

By the Committee on Judiciary; and Senators Richter, Ring, and Storms

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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 the jurisdiction of the Office
4 of Statewide Prosecution to investigate and prosecute
5 certain additional offenses; requiring that certain
6 charging documents contain certain information;
7 amending s. 517.021, F.S.; clarifying the definition
8 of the terms "branch office" and "investment adviser";
9 expanding the definition of "viatical settlement
10 investment" by deleting provisions listing items
11 exempt from the scope of the term; amending s.
12 517.072, F.S.; exempting certain transactions
13 involving viatical settlement investments from certain
14 registration requirements; specifying applicability of
15 certain provisions of state law; amending s. 517.12,
16 F.S.; revising requirements for registration of
17 dealers, associated persons, investment advisers, and
18 branch offices; authorizing the Financial Services
19 Commission to waive certain requirements by rule;
20 changing an agency reference; amending s. 517.121,
21 F.S.; authorizing the Office of Financial Regulation
22 to suspend registration if a registrant fails to
23 provide certain records; authorizing the office to
24 rescind suspensions under certain circumstances;
25 providing that certain actions constitute an immediate
26 and serious danger to the public safety, health, and
27 welfare; amending ss. 517.1215 and 517.1217, F.S.;
28 changing an agency reference; amending s. 517.141,
29 F.S.; excluding postjudgment interest from payments

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30 made from the Securities Guaranty Fund; amending s.
31 517.161, F.S.; expanding the class of persons related
32 to or associated with an applicant or registrant for
33 which certain violations may result in adverse actions
34 taken against registrations; authorizing the office to
35 suspend a registration under certain circumstances;
36 creating s. 517.1611, F.S.; requiring that the
37 Financial Services Commission adopt certain
38 disciplinary guidelines by rule; providing
39 requirements for such guidelines; requiring that the
40 commission adopt rules identifying certain mitigating
41 and aggravating circumstances and rules for
42 disqualifying registrants for certain periods for
43 certain criminal actions; providing criteria for such
44 rules; amending s. 517.191, F.S.; authorizing the
45 office to apply to the court for orders directing
46 restitution in addition to or in lieu of other
47 remedies available pursuant to state law; providing
48 the office with standing in certain matters;
49 authorizing the office to apply to the court to impose
50 civil penalties for certain violations; limiting the
51 amount of such penalties; requiring that moneys
52 collected from the imposition of such penalties be
53 deposited into the Anti-Fraud Trust Fund; authorizing
54 the Attorney General, with approval of the office, to
55 investigate and enforce certain provisions of state
56 law; authorizing the Attorney General to bring certain
57 actions for injunctive relief; authorizing the
58 Attorney General to recover certain investigation and

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59 enforcement costs and attorney's fees; requiring that
60 certain recovered moneys be deposited into the Legal
61 Affairs Revolving Trust Fund; preserving the authority
62 of the office to bring an administrative action in
63 certain circumstances; prohibiting a person from being
64 subject to both an administrative fine and a civil
65 penalty; amending s. 517.221, F.S.; increasing the
66 amount of certain administrative fines; authorizing
67 the office to bar certain persons from submitting
68 applications or notifications for a license or
69 registration under certain circumstances; amending s.
70 517.275, F.S.; clarifying a reference to applicable
71 federal law; amending s. 896.108, F.S.; authorizing
72 the Department of Law Enforcement to enter into
73 agreements and pay a reward to any individual or
74 entity who provides certain original information;
75 requiring that the executive director of the
76 department determine the amount of a reward;
77 authorizing the executive director to exceed statutory
78 limitations for rewards under certain circumstances;
79 requiring that rewards be paid only from seized
80 assets; providing for the holding of seized and
81 forfeited funds; providing that certain persons are
82 not eligible for a reward; providing that payment of a
83 reward does not affect the admissibility of testimony
84 in any court proceeding; amending s. 905.34, F.S.;
85 expanding subject matter jurisdiction of the statewide
86 grand jury to include certain additional offenses;
87 providing an effective date.

