

By Senator Richter

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1 A bill to be entitled
2 An act relating to investor protection; amending s.
3 16.56, F.S.; expanding jurisdiction of the Office of
4 Statewide Prosecution to investigate and prosecute
5 certain additional offenses; amending s. 517.021,
6 F.S.; revising definitions; amending s. 517.072, F.S.;
7 exempting certain transactions in viatical settlement
8 investments from certain registration requirements;
9 specifying application of certain provisions; amending
10 s. 517.12, F.S.; revising requirements for
11 registration of dealers, associated persons,
12 investment advisers, and branch offices, including
13 fingerprinting requirements; amending s. 517.121,
14 F.S.; authorizing the Office of Financial Regulation
15 to suspend registration for registrant failure to
16 provide certain records; providing for rescinding
17 suspensions; amending ss. 517.1215 and 517.1217, F.S.;
18 changing an agency reference; amending s. 517.131,
19 F.S.; revising a Securities Guaranty Fund disbursement
20 requirement; amending s. 517.141, F.S.; excluding
21 postjudgment interest from payments from the fund;
22 amending s. 517.161, F.S.; expanding the class of
23 persons related to or associated with an applicant or
24 registrant for which certain violations may result in
25 adverse actions taken against registrations;
26 authorizing the office to suspend a registration under
27 certain circumstances; creating s. 517.1611, F.S.;
28 requiring the Financial Services Commission to adopt
29 rules for imposing registration sanctions for certain

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30 violations by registrants and associated or related
31 persons; requiring the commission to adopt rules for
32 disqualifying registrants for certain periods of time
33 for certain criminal actions; providing rules
34 criteria; amending s. 517.191, F.S.; authorizing the
35 office to apply to the court for orders directing
36 restitution; authorizing the office to apply to the
37 court to impose civil penalties for certain
38 violations; specifying limitations; authorizing the
39 Attorney General, with approval of the office, to
40 investigate and enforce certain provisions;
41 authorizing the Attorney General to bring certain
42 actions for injunctive relief; authorizing the
43 Attorney General to recover certain investigation and
44 enforcement costs and attorney fees; providing for
45 deposit of certain recovered moneys into the Legal
46 Affairs Revolving Trust Fund; amending s. 517.221,
47 F.S.; increasing the amount of certain administrative
48 fines; authorizing the office to bar certain persons
49 from submitting applications or notifications for a
50 license or registration under certain circumstances;
51 specifying nonapplication of time limitations to
52 certain office enforcement actions; amending s.
53 517.275, F.S.; revising criteria for prohibited
54 practices relating to commodities; amending s. 905.34,
55 F.S.; expanding subject matter jurisdiction of the
56 statewide grand jury to include certain additional
57 offenses; providing an effective date.

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59 Be It Enacted by the Legislature of the State of Florida:

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61 Section 1. Paragraphs (a) and (b) of subsection (1) of
62 section 16.56, Florida Statutes, are amended to read:

63 16.56 Office of Statewide Prosecution.—

64 (1) There is created in the Department of Legal Affairs an
65 Office of Statewide Prosecution. The office shall be a separate
66 "budget entity" as that term is defined in chapter 216. The
67 office may:

68 (a) Investigate and prosecute the offenses of:

69 1. Bribery, burglary, criminal usury, extortion, gambling,
70 kidnapping, larceny, murder, prostitution, perjury, robbery,
71 carjacking, and home-invasion robbery;

72 2. Any crime involving narcotic or other dangerous drugs;

73 3. Any violation of the provisions of the Florida RICO
74 (Racketeer Influenced and Corrupt Organization) Act, including
75 any offense listed in the definition of racketeering activity in
76 s. 895.02(1)(a), providing such listed offense is investigated
77 in connection with a violation of s. 895.03 and is charged in a
78 separate count of an information or indictment containing a
79 count charging a violation of s. 895.03, the prosecution of
80 which listed offense may continue independently if the
81 prosecution of the violation of s. 895.03 is terminated for any
82 reason;

83 4. Any violation of the provisions of the Florida Anti-
84 Fencing Act;

85 5. Any violation of the provisions of the Florida Antitrust
86 Act of 1980, as amended;

87 6. Any crime involving, or resulting in, fraud or deceit

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88 upon any person;

89 7. Any violation of s. 847.0135, relating to computer
90 pornography and child exploitation prevention, or any offense
91 related to a violation of s. 847.0135 or any violation of
92 chapter 827 where the crime is facilitated by or connected to
93 the use of the Internet or any device capable of electronic data
94 storage or transmission;

95 8. Any violation of the provisions of chapter 815;

96 9. Any criminal violation of part I of chapter 499;

