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1
2 An act relating to international banking corporations;
3 amending ss. 655.005 and 663.01, F.S.; revising
4 certain definitions; amending s. 663.02, F.S.;
5 expanding application of state banking laws to include
6 certain international banking corporations; expanding
7 legislative intent; prohibiting construction to
8 authorize international banking corporation or trust
9 companies to conduct trust business under certain
10 circumstances; amending s. 663.04, F.S.; revising
11 requirements for carrying on banking business to apply
12 to certain additional financial institutions; imposing
13 additional requirements; amending s. 663.05, F.S.;
14 revising requirements for licensing international
15 banking corporations; including requirements
16 applicable to certain trust representative offices;
17 deleting certain nonapplication provisions; amending
18 s. 663.055, F.S.; increasing certain net capital
19 account requirements; amending s. 663.06, F.S.;
20 revising permissible activities requirements for
21 licensed international banking corporations; amending
22 s. 663.061, F.S.; revising a permissible activity
23 requirement for international bank agencies; amending
24 s. 663.062, F.S.; revising a permissible activity
25 requirement for licensed international representative
26 offices to apply to trust companies; creating s.
27 663.0625, F.S.; specifying permissible activities for
28 international trust company representative offices;
29 specifying requirements; amending s. 663.064, F.S.;

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30 revising application of provisions of law to
31 establishing branches of international banking
32 corporations; amending s. 663.065, F.S.; revising
33 application of provisions of law to organize a state-
34 chartered investment company; amending s. 663.11,
35 F.S.; prohibiting international banking corporations
36 from continuing to conduct licensed business in this
37 state under certain circumstances; amending s. 663.12,
38 F.S.; increasing a license application filing fee;
39 imposing an annual assessment upon certain entities;
40 amending s. 663.16, F.S.; revising definitions to
41 conform to changes made by the act; amending s.
42 663.17, F.S.; expanding criteria under which the
43 Office of Financial Regulation may take possession of
44 certain business and property of certain international
45 banking corporations; revising provisions to conform
46 to changes made by the act; amending ss. 663.171 and
47 663.172, F.S.; revising provisions to conform to
48 changes made by the act; providing an effective date.

49
50 Be It Enacted by the Legislature of the State of Florida:

51
52 Section 1. Paragraphs (h) and (p) of subsection (1) of
53 section 655.005, Florida Statutes, are amended to read:

54 655.005 Definitions.—

55 (1) As used in the financial institutions codes, unless the
56 context otherwise requires, the term:

57 (h) "Financial institution" means a state or federal
58 savings or thrift association, bank, savings bank, trust

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59 company, international bank agency, international banking
60 corporation ~~organization~~, international branch, international
61 representative office, international administrative office,
62 international trust company representative office, or credit
63 union, or an agreement corporation operating pursuant to s. 25
64 of the Federal Reserve Act, 12 U.S.C. ss. 601 et seq. or Edge
65 Act corporation organized pursuant to s. 25(a) of the Federal
66 Reserve Act, 12 U.S.C. ss. 611 et seq.

67 (p) "State financial institution" means a state-chartered
68 or state-organized association, bank, investment company, trust
69 company, international bank agency, international branch,
70 international representative office, international
71 administrative office, international trust company
72 representative office, or credit union.

73 Section 2. Subsections (3), (6), and (8) of section 663.01,
74 Florida Statutes, are amended, subsections (9) and (10) of that
75 section are renumbered as subsections (10) and (11),
76 respectively, and a new subsection (9) is added to that section,
77 to read:

78 663.01 Definitions.—As used in this part, the term:

79 (3) "Foreign country" means a country other than the United
80 States and includes any colony, dependency, or possession of
81 such country notwithstanding any definitions in chapter 658, and
82 any territory of the United States, including Guam, American
83 Samoa, the Virgin Islands, and the Commonwealth of Puerto Rico.