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

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

16.56 Office of Statewide Prosecution.—

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

(a) Investigate and prosecute the offenses of:

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

2. Any crime involving narcotic or other dangerous drugs;

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

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

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

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- 117 6. Any crime involving, or resulting in, fraud or deceit
118 upon any person;
- 119 7. Any violation of s. 847.0135, relating to computer
120 pornography and child exploitation prevention, or any offense
121 related to a violation of s. 847.0135 or any violation of
122 chapter 827 where the crime is facilitated by or connected to
123 the use of the Internet or any device capable of electronic data
124 storage or transmission;
- 125 8. Any violation of the provisions of chapter 815;
- 126 9. Any criminal violation of part I of chapter 499;
- 127 10. Any violation of the provisions of the Florida Motor
128 Fuel Tax Relief Act of 2004;
- 129 11. Any criminal violation of s. 409.920 or s. 409.9201; ~~or~~
- 130 12. Any crime involving voter registration, voting, or
131 candidate or issue petition activities;
- 132 13. Any criminal violation of the Florida Money Laundering
133 Act; or
- 134 14. Any criminal violation of the Florida Securities and
135 Investor Protection Act;
- 136
- 137 or any attempt, solicitation, or conspiracy to commit any of the
138 crimes specifically enumerated above. The office shall have such
139 power only when any such offense is occurring, or has occurred,
140 in two or more judicial circuits as part of a related
141 transaction, or when any such offense is connected with an
142 organized criminal conspiracy affecting two or more judicial
143 circuits. Informations and indictments charging such offenses
144 shall contain general allegations stating the judicial circuits
145 and counties in which crimes are alleged to have occurred or the

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146 judicial circuits and counties in which crimes affecting such
147 circuits or counties are alleged to have been connected with an
148 organized criminal conspiracy.

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

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

156 517.021 Definitions.—When used in this chapter, unless the
157 context otherwise indicates, the following terms have the
158 following respective meanings:

159 (4) "Branch office" means any location in this state of a
160 dealer or investment adviser at which one or more associated
161 persons regularly conduct the business of rendering investment
162 advice or effecting any transactions in, or inducing or
163 attempting to induce the purchase or sale of, any security or
164 any location that is held out as such. The commission may adopt
165 by rule exceptions to this definition for dealers in order to
166 maintain consistency with the definition of a branch office used
167 by self-regulatory organizations authorized by the Securities
168 and Exchange Commission, including, but not limited to, the
169 Financial Industry Regulatory Authority ~~National Association of~~
170 ~~Securities Dealers or the New York Stock Exchange.~~ The
171 commission may adopt by rule exceptions to this definition for
172 investment advisers.

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

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175 for all or part of her or his time, directly or indirectly, or
176 through publications or writings, in the business of advising
177 others as to the value of securities or as to the advisability
178 of investments in, purchasing of, or selling of securities,
179 except a dealer whose performance of these services is solely
180 incidental to the conduct of her or his business as a dealer and
181 who receives no special compensation for such services.

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

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

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

194 ~~(c) The transfer or assignment of a viaticated policy from~~
195 ~~a licensed viatical settlement provider to another licensed~~
196 ~~viatical settlement provider, a related provider trust, a~~
197 ~~financing entity, or a special purpose entity, as those terms~~
198 ~~are defined in s. 626.9911, or to a contingency insurer provided~~
199 ~~that such transfer or assignment is not the direct or indirect~~
200 ~~promotion of any scheme or enterprise with the intent of~~
201 ~~violating or evading any provision of this chapter.~~