97 10. Any violation of the provisions of the Florida Motor
98 Fuel Tax Relief Act of 2004;

99 11. Any criminal violation of s. 409.920 or s. 409.9201; ~~or~~

100 12. Any crime involving voter registration, voting, or
101 candidate or issue petition activities;

102 13. Any criminal violation of the Florida Money Laundering
103 Act; or

104 14. Any criminal violation of the Florida Securities and
105 Investor Protection Act;

106
107 or any attempt, solicitation, or conspiracy to commit any of the
108 crimes specifically enumerated above. The office shall have such
109 power only when any such offense is occurring, or has occurred,
110 in two or more judicial circuits as part of a related
111 transaction, or when any such offense is connected with an
112 organized criminal conspiracy affecting two or more judicial
113 circuits. Information or indictments used in bringing criminal
114 cases in more than one judicial circuit shall contain general
115 allegations stating the judicial circuits and counties in which
116 crimes are alleged to have occurred or the judicial circuits and

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117 counties in which crimes affecting such circuits or counties are
118 alleged to have been connected with an organized criminal
119 conspiracy.

120 (b) Investigate and prosecute any crime enumerated in
121 subparagraphs (a)1.-14. ~~(a)1.-12.~~ facilitated by or connected to
122 the use of the Internet. Any such crime is a crime occurring in
123 every judicial circuit within the state.

124 Section 2. Subsection (4), paragraph (a) of subsection
125 (13), and subsection (23) of section 517.021, Florida Statutes,
126 are amended to read:

127 517.021 Definitions.—When used in this chapter, unless the
128 context otherwise indicates, the following terms have the
129 following respective meanings:

130 (4) "Branch office" means any location in this state of a
131 dealer or investment adviser at which one or more associated
132 persons regularly conduct the business of rendering investment
133 advice or effecting any transactions in, or inducing or
134 attempting to induce the purchase or sale of, any security or
135 any location that is held out as such. The commission may adopt
136 by rule exceptions to this definition for dealers in order to
137 maintain consistency with the definition of a branch office used
138 by self-regulatory organizations authorized by the Securities
139 and Exchange Commission, including, but not limited to, the
140 Financial Industry Regulatory Authority ~~National Association of~~
141 ~~Securities Dealers or the New York Stock Exchange.~~ The
142 commission may adopt by rule exceptions to this definition for
143 investment advisers.

144 (13) (a) "Investment adviser" includes any person who
145 receives for compensation, directly or indirectly, and engages

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146 for all or part of her or his time, directly or indirectly, or
147 through publications or writings, in the business of advising
148 others as to the value of securities or as to the advisability
149 of investments in, purchasing of, or selling of securities,
150 except a dealer whose performance of these services is solely
151 incidental to the conduct of her or his business as a dealer and
152 who receives no special compensation for such services.

153 (23) "Viatical settlement investment" means an agreement
154 for the purchase, sale, assignment, transfer, devise, or bequest
155 of all or any portion of a legal or equitable interest in a
156 viaticated policy as defined in chapter 626. ~~The term does not~~
157 ~~include:~~

158 ~~(a) The transfer or assignment of an interest in a~~
159 ~~previously viaticated policy from a natural person who transfers~~
160 ~~or assigns no more than one such interest in 1 calendar year.~~

161 ~~(b) The provision of stop-loss coverage to a viatical~~
162 ~~settlement provider, financing entity, or related provider~~
163 ~~trust, as those terms are defined in s. 626.9911, by an~~
164 ~~authorized or eligible insurer.~~

165 ~~(c) The transfer or assignment of a viaticated policy from~~
166 ~~a licensed viatical settlement provider to another licensed~~
167 ~~viatical settlement provider, a related provider trust, a~~
168 ~~financing entity, or a special purpose entity, as those terms~~
169 ~~are defined in s. 626.9911, or to a contingency insurer provided~~
170 ~~that such transfer or assignment is not the direct or indirect~~
171 ~~promotion of any scheme or enterprise with the intent of~~
172 ~~violating or evading any provision of this chapter.~~

173 ~~(d) The transfer or assignment of a viaticated policy to a~~
174 ~~bank, trust company, savings institution, insurance company,~~

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175 ~~dealer, investment company as defined in the Investment Company~~
176 ~~Act of 1940, pension or profit sharing trust, or qualified~~
177 ~~institutional buyer as defined in United States Securities and~~
178 ~~Exchange Commission Rule 144A, 17 C.F.R. s. 230.144A(a), or to~~
179 ~~an accredited investor as defined by Rule 501 of Regulation D of~~
180 ~~the Securities Act Rules, provided such transfer or assignment~~
181 ~~is not for the direct or indirect promotion of any scheme or~~
182 ~~enterprise with the intent of violating or evading any provision~~
183 ~~of this chapter.~~

184 ~~(e) The transfer or assignment of a viaticated policy by a~~
185 ~~conservator of a viatical settlement provider appointed by a~~
186 ~~court of competent jurisdiction who transfers or assigns~~
187 ~~ownership of viaticated policies pursuant to that court's order.~~

188 Section 3. Section 517.072, Florida Statutes, is amended to
189 read:

190 517.072 Viatical settlement investments.—

191 (1) The exemptions provided for by ss. 517.051(6), (8), and
192 (10) do not apply to a viatical settlement investment.