84 (6) "International banking corporation" means a banking
85 corporation organized and licensed under the laws of a foreign
86 country, ~~or, if organized and licensed under the laws of the~~
87 ~~United States or any of the states of the United States of~~

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88 ~~America, a banking corporation:~~

89 ~~(a) Which is not a bank or bank holding company as defined~~
90 ~~in the federal Bank Holding Company Act, as amended, 12 U.S.C.~~
91 ~~ss. 1841-1850; and~~

92 ~~(b) Which maintained, on July 1, 1981, as its only United~~
93 ~~States banking office, one state agency licensed by a state~~
94 ~~other than this state.~~

95
96 The term "international banking corporation" includes, without
97 limitation, a foreign commercial bank, foreign merchant bank, or
98 other foreign institution that engages in banking activities
99 usual in connection with the business of banking in the country
100 where such foreign institution is organized or operating,
101 including a corporation: the sole shareholders of which are one
102 or more international banking corporations or holding companies
103 which own or control one or more international banking
104 corporations which are authorized to carry on a banking
105 business, or a central bank or government agency of a foreign
106 country and any affiliate or division thereof; which has the
107 power to receive deposits from the general public in the country
108 where it is chartered and organized; and which is under the
109 supervision of the central bank or other bank regulatory
110 authority of such country. The term also includes foreign trust
111 companies, or any similar business entities, including, but not
112 limited to, foreign banks with fiduciary powers, that conduct
113 trust business as defined in the financial institutions codes.

114 (8) "International representative office" means an office
115 of an international banking corporation organized and licensed
116 under the laws of a foreign country that is established or

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117 maintained in this state for the purpose of engaging in the
118 activities described in s. 663.062, or any affiliate,
119 subsidiary, or other person that engages ~~whose primary business~~
120 ~~is to engage~~ in such activities, on behalf of such international
121 banking corporation, from an office located in this state.

122 (9) "International trust company representative office"
123 means an office of an international banking corporation or trust
124 company organized and licensed under the laws of a foreign
125 country which office is established or maintained in this state
126 for the purpose of engaging in nonfiduciary activities described
127 in s. 663.0625, or any affiliate, subsidiary, or other person
128 that engages in such activities on behalf of such international
129 banking corporation or trust company from an office located in
130 this state.

131 Section 3. Section 663.02, Florida Statutes, is amended to
132 read:

133 663.02 Applicability of state banking laws.—

134 (1) International banking corporations having offices in
135 this state shall be subject to all the provisions of the
136 financial institutions codes and chapter 655 as though such
137 international banking corporations were state banks or trust
138 companies, except where it may appear, from the context or
139 otherwise, that such provisions are clearly applicable only to
140 banks or trust companies organized under the laws of this state
141 or the United States. Without limiting the foregoing general
142 provisions, it is the intent of the Legislature that the
143 following provisions are ~~shall be~~ applicable to such banks or
144 trust companies ~~corporations~~: s. 655.031, relating to
145 administrative enforcement guidelines; s. 655.032, relating to

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146 investigations, subpoenas, hearings, and witnesses; s. 655.0321,
147 relating to hearings, proceedings, and related documents and
148 restricted access thereto; s. 655.033, relating to cease and
149 desist orders; s. 655.037, relating to removal by the office of
150 an officer, director, committee member, employee, or other
151 person; s. 655.041, relating to administrative fines and
152 enforcement; s. 655.50, relating to control of money laundering;
153 and s. 658.49, relating to loans by banks not exceeding \$50,000;
154 and any provision of law for which the penalty is increased
155 under s. 775.31 for facilitating or furthering terrorism.

156 International banking corporations shall not have the powers
157 conferred on domestic banks by the provisions of s. 658.60,
158 relating to deposits of public funds. The provisions of chapter
159 687, relating to interest and usury, shall apply to all loans
160 not subject to s. 658.49.

161 (2) Neither an international bank agency nor an
162 international branch shall have any greater right under, or by
163 virtue of, this section than is granted to banks organized under
164 the laws of this state. Legal and financial terms used herein
165 shall be deemed to refer to equivalent terms used by the country
166 in which the international banking corporation is organized.
167 This chapter and the financial institutions codes may not be
168 construed to authorize any international banking corporation or
169 trust company to conduct trust business, as defined in s.
170 658.12, from an office in this state except for those activities
171 specifically authorized by ss. 663.061(5) and 663.0625.