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

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204 ~~dealer, investment company as defined in the Investment Company~~
205 ~~Act of 1940, pension or profit-sharing trust, or qualified~~
206 ~~institutional buyer as defined in United States Securities and~~
207 ~~Exchange Commission Rule 144A, 17 C.F.R. s. 230.144A(a), or to~~
208 ~~an accredited investor as defined by Rule 501 of Regulation D of~~
209 ~~the Securities Act Rules, provided such transfer or assignment~~
210 ~~is not for the direct or indirect promotion of any scheme or~~
211 ~~enterprise with the intent of violating or evading any provision~~
212 ~~of this chapter.~~

213 ~~(c) The transfer or assignment of a viaticated policy by a~~
214 ~~conservator of a viatical settlement provider appointed by a~~
215 ~~court of competent jurisdiction who transfers or assigns~~
216 ~~ownership of viaticated policies pursuant to that court's order.~~

217 Section 3. Section 517.072, Florida Statutes, is amended to
218 read:

219 517.072 Viatical settlement investments.—

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

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

227 (3) The registration provisions of ss. 517.07 and 517.12 do
228 not apply to any of the following transactions in viatical
229 settlement investments; however, such transactions in viatical
230 settlement investments are subject to the provisions of ss.
231 517.301, 517.311, and 517.312:

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

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233 previously viaticated policy from a natural person who transfers
234 or assigns no more than one such interest in a single calendar
235 year.

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

240 (c) The transfer or assignment of a viaticated policy from
241 a licensed viatical settlement provider to another licensed
242 viatical settlement provider, a related provider trust, a
243 financing entity, or a special purpose entity, as those terms
244 are defined in s. 626.9911, or to a contingency insurer,
245 provided such transfer or assignment is not the direct or
246 indirect promotion of any scheme or enterprise with the intent
247 of violating or evading any provision of this chapter.

248 (d) The transfer or assignment of a viaticated policy to a
249 bank, trust company, savings institution, insurance company,
250 dealer, investment company as defined in the Investment Company
251 Act of 1940, pension or profit-sharing trust, or qualified
252 institutional buyer as defined in United States Securities and
253 Exchange Commission Rule 144A, 17 C.F.R. s. 230.144A(a), or to
254 an accredited investor as defined by Rule 501 of Regulation D of
255 the Securities Act Rules, provided such transfer or assignment
256 is not for the direct or indirect promotion of any scheme or
257 enterprise with the intent of violating or evading any provision
258 of this chapter.

259 (e) The transfer or assignment of a viaticated policy by a
260 conservator of a viatical settlement provider appointed by a
261 court of competent jurisdiction who transfers or assigns

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

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

266 517.12 Registration of dealers, associated persons,
267 investment advisers, and branch offices.—

268 (7) The application shall also contain such information as
269 the commission or office may require about the applicant; any
270 ~~partner, officer~~ member, principal, or director of the applicant
271 or any person having a similar status or performing similar
272 functions; any person directly or indirectly controlling the
273 applicant; or any employee of a dealer or of an investment
274 adviser rendering investment advisory services. Each applicant,
275 and any direct owners, principals, or indirect owners as
276 required to be reported on Forms BD or ADV, as referenced in
277 subsection (15), shall file a complete set of fingerprints. A
278 fingerprint card submitted to the office must be taken by an
279 authorized law enforcement agency or in a manner approved by
280 commission rule. The office shall submit the fingerprints to the
281 Department of Law Enforcement for state processing, and the
282 Department of Law Enforcement shall forward the fingerprints to
283 the Federal Bureau of Investigation for federal processing. The
284 cost of the fingerprint processing may be borne by the office,
285 the employer, or the person subject to the background check. The
286 Department of Law Enforcement shall submit an invoice to the
287 office for the fingerprints received each month. The office
288 shall screen the background results to determine if the
289 applicant meets licensure requirements. The commission may
290 waive, by rule, the requirement that applicants, including any

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291 direct owners, principals, or indirect owners as required to be
292 reported on Forms BD or ADV, as referenced in subsection (15),
293 ~~must~~ file a set of fingerprints or the requirement that such
294 fingerprints ~~must~~ be processed by the Department of Law
295 Enforcement or the Federal Bureau of Investigation. The
296 commission or office may require information about any such
297 applicant or person concerning such matters as:

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

302 (b) Any injunction or administrative order by a state or
303 federal agency, national securities exchange, or national
304 securities association involving a security or any aspect of the
305 securities business and any injunction or administrative order
306 by a state or federal agency regulating banking, insurance,
307 finance, or small loan companies, real estate, mortgage brokers,
308 or other related or similar industries, which injunctions or
309 administrative orders relate to such person.