193 (2) The offering of a viatical settlement investment is not
194 an exempt transaction under s. 517.061(2), (3), (8), (11), and
195 (18), regardless of whether the offering otherwise complies with
196 the conditions of that section, unless such offering is to a
197 qualified institutional buyer.

198 (3) The registration provisions of ss. 517.07 and 517.12 do
199 not apply to any of the following transactions in viatical
200 settlement investments; however, such transactions in viatical
201 settlement investments are subject to the provisions of ss.
202 517.301, 517.311, and 517.312:

203 (a) The transfer or assignment of an interest in a

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204 previously viaticated policy from a natural person who transfers
205 or assigns no more than one such interest in a single calendar
206 year.

207 (b) The provision of stop-loss coverage to a viatical
208 settlement provider, financing entity, or related provider
209 trust, as those terms are defined in s. 626.9911, by an
210 authorized or eligible insurer.

211 (c) The transfer or assignment of a viaticated policy from
212 a licensed viatical settlement provider to another licensed
213 viatical settlement provider, a related provider trust, a
214 financing entity, or a special purpose entity, as those terms
215 are defined in s. 626.9911, or to a contingency insurer,
216 provided such transfer or assignment is not the direct or
217 indirect promotion of any scheme or enterprise with the intent
218 of violating or evading any provision of this chapter.

219 (d) The transfer or assignment of a viaticated policy to a
220 bank, trust company, savings institution, insurance company,
221 dealer, investment company as defined in the Investment Company
222 Act of 1940, pension or profit-sharing trust, or qualified
223 institutional buyer as defined in United States Securities and
224 Exchange Commission Rule 144A, 17 C.F.R. s. 230.144A(a), or to
225 an accredited investor as defined by Rule 501 of Regulation D of
226 the Securities Act Rules, provided such transfer or assignment
227 is not for the direct or indirect promotion of any scheme or
228 enterprise with the intent of violating or evading any provision
229 of this chapter.

230 (e) The transfer or assignment of a viaticated policy by a
231 conservator of a viatical settlement provider appointed by a
232 court of competent jurisdiction who transfers or assigns

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233 ownership of viaticated policies pursuant to that court's order.

234 Section 4. Subsections (7), (8), and (11) and paragraph (b)
235 of subsection (15) of section 517.12, Florida Statutes, are
236 amended to read:

237 517.12 Registration of dealers, associated persons,
238 investment advisers, and branch offices.—

239 (7) The application shall also contain such information as
240 the commission or office may require about the applicant; any
241 partner, member, officer, or director of the applicant or any
242 person having a similar status or performing similar functions;
243 any person directly or indirectly controlling the applicant; or
244 any employee of a dealer or of an investment adviser rendering
245 investment advisory services. Each applicant or any natural
246 person listed on the application form shall file a complete set
247 of fingerprints. A fingerprint card submitted to the office must
248 be taken by an authorized law enforcement agency or in a manner
249 approved by the commission or office by rule. The office shall
250 submit the fingerprints to the Department of Law Enforcement for
251 state processing, and the Department of Law Enforcement shall
252 forward the fingerprints to the Federal Bureau of Investigation
253 for federal processing. All fingerprint cards submitted to the
254 Department of Law Enforcement shall be entered into the
255 statewide automated fingerprint identification system authorized
256 by s. 943.05(2)(b). The office shall notify the Department of
257 Law Enforcement when a person whose fingerprint information is
258 retained by the Department of Law Enforcement is no longer
259 registered with the office. The cost of the fingerprint
260 processing may be borne by the office, the employer, or the
261 person subject to the background check. The Department of Law

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262 Enforcement shall submit an invoice to the office for the
263 fingerprints received each month. The office shall screen the
264 background results to determine if the applicant meets licensure
265 requirements. The commission may waive, by rule, the requirement
266 that applicants must file a set of fingerprints or the
267 requirement that such fingerprints must be processed by the
268 Department of Law Enforcement or the Federal Bureau of
269 Investigation. The commission or office may require information
270 about any such applicant or person concerning such matters as:

271 (a) His or her full name, and any other names by which he
272 or she may have been known, and his or her age, social security
273 number, photograph, qualifications, and educational and business
274 history.