172 Section 4. Section 663.04, Florida Statutes, is amended to
173 read:

174 663.04 Requirements for carrying on financial institution

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175 ~~banking~~ business.—~~An~~ ~~No~~ international banking corporation or
176 trust company, or any affiliate, subsidiary, or other person or
177 business entity acting as an agent for, on behalf of, or for the
178 benefit of such international banking corporation or trust
179 company who engages in such activities from an office located in
180 this state, may not shall transact a banking or trust business,
181 or maintain in this state any office for carrying on such
182 business, or any part thereof, unless such corporation, trust
183 company, affiliate, subsidiary, person, or business entity ~~has~~:

184 (1) Has been authorized by its charter to carry on a
185 banking or trust business and has complied with the laws of the
186 jurisdiction in which it is chartered.

187 (2) Has furnished to the office such proof as to the nature
188 and character of its business and as to its financial condition
189 as the commission or office requires.

190 (3) Has filed with the office a certified copy of that
191 information required to be supplied to the Department of State
192 by those provisions of chapter 607 which are applicable to
193 foreign corporations.

194 (4) Has received a license duly issued to it by the office.

195 (5) Has capital accounts no less than the minimums required
196 per s. 663.055 and is not imminently insolvent or insolvent per
197 s. 655.005(1).

198 (6) (a) Is not in bankruptcy, conservatorship, receivership,
199 liquidation, or similar status under the laws of any country.

200 (b) Is not operating under the direct control of the
201 government, regulatory, or supervisory authority of the
202 jurisdiction of its incorporation through government
203 intervention or any other extraordinary actions.

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204 (c) Has not been in such status or control at any time
205 within the 7 years preceding the date of application for a
206 license.

207 Section 5. Section 663.05, Florida Statutes, is amended to
208 read:

209 663.05 Application for license; approval or disapproval.—

210 (1) Every international banking corporation, before being
211 licensed by the office to maintain any office in this state,
212 shall subscribe and acknowledge, and submit to the office, an
213 application which shall contain:

214 (a) The name of the international banking corporation.

215 (b) The proposed location by street and post office address
216 and county where its business is to be transacted in this state
217 and the name of the person who shall be in charge of the
218 business and affairs of the office.

219 (c) The location where its initial registered office will
220 be located in this state.

221 (d) The total amount of the capital accounts of the
222 international banking corporation.

223 (e) A complete and detailed statement of its financial
224 condition as of a date within 180 days prior to the date of such
225 application, except that the office in its discretion may, when
226 necessary or expedient, accept such statement of financial
227 condition as of a date within 240 days prior to the date of such
228 application. The office in its discretion may, when necessary or
229 expedient, require an independent opinion audit or the
230 equivalent satisfactory to the office.

231 (f) A listing of any occasion within the preceding 10-year
232 period in which either the international banking corporation or

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233 any of its directors, executive officers, or principal
234 shareholders has been arrested for, charged with, convicted of,
235 or pled guilty or nolo contendere to, regardless of
236 adjudication, any offense with respect to which the penalties
237 include the possibility of imprisonment for 1 year or more, or
238 to any offense involving money laundering, currency transaction
239 reporting, facilitating or furthering terrorism, fraud, or
240 otherwise related to the operation of a financial institution.

241 (2) The office shall disallow any illegally obtained
242 currency, monetary instruments, funds, or other financial
243 resources from the capitalization requirements of this section,
244 and the existence of such illegally obtained resources shall be
245 grounds for denial of the application for license.

246 (3) At the time an application is submitted to the office,
247 the international banking corporation shall also submit a ~~duly~~
248 ~~authenticated copy of its articles of incorporation and a copy~~
249 ~~of its bylaws, or an equivalent thereof satisfactory to the~~
250 ~~office. Such corporation shall also submit a certificate issued~~
251 ~~by the banking or supervisory authority of the country in which~~
252 ~~the international banking corporation is chartered stating that~~
253 ~~the international banking corporation is duly organized and~~
254 ~~licensed and lawfully existing in good standing and listing any~~
255 ~~instance in which the international banking corporation has been~~
256 ~~convicted of, or pled guilty or nolo contendere to, a violation~~
257 ~~of any currency transaction reporting or money laundering law~~
258 ~~which may exist in that country.~~

259 (4) Application shall be made on a form prescribed by the
260 office ~~commission~~ and shall contain such information as the
261 commission or office requires.