310 (c) His or her conviction of, or plea of nolo contendere
311 to, a criminal offense or his or her commission of any acts
312 which would be grounds for refusal of an application under s.
313 517.161.

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

317 (8) The commission or office may require the applicant or
318 one or more principals or general partners, or natural persons
319 exercising similar functions, or any associated person applicant

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320 to successfully pass oral or written examinations. Because any
321 principal, manager, supervisor, or person exercising similar
322 functions shall be responsible for the acts of the associated
323 persons affiliated with a dealer ~~or investment adviser~~, the
324 examination standards may be higher for a dealer, office
325 manager, principal, or person exercising similar functions than
326 for a nonsupervisory associated person. The commission may waive
327 the examination process when it determines that such
328 examinations are not in the public interest. The office shall
329 waive the examination requirements for any person who has passed
330 any tests as prescribed in s. 15(b)(7) of the Securities
331 Exchange Act of 1934 that relates to the position to be filled
332 by the applicant.

333 (11) If the office finds that the applicant is of good
334 repute and character and has complied with the provisions of
335 this chapter and the rules made pursuant hereto, it shall
336 register the applicant. The registration of each dealer,
337 investment adviser, branch office, and associated person expires
338 on December 31 of the year the registration became effective
339 unless the registrant has renewed his or her registration on or
340 before that date. The commission may establish by rule
341 procedures for renewing the registration of a branch office
342 through the Central Registration Depository. Registration may be
343 renewed by furnishing such information as the commission may
344 require, together with payment of the fee required in subsection
345 (10) for dealers, investment advisers, associated persons, or
346 branch offices and the payment of any amount lawfully due and
347 owing to the office pursuant to any order of the office or
348 pursuant to any agreement with the office. Any dealer,

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349 investment adviser, ~~or~~ associated person, or branch office
350 registrant who has not renewed a registration by the time the
351 current registration expires may request reinstatement of such
352 registration by filing with the office, on or before January 31
353 of the year following the year of expiration, such information
354 as may be required by the commission, together with payment of
355 the fee required in subsection (10) for dealers, investment
356 advisers, ~~or~~ associated persons, or branch office and a late fee
357 equal to the amount of such fee. Any reinstatement of
358 registration granted by the office during the month of January
359 shall be deemed effective retroactive to January 1 of that year.

360 (15)

361 (b) In lieu of filing with the office the applications
362 specified in subsection (6), the fees required by subsection
363 (10), the renewals required by subsection (11), and the
364 termination notices required by subsection (12), the commission
365 may by rule establish procedures for the deposit of such fees
366 and documents with the Central Registration Depository or the
367 Investment Adviser Registration Depository of the Financial
368 Industry Regulatory Authority ~~National Association of Securities~~
369 ~~Dealers, Inc.~~, as developed under contract with the North
370 American Securities Administrators Association, Inc.

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

373 517.121 Books and records requirements; examinations.—

374 (3) Registration under s. 517.12 may be summarily suspended
375 by the office pursuant to s. 120.60(6) if the registrant fails
376 to promptly provide to the office, after a written request, any
377 of the records required by this section and the rules adopted

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378 under this section. The suspension may be rescinded if the
379 registrant submits the requested records to the office. For
380 purposes of s. 120.60(6), failure to provide substantially all
381 such records constitutes immediate and serious danger to the
382 public health, safety, and welfare.