275 (b) Any injunction or administrative order by a state or
276 federal agency, national securities exchange, or national
277 securities association involving a security or any aspect of the
278 securities business and any injunction or administrative order
279 by a state or federal agency regulating banking, insurance,
280 finance, or small loan companies, real estate, mortgage brokers,
281 or other related or similar industries, which injunctions or
282 administrative orders relate to such person.

283 (c) His or her conviction of, or plea of nolo contendere
284 to, a criminal offense or his or her commission of any acts
285 which would be grounds for refusal of an application under s.
286 517.161.

287 (d) The names and addresses of other persons of whom the
288 office may inquire as to his or her character, reputation, and
289 financial responsibility.

290 (8) The commission or office may require the applicant or

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291 one or more principals or general partners, or natural persons
292 exercising similar functions, or any associated person applicant
293 to successfully pass oral or written examinations. Because any
294 principal, manager, supervisor, or person exercising similar
295 functions shall be responsible for the acts of the associated
296 persons affiliated with a dealer ~~or investment adviser~~, the
297 examination standards may be higher for a dealer, office
298 manager, principal, or person exercising similar functions than
299 for a nonsupervisory associated person. The commission may waive
300 the examination process when it determines that such
301 examinations are not in the public interest. The office shall
302 waive the examination requirements for any person who has passed
303 any tests as prescribed in s. 15(b)(7) of the Securities
304 Exchange Act of 1934 that relates to the position to be filled
305 by the applicant.

306 (11) If the office finds that the applicant is of good
307 repute and character and has complied with the provisions of
308 this chapter and the rules made pursuant hereto, it shall
309 register the applicant. The registration of each dealer,
310 investment adviser, branch office, and associated person expires
311 on December 31 of the year the registration became effective
312 unless the registrant has renewed his or her registration on or
313 before that date. The commission may establish by rule
314 procedures for renewing the registration of a branch office
315 through the Central Registration Depository. Registration may be
316 renewed by furnishing such information as the commission may
317 require, together with payment of the fee required in subsection
318 (10) for dealers, investment advisers, associated persons, or
319 branch offices and the payment of any amount lawfully due and

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320 owing to the office pursuant to any order of the office or
321 pursuant to any agreement with the office. Any dealer,
322 investment adviser, ~~or~~ associated person, or branch office
323 registrant who has not renewed a registration by the time the
324 current registration expires may request reinstatement of such
325 registration by filing with the office, on or before January 31
326 of the year following the year of expiration, such information
327 as may be required by the commission, together with payment of
328 the fee required in subsection (10) for dealers, investment
329 advisers, ~~or~~ associated persons, or branch office and a late fee
330 equal to the amount of such fee. Any reinstatement of
331 registration granted by the office during the month of January
332 shall be deemed effective retroactive to January 1 of that year.

333 (15)

334 (b) In lieu of filing with the office the applications
335 specified in subsection (6), the fees required by subsection
336 (10), the renewals required by subsection (11), and the
337 termination notices required by subsection (12), the commission
338 may by rule establish procedures for the deposit of such fees
339 and documents with the Central Registration Depository or the
340 Investment Adviser Registration Depository of the Financial
341 Industry Regulatory Authority ~~National Association of Securities~~
342 ~~Dealers, Inc.~~, as developed under contract with the North
343 American Securities Administrators Association, Inc.

344 Section 5. Subsection (3) is added to section 517.121,
345 Florida Statutes, to read:

346 517.121 Books and records requirements; examinations.—

347 (3) Registration under s. 517.12 may be immediately
348 suspended by the office if the registrant fails to provide to

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349 the office, within 30 days after a written request, any of the
350 records required by this section and the rules adopted under
351 this section. The suspension may be rescinded if the registrant
352 submits the requested records to the office. For purposes of s.
353 120.60(6), failure to provide any of such records constitutes
354 immediate and serious danger to the public health, safety, and
355 welfare.

356 Section 6. Subsection (2) of section 517.1215, Florida
357 Statutes, is amended to read:

358 517.1215 Requirements, rules of conduct, and prohibited
359 business practices for investment advisors and their associated
360 persons.—

361 (2) The commission shall by rule establish rules of conduct
362 and prohibited business practices for investment advisers and
363 their associated persons. In adopting the rules, the commission
364 shall consider general industry standards as expressed in the
365 rules and regulations of the various federal and self-regulatory
366 agencies and regulatory associations, including, but not limited
367 to, the United States Securities and Exchange Commission, the
368 Financial Industry Regulatory Authority ~~National Association of~~
369 ~~Securities Dealers~~, and the North American Securities
370 Administrators Association.