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262 (5) The office may, in its discretion, approve or
263 disapprove the application, but it shall not approve the
264 application unless, in its opinion, the applicant meets each and
265 every requirement of this part and any other applicable
266 provision of the financial institutions codes. The office shall
267 approve the application only if it has determined that the
268 directors, executive officers, and principal shareholders of the
269 international banking corporation are qualified by reason of
270 their financial ability, reputation, and integrity and have
271 sufficient banking and other business experience to indicate
272 that they will manage and direct the affairs of the
273 international banking corporation in a safe, sound, and lawful
274 manner. In the processing of applications, the time limitations
275 under the Administrative Procedure Act shall not apply as to
276 approval or disapproval of the application.

277 (6) The office may ~~shall~~ not issue a license to an
278 international banking corporation unless:

279 (a) It is chartered in a jurisdiction in which any bank or
280 trust company having its principal place of business in this
281 state may establish similar facilities or exercise similar
282 powers; or

283 (b) Federal law permits the appropriate federal regulatory
284 authority to issue a comparable license to the international
285 banking corporation.

286 (7) The office may not issue a license ~~shall not be issued~~
287 to an international banking corporation for the purpose of
288 operating:

289 (a) An international bank agency or an international branch
290 in this state unless the ~~international banking~~ corporation:

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291 ~~1.(a)~~ Holds an unrestricted license to receive deposits
292 from the general public, as authorized for that international
293 banking corporation, in the foreign country under the laws of
294 which it is organized and chartered.

295 ~~2.(b)~~ Has been authorized by the foreign country's bank
296 regulatory authority to establish the proposed international
297 bank office.

298 ~~3.(e)~~ Is adequately supervised by the central bank or bank
299 regulatory agency in the foreign country in which it is
300 organized and chartered.

301 ~~(8) A license shall not be issued to an international~~
302 ~~banking corporation for the purpose of operating~~

303 (b) An international representative office or an
304 international administrative office in this state unless the
305 ~~international banking~~ corporation:

306 ~~1.(a)~~ Has been authorized by the foreign country's bank
307 regulatory authority to establish the proposed international
308 bank office. ~~;~~ ~~and~~

309 ~~2.(b)~~ Is adequately supervised by the central bank or bank
310 regulatory agency in the foreign country in which it is
311 organized and chartered.

312 (c) A trust representative office in this state unless the
313 corporation:

314 1. Holds an unrestricted license to conduct trust business
315 in the foreign country under the laws of which it is organized
316 and chartered.

317 2. Has been authorized by the foreign country's trust
318 business regulatory authority to establish the proposed
319 international trust representative office.

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320 3. Is adequately supervised by the central bank or trust
321 regulatory agency in the foreign country in which it is
322 organized and chartered.

323 4. Meets all requirements under the financial institutions
324 codes for the operation of a trust company or trust department
325 as if it was a state chartered trust company or bank authorized
326 to exercise fiduciary powers.

327 ~~(8)(9)~~ The commission shall establish, by rule, the general
328 principles which shall determine the adequacy of supervision of
329 an international banking corporation's foreign establishments.
330 These principles shall be based upon the need for cooperative
331 supervisory efforts and consistent regulatory guidelines and
332 shall address, at a minimum, the capital adequacy, asset
333 quality, management, earnings, liquidity, internal controls,
334 audits, and foreign exchange operations and positions of the
335 international banking corporation. This subsection shall not
336 require examination by the home-country regulatory authorities
337 of any office of an international banking corporation in this
338 state. The commission may also establish, by rule, other
339 standards for approval of an application for a license as
340 considered necessary to ensure the safe and sound operations of
341 the international bank or trust representative office in this
342 state.

343 ~~(10) The requirements of subsection (7) shall not apply to~~
344 ~~any international banking corporation that held a license to~~
345 ~~operate an international bank agency in this state before July~~
346 ~~1, 1992.~~

347 ~~(11) The requirements of subsection (8) shall not apply to~~
348 ~~any international banking corporation that held a license to~~

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349 ~~operate an international representative office or international~~
350 ~~administrative office in this state before July 1, 1992.~~

351 Section 6. Section 663.055, Florida Statutes, is amended to
352 read:

353 663.055 Capital requirements.—

354 (1) To qualify for a license under the provisions of this
355 part, an international banking corporation must have net total
356 capital accounts, calculated according to United States
357 generally accepted accounting principles and practices, of at
358 least:

359 (a) Forty ~~Twenty-five~~ million dollars for the establishment
360 of an international bank agency, an international branch, or an
361 international administrative office; or

362 (b) Twenty ~~Ten~~ million dollars for the establishment of an
363 international representative office or international trust
364 representative office.