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

385 517.1215 Requirements, rules of conduct, and prohibited
386 business practices for investment advisors and their associated
387 persons.—

388 (2) The commission shall by rule establish rules of conduct
389 and prohibited business practices for investment advisers and
390 their associated persons. In adopting the rules, the commission
391 shall consider general industry standards as expressed in the
392 rules and regulations of the various federal and self-regulatory
393 agencies and regulatory associations, including, but not limited
394 to, the United States Securities and Exchange Commission, the
395 Financial Industry Regulatory Authority ~~National Association of~~
396 ~~Securities Dealers~~, and the North American Securities
397 Administrators Association.

398 Section 7. Section 517.1217, Florida Statutes, is amended
399 to read:

400 517.1217 Rules of conduct and prohibited business practices
401 for dealers and their associated persons.—The commission by rule
402 may establish rules of conduct and prohibited business practices
403 for dealers and their associated persons. In adopting the rules,
404 the commission shall consider general industry standards as
405 expressed in the rules and regulations of the various federal
406 and self-regulatory agencies and regulatory associations,

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407 including, but not limited to, the United States Securities and
408 Exchange Commission, the Financial Industry Regulatory Authority
409 ~~National Association of Securities Dealers~~, and the North
410 American Securities Administrators Association.

411 Section 8. Subsection (1) of section 517.141, Florida
412 Statutes, is amended to read:

413 517.141 Payment from the fund.—

414 (1) Any person who meets all of the conditions prescribed
415 in s. 517.131 may apply to the office for payment to be made to
416 such person from the Securities Guaranty Fund in the amount
417 equal to the unsatisfied portion of such person's judgment or
418 \$10,000, whichever is less, but only to the extent and amount
419 reflected in the judgment as being actual or compensatory
420 damages, excluding postjudgment interest, costs, and attorney's
421 fees.

422 Section 9. Subsections (1) and (6) of section 517.161,
423 Florida Statutes, are amended to read:

424 517.161 Revocation, denial, or suspension of registration
425 of dealer, investment adviser, associated person, or branch
426 office.—

427 (1) Registration under s. 517.12 may be denied or any
428 registration granted may be revoked, restricted, or suspended by
429 the office if the office determines that such applicant or
430 registrant or any member, principal, or director of the
431 applicant or registrant, any person having a similar status or
432 performing similar functions, or any person directly or
433 indirectly controlling the applicant or registrant:

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

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436 (b) Has made a material false statement in the application
437 for registration;

438 (c) Has been guilty of a fraudulent act in connection with
439 rendering investment advice or in connection with any sale of
440 securities, has been or is engaged or is about to engage in
441 making fictitious or pretended sales or purchases of any such
442 securities or in any practice involving the rendering of
443 investment advice or the sale of securities which is fraudulent
444 or in violation of the law;

445 (d) Has made a misrepresentation or false statement to, or
446 concealed any essential or material fact from, any person in the
447 rendering of investment advice or the sale of a security to such
448 person;

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

451 (f) Has not delivered, after a reasonable time, to persons
452 entitled thereto securities held or agreed to be delivered by
453 the dealer, broker, or investment adviser, as and when paid for,
454 and due to be delivered;

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

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

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

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465 (j) Has been convicted of, or has entered a plea of guilty
466 or nolo contendere to, regardless of whether adjudication was
467 withheld, a crime against the laws of this state or any other
468 state or of the United States or of any other country or
469 government which relates to registration as a dealer, investment
470 adviser, issuer of securities, associated person, or branch
471 office; which relates to the application for such registration;
472 or which involves moral turpitude or fraudulent or dishonest
473 dealing;

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

477 (l) Is of bad business repute;