371 Section 7. Section 517.1217, Florida Statutes, is amended
372 to read:

373 517.1217 Rules of conduct and prohibited business practices
374 for dealers and their associated persons.—The commission by rule
375 may establish rules of conduct and prohibited business practices
376 for dealers and their associated persons. In adopting the rules,
377 the commission shall consider general industry standards as

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378 expressed in the rules and regulations of the various federal
379 and self-regulatory agencies and regulatory associations,
380 including, but not limited to, the United States Securities and
381 Exchange Commission, the Financial Industry Regulatory Authority
382 ~~National Association of Securities Dealers~~, and the North
383 American Securities Administrators Association.

384 Section 8. Subsection (2) of section 517.131, Florida
385 Statutes, is amended to read:

386 517.131 Securities Guaranty Fund.—

387 (2) The Securities Guaranty Fund shall be disbursed as
388 provided in s. 517.141 to a person who is adjudged by a court of
389 competent jurisdiction to have suffered monetary damages as a
390 result of any of the following acts committed by a dealer,
391 investment adviser, or associated person who was licensed under
392 this chapter at the time the act was committed:

393 (a) A specific violation of s. 517.07.

394 (b) A specific violation of s. 517.301.

395 Section 9. Subsection (1) of section 517.141, Florida
396 Statutes, is amended to read:

397 517.141 Payment from the fund.—

398 (1) Any person who meets all of the conditions prescribed
399 in s. 517.131 may apply to the office for payment to be made to
400 such person from the Securities Guaranty Fund in the amount
401 equal to the unsatisfied portion of such person's judgment or
402 \$10,000, whichever is less, but only to the extent and amount
403 reflected in the judgment as being actual or compensatory
404 damages, excluding postjudgment interest, costs, and attorney's
405 fees.

406 Section 10. Subsections (1) and (6) of section 517.161,

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407 Florida Statutes, are amended to read:

408 517.161 Revocation, denial, or suspension of registration
409 of dealer, investment adviser, associated person, or branch
410 office.—

411 (1) Registration under s. 517.12 may be denied or any
412 registration granted may be revoked, restricted, or suspended by
413 the office if the office determines that such applicant or
414 registrant; any partner, member, officer, or director of the
415 applicant or registrant or any person having a similar status or
416 performing similar functions; or any person directly or
417 indirectly controlling the applicant or registrant:

418 (a) Has violated any provision of this chapter or any rule
419 or order made under this chapter;

420 (b) Has made a material false statement in the application
421 for registration;

422 (c) Has been guilty of a fraudulent act in connection with
423 rendering investment advice or in connection with any sale of
424 securities, has been or is engaged or is about to engage in
425 making fictitious or pretended sales or purchases of any such
426 securities or in any practice involving the rendering of
427 investment advice or the sale of securities which is fraudulent
428 or in violation of the law;

429 (d) Has made a misrepresentation or false statement to, or
430 concealed any essential or material fact from, any person in the
431 rendering of investment advice or the sale of a security to such
432 person;

433 (e) Has failed to account to persons interested for all
434 money and property received;

435 (f) Has not delivered, after a reasonable time, to persons

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436 entitled thereto securities held or agreed to be delivered by
437 the dealer, broker, or investment adviser, as and when paid for,
438 and due to be delivered;

439 (g) Is rendering investment advice or selling or offering
440 for sale securities through any associated person not registered
441 in compliance with the provisions of this chapter;

442 (h) Has demonstrated unworthiness to transact the business
443 of dealer, investment adviser, or associated person;

444 (i) Has exercised management or policy control over or
445 owned 10 percent or more of the securities of any dealer or
446 investment adviser that has been declared bankrupt, or had a
447 trustee appointed under the Securities Investor Protection Act;
448 or is, in the case of a dealer or investment adviser, insolvent;

449 (j) Has been convicted of, or has entered a plea of guilty
450 or nolo contendere to, regardless of whether adjudication was
451 withheld, a crime against the laws of this state or any other
452 state or of the United States or of any other country or
453 government which relates to registration as a dealer, investment
454 adviser, issuer of securities, associated person, or branch
455 office; which relates to the application for such registration;
456 or which involves moral turpitude or fraudulent or dishonest
457 dealing;

458 (k) Has had a final judgment entered against her or him in
459 a civil action upon grounds of fraud, embezzlement,
460 misrepresentation, or deceit;

461 (l) Is of bad business repute;

462 (m) Has been the subject of any decision, finding, award,
463 injunction, suspension, prohibition, revocation, denial,
464 judgment, or administrative order by any court of competent