365 (2) Notwithstanding the provisions of paragraph (1)(a), the
366 office may approve an application for a license to establish an
367 international bank agency, an international branch, or an
368 international administrative office if:

369 (a) The international banking corporation is licensed to
370 receive deposits from the general public in the country where it
371 is organized and licensed and to engage in such other activities
372 as are usual in connection with the business of banking in such
373 country;

374 (b) The office receives a certificate that is issued by the
375 banking or supervisory authority of the country in which the
376 international banking corporation is organized and licensed and
377 states that the international banking corporation is duly

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378 organized and licensed and lawfully existing in good standing,
379 and is empowered to conduct a banking business; and

380 (c) The international banking corporation has been in the
381 business of banking for at least 10 years and is ranked by the
382 banking or supervisory authority of the country in which it is
383 organized and licensed as one of the five largest banks in that
384 country in terms of domestic deposits, as of the date of its
385 most recent statement of financial condition. However, in no
386 event shall the office approve an application under this
387 subsection for any international banking corporation with
388 capital accounts of less than \$20 ~~\$10~~ million.

389 (3) The office may specify such other conditions as it
390 determines appropriate, considering the public interest, the
391 need to maintain a safe, sound, and competitive banking system,
392 and the preservation of an environment conducive to the conduct
393 of an international banking business in this state. In
394 translating the capital accounts of an international banking
395 corporation, the office may consider monetary corrections
396 accounts that reflect results consistent with the requirements
397 of generally accepted accounting principles in the United
398 States.

399 (4) For the purpose of this part, the capital accounts of
400 an international banking corporation shall be determined in
401 accordance with rules adopted by the commission. In adopting
402 such rules, the commission shall consider similar rules adopted
403 by bank regulatory agencies in the United States and the need to
404 provide reasonably consistent regulatory requirements for
405 international banking corporations which will maintain the safe
406 and sound condition of international banking corporations doing

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407 business in this state.

408 Section 7. Subsections (1), (2), and (3) of section 663.06,
409 Florida Statutes, are amended to read:

410 663.06 Licenses; permissible activities.—

411 (1) An international banking corporation licensed to
412 operate an office in this state may engage in the business
413 authorized by this part at the office specified in such license
414 for an indefinite period. An international banking corporation
415 may operate more than one licensed office ~~international bank~~
416 ~~agency, international branch, or international representative~~
417 ~~office~~, each at a different place of business, provided that
418 each office shall be separately licensed. No license ~~to operate~~
419 ~~an international bank office~~ is transferable or assignable.
420 However, the location of a licensed ~~an international bank~~ office
421 may be changed after notification of the office. Every such
422 license shall be, at all times, conspicuously displayed in the
423 place of business specified therein.

424 (2) An international banking corporation which proposes to
425 terminate the operations of a licensed office in this state ~~its~~
426 ~~international bank agency, international branch, international~~
427 ~~representative office, or international administrative office~~
428 shall surrender the ~~its~~ license to the office and comply with
429 such procedures as the commission may prescribe by rule.

430 (3) ~~The~~ ~~An international bank agency, international branch,~~
431 ~~international representative office, or international~~
432 ~~administrative office~~ license for any international banking
433 corporation office in this state may be suspended or revoked by
434 the office, with or without examination, upon its determination
435 that the international banking corporation or the licensed

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436 office does not meet all requirements for original licensing.
437 Additionally, the office shall revoke the license of any
438 licensed office that the office determines has been inactive for
439 6 months or longer. The commission may by rule prescribe
440 additional conditions or standards under which the license of an
441 international bank agency, international branch, international
442 representative office, international trust company
443 representative office, or international administrative office
444 may be suspended or revoked.