478 (m) Has been the subject of any decision, finding,
479 injunction, suspension, prohibition, revocation, denial,
480 judgment, or administrative order by any court of competent
481 jurisdiction, administrative law judge, or by any state or
482 federal agency, national securities, commodities, or option
483 exchange, or national securities, commodities, or option
484 association, involving a violation of any federal or state
485 securities or commodities law or any rule or regulation
486 promulgated thereunder, or any rule or regulation of any
487 national securities, commodities, or options exchange or
488 national securities, commodities, or options association, or has
489 been the subject of any injunction or adverse administrative
490 order by a state or federal agency regulating banking,
491 insurance, finance or small loan companies, real estate,
492 mortgage brokers or lenders, money transmitters, or other
493 related or similar industries. For purposes of this subsection,

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494 the office may not deny registration to any applicant who has
495 been continuously registered with the office for 5 years after
496 ~~from~~ the date of entry of such decision, finding, injunction,
497 suspension, prohibition, revocation, denial, judgment, or
498 administrative order provided such decision, finding,
499 injunction, suspension, prohibition, revocation, denial,
500 judgment, or administrative order has been timely reported to
501 the office pursuant to the commission's rules; or

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

506 (6) Registration under s. 517.12 may be denied or any
507 registration granted may be suspended or restricted if an
508 applicant or registrant is charged, in a pending enforcement
509 action or pending criminal prosecution, with any conduct that
510 would authorize denial or revocation under subsection (1).
511 Registration under s. 517.12 may be suspended or restricted if a
512 registrant is arrested for any conduct that would authorize
513 revocation under subsection (1).

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

517 (b) Any order of suspension or restriction under this
518 subsection shall:

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

522 2. Contain a finding that evidence of a prima facie case

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523 supports the charge made in the enforcement action or criminal
524 prosecution.

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

528 (c) For purposes of this subsection:

529 1. The term "enforcement action" means any judicial
530 proceeding or any administrative proceeding where such judicial
531 or administrative proceeding is brought by an agency of the
532 United States or of any state to enforce or restrain violation
533 of any state or federal law, or any disciplinary proceeding
534 maintained by the Financial Industry Regulatory Authority
535 ~~National Association of Securities Dealers~~, the National Futures
536 Association, ~~the New York Stock Exchange~~, or any other similar
537 self-regulatory organization.

538 2. An enforcement action is pending at any time after
539 notice to the applicant or registrant of such action and is
540 terminated at any time after entry of final judgment or decree
541 in the case of judicial proceedings, final agency action in the
542 case of administrative proceedings, and final disposition by a
543 self-regulatory organization in the case of disciplinary
544 proceedings.

545 3. A criminal prosecution is pending at any time after
546 criminal charges are filed and is terminated at any time after
547 conviction, acquittal, or dismissal.

548 Section 10. Section 517.1611, Florida Statutes, is created
549 to read:

550 517.1611 Guidelines.—

551 (1) The commission shall adopt by rule disciplinary

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552 guidelines applicable to each ground for disciplinary action
553 that may be imposed by the office.

554 (a) The disciplinary guidelines shall specify a range of
555 penalties based upon the severity and repetition of specific
556 offenses. The disciplinary guidelines shall distinguish minor
557 violations from violations that endanger the public health,
558 safety, or welfare; provide reasonable notice to the public of
559 penalties that may be imposed for proscribed conduct; and ensure
560 that penalties are imposed in a consistent manner by the office.

561 (b) The commission shall identify mitigating and
562 aggravating circumstances by rule that allow the office to
563 impose a penalty other than that specified in the guidelines.

564 (2) The commission shall adopt by rule disqualifying
565 periods pursuant to which an applicant will be disqualified from
566 eligibility for registration based upon criminal convictions,
567 pleas of nolo contendere, or pleas of guilt, regardless of
568 whether adjudication was withheld, by the applicant; any
569 partner, member, officer, or director of the applicant or any
570 person having a similar status or performing similar functions;
571 or any person directly or indirectly controlling the applicant.

572 (a) The disqualifying periods shall be 15 years for a
573 felony and 5 years for a misdemeanor.