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465 jurisdiction, administrative law judge, or by any state or
466 federal agency, national securities, commodities, or option
467 exchange, or national securities, commodities, or option
468 association, or any national securities, commodities, or options
469 dispute resolution forum, involving a violation of any federal
470 or state securities or commodities law or any rule or regulation
471 promulgated thereunder, or any rule or regulation of any
472 national securities, commodities, or options exchange or
473 national securities, commodities, or options association, or has
474 been the subject of any injunction or adverse administrative
475 order by a state or federal agency regulating banking,
476 insurance, finance or small loan companies, real estate,
477 mortgage brokers or lenders, money transmitters, or other
478 related or similar industries. For purposes of this subsection,
479 the office may not deny registration to any applicant who has
480 been continuously registered with the office for 5 years from
481 the date of entry of such decision, finding, injunction,
482 suspension, prohibition, revocation, denial, judgment, or
483 administrative order provided such decision, finding,
484 injunction, suspension, prohibition, revocation, denial,
485 judgment, or administrative order has been timely reported to
486 the office pursuant to the commission's rules. For purposes of
487 this paragraph, the term "state" includes Canadian provinces,
488 and the term "national" includes other countries; or

489 (n) Made payment to the office for a registration or notice
490 filing with a check or electronic transmission of funds that is
491 dishonored by the applicant's, registrant's, or notice filer's
492 financial institution.

493 (6) Registration under s. 517.12 may be denied or any

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494 registration granted may be suspended or restricted if an
495 applicant or registrant is charged, in a pending enforcement
496 action or pending criminal prosecution, with any conduct that
497 would authorize denial or revocation under subsection (1).
498 Registration under s. 517.12 may be suspended or restricted if a
499 registrant is arrested for any conduct that would authorize
500 revocation under subsection (1).

501 (a) Any denial of registration ordered under this
502 subsection shall be without prejudice to the applicant's ability
503 to reapply for registration.

504 (b) Any order of suspension or restriction under this
505 subsection shall:

506 1. Take effect only after a hearing, unless no hearing is
507 requested by the registrant or unless the suspension or
508 restriction is made in accordance with s. 120.60(6).

509 2. Contain a finding that evidence of a prima facie case
510 supports the charge made in the enforcement action or criminal
511 prosecution.

512 3. Operate for no longer than 10 days beyond receipt of
513 notice by the office of termination with respect to the
514 registrant of the enforcement action or criminal prosecution.

515 (c) For purposes of this subsection:

516 1. The term "enforcement action" means any judicial
517 proceeding or any administrative proceeding where such judicial
518 or administrative proceeding is brought by an agency of the
519 United States or of any state to enforce or restrain violation
520 of any state or federal law, or any disciplinary proceeding
521 maintained by the Financial Industry Regulatory Authority
522 ~~National Association of Securities Dealers~~, the National Futures

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523 Association, ~~the New York Stock Exchange,~~ or any other similar
524 self-regulatory organization.

525 2. An enforcement action is pending at any time after
526 notice to the applicant or registrant of such action and is
527 terminated at any time after entry of final judgment or decree
528 in the case of judicial proceedings, final agency action in the
529 case of administrative proceedings, and final disposition by a
530 self-regulatory organization in the case of disciplinary
531 proceedings.

532 3. A criminal prosecution is pending at any time after
533 criminal charges are filed and is terminated at any time after
534 conviction, acquittal, or dismissal.

535 Section 11. Section 517.1611, Florida Statutes, is created
536 to read:

537 517.1611 Guidelines.—

538 (1) The commission shall adopt rules setting forth sanction
539 guidelines for violations by a registrant of any provision of
540 this chapter or the rules adopted under this chapter. Pursuant
541 to such rules, registration may be suspended, revoked, or
542 restricted, or a fine may be imposed based upon violations of
543 provisions of this chapter or the rules adopted under this
544 chapter by the registrant; any partner, member, officer, or
545 director of the registrant or any person having a similar status
546 or performing similar functions; or any person directly or
547 indirectly controlling the registrant. Such guidelines shall be
548 based upon the severity and repetition of specific offenses;
549 distinguish minor violations from those that endanger the public
550 health, safety, or welfare; and provide reasonable and
551 meaningful notice to the public of likely penalties that may be

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552 imposed for proscribed conduct and ensure that such penalties
553 are imposed in a consistent manner by the office. The guidelines
554 may be adjusted based on aggravating and mitigating factors
555 established by rule and consistent with this purpose.