445 Section 8. Subsection (3) of section 663.061, Florida
446 Statutes, is amended to read:

447 663.061 International bank agencies; permissible
448 activities.—

449 (3) Notwithstanding any provision of this chapter or
450 chapter 658 to the contrary, an international banking
451 corporation licensed under this part to operate an international
452 bank agency may, if authorized by rule of the commission or
453 office order, make any loan or investment or exercise any power
454 which it could make or exercise if it were operating in this
455 state as a federal agency under federal law. The commission and
456 office shall, when adopting such rules or issuing such orders,
457 consider the public interest and convenience and the need to
458 maintain a safe, sound, and competitive state banking system.
459 Unless otherwise provided by statute, an international bank
460 agency may not exercise any powers that a federal agency is not
461 authorized to exercise.

462 Section 9. Section 663.062, Florida Statutes, is amended to
463 read:

464 663.062 International representative offices; permissible

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465 activities.—An international representative office may promote
466 or assist the deposit-taking, lending, or other financial or
467 banking activities of an international banking corporation. An
468 international representative office may serve as a liaison in
469 Florida between an international banking corporation and its
470 existing and potential customers. Representatives and employees
471 based at such office may solicit business for the international
472 banking corporation and its subsidiaries and affiliates, provide
473 information to customers concerning their accounts, answer
474 questions, receive applications for extensions of credit and
475 other banking services, transmit documents on behalf of
476 customers, and make arrangements for customers to transact
477 business on their accounts, but a representative office may not
478 conduct any banking or trust business in this state.

479 Section 10. Section 663.0625, Florida Statutes, is created
480 to read:

481 663.0625 International trust company representative
482 offices; permissible activities; requirements.—An international
483 trust company representative office may conduct any nonfiduciary
484 activities that are ancillary to the fiduciary business of its
485 international banking corporation or trust company, but may not
486 act as a fiduciary. Permissible activities include advertising,
487 marketing, and soliciting for fiduciary business on behalf of an
488 international banking corporation or trust company; contacting
489 existing or potential customers, answering questions, and
490 providing information about matters related to their accounts;
491 servicing as a liaison in this state between the international
492 banking corporation or trust company and its existing or
493 potential customers; and engaging in any other activities

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494 approved by the office or under rules of the commission.
495 Representatives and employees at such office may not act as a
496 fiduciary, including, but not limited to, accepting the
497 fiduciary appointment, executing the fiduciary documents that
498 create the fiduciary relationship, or making discretionary
499 decisions regarding the investment or distribution of fiduciary
500 accounts.

501 Section 11. Section 663.064, Florida Statutes, is amended
502 to read:

503 663.064 International branches; permissible activities;
504 requirements.—An international banking corporation that meets
505 the requirements of ss. 658.26, 663.04, and 663.05 may, with the
506 approval of the office, establish one or more branches in this
507 state ~~to the extent permitted to banks from other states~~. An
508 international branch shall have the same rights and privileges
509 as a federally licensed international branch. The operations of
510 an international branch shall be conducted pursuant to
511 requirements determined by the office as necessary to ensure
512 compliance with the provisions of the financial institutions
513 codes, including requirements for the maintenance of accounts
514 and records separate from those of the international banking
515 corporation of which it is a branch. ~~An application to establish~~
516 ~~an international branch shall be made pursuant to s. 658.26.~~

517 Section 12. Subsection (3) of section 663.065, Florida
518 Statutes, is amended to read:

519 663.065 State-chartered investment companies; formation;
520 permissible activities; restrictions.—

521 (3) An application for approval to organize a state-
522 chartered investment company shall be subject to the provisions

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523 of chapter 658 ~~655~~ relating to the organization of de novo
524 financial institutions and to rules adopted by the commission as
525 necessary to ensure that the proposed state-chartered investment
526 company will be operated in a safe and lawful manner, except
527 that the applicant is not required to become a member of the
528 Federal Reserve System or the Federal Deposit Insurance
529 Corporation. State-chartered investment companies shall be
530 subject to the examination and supervision of the office and are
531 subject to the financial institutions codes to the same extent
532 as international banking corporations pursuant to s. 663.02.