574 (b) The disqualifying periods shall be related to crimes
575 involving registration as a dealer, investment adviser, issuer
576 of securities, associated person, or branch office or the
577 application for such registration or involving moral turpitude
578 or fraudulent or dishonest dealing.

579 (c) The rules may also address mitigating factors, an
580 additional waiting period based upon dates of imprisonment or

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581 community supervision, an additional waiting period based upon
582 commitment of multiple crimes, and other factors reasonably
583 related to the consideration of an applicant's criminal history.

584 (d) An applicant is not eligible for registration until the
585 expiration of the disqualifying period set by rule. Section
586 112.011 does not apply to the registration provisions under this
587 chapter. Nothing in this section changes or amends the grounds
588 for denial under s. 517.161.

589 Section 11. Subsection (3) of section 517.191, Florida
590 Statutes, is amended, and subsections (4), (5), (6), and (7) are
591 added to that section, to read:

592 517.191 Injunction to restrain violations; civil penalties;
593 enforcement by Attorney General.-

594 (3) In addition to, or in lieu of, any other remedies
595 provided by this chapter, the office may apply to the court
596 hearing this matter for an order directing the defendant of
597 ~~restitution whereby the defendants in such action shall be~~
598 ~~ordered~~ to make restitution of those sums shown by the office to
599 have been obtained ~~by them~~ in violation of any of the provisions
600 of this chapter. The office has standing to request such
601 restitution on behalf of victims in cases brought by the office
602 under this chapter, regardless of the appointment of an
603 administrator or receiver under subsection (2) or an injunction
604 under subsection (1). Further, such restitution shall, at the
605 option of the court, be payable to the administrator or receiver
606 appointed pursuant to this section or directly to the persons
607 whose assets were obtained in violation of this chapter.

608 (4) In addition to any other remedies provided by this
609 chapter, the office may apply to the court hearing the matter

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610 for, and the court shall have jurisdiction to impose, a civil
611 penalty against any person found to have violated any provision
612 of this chapter, any rule or order adopted by the commission or
613 office, or any written agreement entered into with the office in
614 an amount not to exceed \$10,000 for a natural person or \$25,000
615 for any other person, or the gross amount of any pecuniary gain
616 to such defendant for each such violation other than a violation
617 of s. 517.301 plus \$50,000 for a natural person or \$250,000 for
618 any other person, or the gross amount of any pecuniary gain to
619 such defendant for each violation of s. 517.301. All civil
620 penalties collected pursuant to this subsection shall be
621 deposited into the Anti-Fraud Trust Fund.

622 (5) In addition to all other means provided by law for
623 enforcing any of the provisions of this chapter, when the
624 Attorney General, upon complaint or otherwise, has reason to
625 believe that a person has engaged or is engaged in any act or
626 practice constituting a violation of s. 517.275, s. 517.301, s.
627 517.311, or s. 517.312, or any rule or order issued under such
628 sections, the Attorney General may investigate and bring an
629 action to enforce these provisions as provided in ss. 517.201,
630 517.2015, and 517.171 after receiving written approval from the
631 office. Such an action may be brought against such person and
632 any other person in any way participating in such act or
633 practice or engaging in such act or practice or doing any act in
634 furtherance of such act or practice, to obtain injunctive
635 relief, restitution, civil penalties, and any remedies described
636 in this section. The Attorney General may recover any costs and
637 attorney fees related to the Attorney General's investigation or
638 enforcement of this section. Notwithstanding any other provision

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639 of law, moneys recovered by the Attorney General for costs,
640 attorney fees, and civil penalties for a violation of s.
641 517.275, s. 517.301, s. 517.311, or s. 517.312, or any rule or
642 order issued pursuant to those sections, shall be deposited in
643 the Legal Affairs Revolving Trust Fund, which may be used to
644 investigate and enforce this section.