556 (2) The commission shall adopt rules setting forth
557 disqualifying periods pursuant to which an applicant will be
558 disqualified from eligibility for licensure based upon criminal
559 convictions, pleas of nolo contendere, or pleas of guilt,
560 regardless of whether adjudication was withheld, by the
561 applicant; any partner, member, officer, or director of the
562 applicant or any person having a similar status or performing
563 similar functions; or any person directly or indirectly
564 controlling the applicant. Such disqualifying periods may
565 include a 15-year disqualifying period based upon serious
566 felonies, a 7-year disqualifying period based upon all other
567 felonies, and a 5-year disqualifying period based upon
568 misdemeanors that relate to registration as a dealer, investment
569 adviser, issuer of securities, associated person, or branch
570 office; that relate to the application for such registration; or
571 that involve moral turpitude or fraudulent or dishonest dealing.
572 The disqualifying period shall be imposed in addition to the
573 period set by the court order of determination. The rule may
574 also consider mitigating factors, an additional waiting period
575 based upon dates of imprisonment or community supervision, an
576 additional waiting period based upon commitment of multiple
577 crimes, and other factors reasonably related to the
578 consideration of an applicant's criminal history. An applicant
579 is not eligible for registration until the expiration of the
580 disqualifying period set by rule. Section 112.011 does not apply

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581 to the registration provisions under this chapter. Nothing in
582 this section changes or amends the grounds for denial under s.
583 517.161.

584 Section 12. Section 517.191, Florida Statutes, is amended
585 to read:

586 517.191 Injunction to restrain violations; enforcement by
587 Attorney General.—

588 (1) When it appears to the office, either upon complaint or
589 otherwise, that a person has engaged or is about to engage in
590 any act or practice constituting a violation of this chapter or
591 a rule or order hereunder, the office may investigate; and
592 whenever it shall believe from evidence satisfactory to it that
593 any such person has engaged, is engaged, or is about to engage
594 in any act or practice constituting a violation of this chapter
595 or a rule or order hereunder, the office may, in addition to any
596 other remedies, bring action in the name and on behalf of the
597 state against such person and any other person concerned in or
598 in any way participating in or about to participate in such
599 practices or engaging therein or doing any act or acts in
600 furtherance thereof or in violation of this chapter to enjoin
601 such person or persons from continuing such fraudulent practices
602 or engaging therein or doing any act or acts in furtherance
603 thereof or in violation of this chapter. In any such court
604 proceedings, the office may apply for, and on due showing be
605 entitled to have issued, the court's subpoena requiring
606 forthwith the appearance of any defendant and her or his
607 employees, associated persons, or agents and the production of
608 documents, books, and records that may appear necessary for the
609 hearing of such petition, to testify or give evidence concerning

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610 the acts or conduct or things complained of in such application
611 for injunction. In such action, the equity courts shall have
612 jurisdiction of the subject matter, and a judgment may be
613 entered awarding such injunction as may be proper.

614 (2) In addition to all other means provided by law for the
615 enforcement of any temporary restraining order, temporary
616 injunction, or permanent injunction issued in any such court
617 proceedings, the court shall have the power and jurisdiction,
618 upon application of the office, to impound and to appoint a
619 receiver or administrator for the property, assets, and business
620 of the defendant, including, but not limited to, the books,
621 records, documents, and papers appertaining thereto. Such
622 receiver or administrator, when appointed and qualified, shall
623 have all powers and duties as to custody, collection,
624 administration, winding up, and liquidation of said property and
625 business as shall from time to time be conferred upon her or him
626 by the court. In any such action, the court may issue orders and
627 decrees staying all pending suits and enjoining any further
628 suits affecting the receiver's or administrator's custody or
629 possession of the said property, assets, and business or, in its
630 discretion, may with the consent of the presiding judge of the
631 circuit require that all such suits be assigned to the circuit
632 court judge appointing the said receiver or administrator.

633 (3) In addition to, or in lieu of, any other remedies
634 provided by this chapter, the office may apply to the court
635 hearing this matter for an order directing the defendant to ~~of~~
636 ~~restitution whereby the defendants in such action shall be~~
637 ~~ordered to~~ make restitution of those sums shown by the office to
638 have been obtained ~~by them~~ in violation of any of the provisions

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639 of this chapter. The office has standing to request such
640 restitution on behalf of victims in cases brought by the office
641 under this chapter, regardless of the appointment of an
642 administrator or receiver under subsection (2) or an injunction
643 under subsection (1). Further, such restitution shall, at the
644 option of the court, be payable to the administrator or receiver
645 appointed pursuant to this section or directly to the persons
646 whose assets were obtained in violation of this chapter.

