144A (17 C.F.R.

1 230.144A(a)), if the transfer or assignment is not for the
2 direct or indirect promotion of a scheme or enterprise with
3 the intent to violate or evade this chapter.

4 (e) The transfer or assignment of a viaticated policy
5 by a court-appointed conservator of a viatical settlement
6 provider who transfers or assigns ownership of viaticated
7 policies pursuant to the court's order.

8 (23) "Qualified institutional buyer" means a qualified
9 institutional buyer, as defined by U.S. Securities and
10 Exchange Commission Rule 144A (17 C.F.R. 230.144A(a)) under
11 the Securities Act of 1933, as amended, or any foreign buyer
12 that satisfies the minimum financial requirements of such
13 rule.

14 Section 2. Section 517.072, Florida Statutes, is
15 created to read:

16 517.072 Viatical settlement investments.--The
17 exemptions in s. 517.051(6), (8), and (10) do not apply to a
18 viatical settlement investment as defined in s. 517.021(22).
19 The offering of a viatical settlement investment is not an
20 exempt transaction under s. 517.061(2), (3), (8), (11), or
21 (18), regardless of whether the offering otherwise complies
22 with that section, unless the offering is to a qualified
23 institutional buyer.

24 Section 3. Subsection (7) of section 517.081, Florida
25 Statutes, is amended and subsection (8) is added to that
26 section to read:

27 517.081 Registration procedure.--

28 (7)(a) If upon examination of any application the
29 office ~~finds shall find~~ that the sale of the security referred
30 to therein would not be fraudulent and would not work or tend
31 to work a fraud upon the purchaser, that the terms of the sale

1 of such securities would be fair, just, and equitable, and
2 that the enterprise or business of the issuer is not based
3 upon unsound business principles, it shall record the
4 registration of such security in the register of securities;
5 and thereupon such security so registered may be sold by any
6 registered dealer, subject, however, to the further order of
7 the office.

8 (b) To determine whether an offering is fair, just,
9 and equitable, the commission may adopt rules that establish
10 requirements and standards for the filing, content, and
11 circulation of a preliminary, final, or amended prospectus or
12 other sales literature. The commission may establish by rule
13 merit qualification criteria relating to the issuance of
14 equity securities, debt securities, insurance company
15 securities, real estate investment trusts (REITs), or other
16 traditional or nontraditional investments, including, without
17 limitation, oil and gas investments. The criteria may include
18 the promoter's equity investment ratio, financial condition of
19 the issuer, voting rights of shareholders, any grant of
20 options or warrants to underwriters and others, loans and
21 other affiliated transactions, the use or refund of offering
22 proceeds, and other relevant criteria that the commission
23 deems necessary to such determination.

24 (8) The commission may adopt rules that establish
25 requirements and standards for:

26 (a) Disclosures to purchasers of viatical settlement
27 investments; and

28 (b) Recordkeeping requirements for sellers of viatical
29 settlement investments.

30 Section 4. Section 517.1215, Florida Statutes, is
31 created to read:

1 517.1215 Investment advisors; rules of conduct;
2 prohibited business practices.--

3 (1) The commission shall, by rule, specify
4 requirements with respect to the following for investment
5 advisors deemed to have custody of client funds:

6 (a) Notification of custody, maintenance of, and
7 safeguards for client funds;

8 (b) Communications with clients and independent
9 representatives;

10 (c) Requirements for investment advisors who have
11 custody of pooled investments; and

12 (d) Exceptions to custody requirements.

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14 In adopting rules the commission shall consider the rules and
15 regulations of the federal regulatory authority and the North
16 American Securities Administrators Association.

17 (2) The commission shall establish rules governing
18 conduct by and prohibited business practices for investment
19 advisors and their associated persons. In adopting the rules
20 the commission shall consider general industry standards as
21 expressed in the rules and regulations of the federal and
22 self-regulatory agencies and regulatory associations,
23 including, without limitation, the Securities and Exchange
24 Commission, the National Association of Securities Dealers,
25 and the North American Securities Administrators Association.

26 Section 5. Section 517.1217, Florida Statutes, is
27 created to read:

28 517.1217 Dealers; rules of conduct; prohibited
29 business practices.--

30 (1) The commission may establish rules governing
31 conduct by and prohibited business practices for dealers and