645 (6) This section does not limit the authority of the office
646 to bring an administrative action against any person who is the
647 subject of a civil action brought pursuant to this section or
648 limit the authority of the office to engage in investigations or
649 enforcement actions with the Attorney General. A person may not
650 be subject to both a civil penalty under s. 517.191(4) and an
651 administrative fine under s. 517.221(3) as the result of the
652 same facts.

653 (7) Notwithstanding s. 95.11(4)(e), an enforcement action
654 brought under this section based on a violation of any provision
655 of this chapter or any rule or order issued under this chapter
656 may be brought within 6 years after the facts giving rise to the
657 cause of action were discovered or should have been discovered
658 with the exercise of due diligence, but not more than 8 years
659 after the date such violation occurred.

660 Section 12. Subsection (3) of section 517.221, Florida
661 Statutes, is amended, and subsection (4) is added to that
662 section, to read:

663 517.221 Cease and desist orders.—

664 (3) The office may impose and collect an administrative
665 fine against any person found to have violated any provision of
666 this chapter, any rule or order promulgated by the commission or
667 office, or any written agreement entered into with the office in

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668 an amount not to exceed \$10,000 ~~\$5,000~~ for each such violation.
669 All fines collected hereunder shall be deposited as received in
670 the Anti-Fraud Trust Fund.

671 (4) The office may bar, permanently or for a specified
672 period, any person found to have violated any provision of this
673 chapter, any rule or order adopted by the commission or office,
674 or any written agreement entered into with the office from
675 submitting an application or notification for a license or
676 registration with the office.

677 Section 13. Section 517.275, Florida Statutes, is amended
678 to read:

679 517.275 Commodities; prohibited practices.—It is unlawful
680 and a violation of this chapter for any person to engage in any
681 act or practice in or from this state, which act or practice
682 constitutes a violation of any provision of the Commodity
683 Exchange Act, 7 U.S.C. ss. 1 et seq., as amended, or the rules
684 and regulations of the Commodity Futures Trading Commission
685 adopted under that act as amended ~~upon the effective date of~~
686 ~~this act.~~

687 Section 14. Section 896.108, Florida Statutes, is created
688 to read:

689 896.108 Rewards for private entities combating
690 international money laundering.—

691 (1) The Department of Law Enforcement, when conducting any
692 investigation of a violation of this chapter, may enter into
693 agreements and pay a reward to any individual or entity who
694 provides original information that leads to a recovery of a
695 criminal fine, civil penalty, or forfeiture based in whole or in
696 part upon a violation of federal law or the laws of this state.

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697 (2) The executive director of the Department of Law
698 Enforcement shall determine the amount of a reward under this
699 section. The executive director, with written approval of the
700 Office of the Attorney General, may exceed the limits of rewards
701 provided in s. 896.107 if the criminal fine, civil penalty, or
702 forfeiture amount received by the state warrants an upward
703 departure from such limits. Notwithstanding any other provision
704 of law, rewards paid under this section may be paid only from
705 seized assets awarded by the court. Funds seized by the
706 Department of Law Enforcement pursuant to this chapter shall be
707 placed in the Department's Forfeiture and Investigative Support
708 Trust Fund established in s. 943.362, or for funds secured
709 through the federal forfeiture actions in the Federal Law
710 Enforcement Trust Fund established in s. 943.365, excluding any
711 rewards paid as provided herein.

712 (3) An officer or employee of the Federal Government, a
713 state or local government, or a foreign government who in the
714 performance of official duties provides information described in
715 subsection (1) is not eligible for a reward under this section.

716 (4) Payment of a reward does not affect the admissibility
717 of testimony in any court proceeding.

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

721 905.34 Powers and duties; law applicable.—The jurisdiction
722 of a statewide grand jury impaneled under this chapter shall
723 extend throughout the state. The subject matter jurisdiction of
724 the statewide grand jury shall be limited to the offenses of:

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

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726 (11) Any criminal violation of the Florida Money Laundering
727 Act; or

728 (12) Any criminal violation of the Florida Securities and
729 Investor Protection Act;

730

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

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