647 (4) In addition to any other remedies provided by this
648 chapter, the office may apply to the court hearing the matter
649 for, and the court shall have jurisdiction to impose, a civil
650 penalty against any person found to have violated any provision
651 of this chapter, any rule or order adopted by the commission or
652 office, or any written agreement entered into with the office in
653 an amount not to exceed \$10,000 for a natural person or \$25,000
654 for any other person, or the gross amount of any pecuniary gain
655 to such defendant for each such violation other than a violation
656 of s. 517.301 plus \$50,000 for a natural person or \$250,000 for
657 any other person, or the gross amount of any pecuniary gain to
658 such defendant for each violation of s. 517.301.

659 (5) In addition to all other means provided by law for
660 enforcing any of the provisions of this chapter, when it appears
661 to the Attorney General upon complaint or otherwise that a
662 person has engaged or is engaged in any act or practice
663 constituting a violation of s. 517.275, s. 517.301, s. 517.311,
664 or s. 517.312, or any rule or order issued under such sections,
665 the Attorney General, after approval from the office, may
666 investigate and enforce the provisions of this section in the
667 same manner as provided in ss. 517.201, 517.2015, and 517.171.

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668 Whenever the Attorney General has reason to believe that any
669 such person has engaged or is engaged in any act or practice
670 constituting a violation of s. 517.275, s. 517.301, s. 517.311,
671 or s. 517.312, or any rule or orders issued under such sections,
672 the Attorney General may bring an action against such person and
673 any other person in any way participating in such act or
674 practice or engaging in such act or practice or doing any act in
675 furtherance of such act or practice, to obtain injunctive
676 relief, restitution, civil penalties, and any remedies provided
677 for in this section. The Attorney General may recover any costs
678 and attorney fees related to the investigation or enforcement of
679 this section. Notwithstanding any other provision of law, moneys
680 recovered by the Attorney General for costs, attorney fees, and
681 civil penalties for a violation of this section shall be
682 deposited in the Legal Affairs Revolving Trust Fund.

683 Section 13. Subsection (3) of section 517.221, Florida
684 Statutes, is amended, and subsections (4) and (5) are added to
685 that section, to read:

686 517.221 Cease and desist orders.—

687 (3) The office may impose and collect an administrative
688 fine against any person found to have violated any provision of
689 this chapter, any rule or order promulgated by the commission or
690 office, or any written agreement entered into with the office in
691 an amount not to exceed \$10,000 ~~\$5,000~~ for each such violation.
692 All fines collected hereunder shall be deposited as received in
693 the Anti-Fraud Trust Fund.

694 (4) The office may bar, permanently or for a specific time
695 period, any person found to have violated any provision of this
696 chapter, any rule or order adopted by the commission or office,

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697 or any written agreement entered into with the office from
698 submitting an application or notification for a license or
699 registration with the office.

700 (5) Notwithstanding any limitations set forth in any
701 chapter other than this chapter, time limitations do not apply
702 to any enforcement actions brought by the office pursuant to its
703 authority under this chapter.

704 Section 14. Section 517.275, Florida Statutes, is amended
705 to read:

706 517.275 Commodities; prohibited practices.—It is unlawful
707 and a violation of this chapter for any person to engage in any
708 act or practice in or from this state, which act or practice
709 constitutes a violation of any provision of the Commodity
710 Exchange Act, 7 U.S.C. ss. 1 et seq., as amended, or the rules
711 and regulations of the Commodity Futures Trading Commission
712 adopted under that act as amended ~~upon the effective date of~~
713 ~~this act.~~

714 Section 15. Subsection (9) of section 905.34, Florida
715 Statutes, is amended, and subsections (11) and (12) are added to
716 that section to read:

717 905.34 Powers and duties; law applicable.—The jurisdiction
718 of a statewide grand jury impaneled under this chapter shall
719 extend throughout the state. The subject matter jurisdiction of
720 the statewide grand jury shall be limited to the offenses of:

721 (9) Any criminal violation of part I of chapter 499; ~~or~~

722 (11) Any criminal violation of the Florida Money Laundering
723 Act; or

724 (12) Any criminal violation of the Florida Securities and
725 Investor Protection Act;

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727 or any attempt, solicitation, or conspiracy to commit any
728 violation of the crimes specifically enumerated above, when any
729 such offense is occurring, or has occurred, in two or more
730 judicial circuits as part of a related transaction or when any
731 such offense is connected with an organized criminal conspiracy
732 affecting two or more judicial circuits. The statewide grand
733 jury may return indictments and presentments irrespective of the
734 county or judicial circuit where the offense is committed or
735 triable. If an indictment is returned, it shall be certified and
736 transferred for trial to the county where the offense was
737 committed. The powers and duties of, and law applicable to,
738 county grand juries shall apply to a statewide grand jury except
739 when such powers, duties, and law are inconsistent with the
740 provisions of ss. 905.31-905.40.

741

Section 16. This act shall take effect July 1, 2009.