533 Section 13. Section 663.11, Florida Statutes, is amended to
534 read:

535 663.11 Termination of international banking corporation's
536 charter or authority ~~Dissolution.~~ ~~In the event~~ An international
537 banking corporation that ~~which~~ is licensed to maintain an office
538 in this state may not continue to conduct its licensed business
539 in this state if the international banking corporation is
540 dissolved, or its authority or existence is otherwise terminated
541 or canceled in the jurisdiction of its incorporation, is in
542 bankruptcy, conservatorship, receivership, liquidation, or
543 similar status under the laws of any country, or is operating
544 under the direct control of the government or the regulatory or
545 supervisory authority of the jurisdiction of its incorporation
546 through government intervention or any other extraordinary
547 actions. A certificate of the official who is responsible for
548 records of banking corporations of the jurisdiction of
549 incorporation of such international banking corporation,
550 attesting to the occurrence of any such event, or a certified
551 copy of an order or decree of a court of such jurisdiction,

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552 directing the dissolution of such international banking
553 corporation, the termination of its existence, or the
554 cancellation of its authority, or declaring its status in
555 bankruptcy, conservatorship, receivership, liquidation, or
556 similar proceedings, or other reliable documentation that the
557 international banking corporation is operating under the direct
558 control of its government or a regulatory or supervisory
559 authority, shall be delivered by the international banking
560 corporation or its surviving officers and directors to the
561 office. The filing of the certificate, order, documentation, or
562 decree shall have the same effect as the revocation of the
563 license of such international banking corporation as provided in
564 s. 663.06.

565 Section 14. Paragraph (e) of subsection (1) and subsection
566 (2) of section 663.12, Florida Statutes, are amended to read:

567 663.12 Fees; assessments; fines.—

568 (1) Each application for a license under the provisions of
569 this part shall be accompanied by a nonrefundable filing fee
570 payable to the office in the following amount:

571 (e) Five ~~Two~~ thousand dollars ~~annually~~ for establishing
572 operating an international trust company representative office
573 ~~or international administrative office.~~

574 (2) Each international bank agency, international branch,
575 and state-chartered investment company shall pay to the office a
576 semiannual assessment, payable on or before January 31 and July
577 31 of each year, in an amount determined by rule by the
578 commission and calculated in a manner so as to recover the costs
579 of the office incurred in connection with the supervision of
580 international banking activities licensed under this part. These

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581 rules shall provide for uniform rates of assessment for all
582 licenses of the same type, shall provide for declining rates of
583 assessment in relation to the total assets of the licensee held
584 in the state, but shall not, in any event, provide for rates of
585 assessment which exceed the rate applicable to state banks
586 pursuant to s. 658.73, unless the rate of assessment would
587 result in a semiannual assessment of less than \$1,000. For the
588 purposes of this subsection, the total assets of an
589 international bank agency, international branch, or state-
590 chartered investment company shall include amounts due the
591 agency or branch or state investment company from other offices,
592 branches, or subsidiaries of the international banking
593 corporations or other corporations of which the agency, branch,
594 or state-chartered investment company is a part or from entities
595 related to that international banking corporation. Each
596 international representative office, international
597 administrative office, or international trust company
598 representative office shall pay to the office an annual
599 assessment in the amount of \$2,000, payable on or before January
600 31 of each year.

601 Section 15. Subsections (1), (4), (5), (11), and (12) of
602 section 663.16, Florida Statutes, are amended to read:

603 663.16 Definitions; ss. 663.17-663.181.—As used in ss.
604 663.17-663.181, the term:

605 (1) "Business and property in this state" includes, but is
606 not limited to, all property of the international banking
607 corporation, real, personal, or mixed, whether tangible or
608 intangible:

609 (a) Wherever situated, constituting a part of the business

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610 of the Florida licensed office ~~agency~~ and appearing on its books
611 as such.

612 (b) Situated within this state whether or not constituting
613 part of the business of the Florida licensed office ~~agency~~ or so
614 appearing on its books.

615 (4) Except where the context otherwise requires,
616 "international banking corporation" or "corporation" has the
617 same meaning as that provided in s. 663.01 and includes means
618 any licensed office of an international banking corporation ~~bank~~
619 ~~agency or branch~~ operating in this state.

620 (5) "Officer" means the agent or other person in charge of
621 an international banking corporation licensed office.

622 (11) "Licensed office ~~Branch or agency~~ net obligations"
623 means, with respect to a qualified financial contract, the
624 amount, if any, that would have been owed by the international
625 banking corporation to a party after netting only those
626 transactions entered into by the licensed office ~~branch or~~
627 ~~agency~~ and such party under such qualified financial contract.

628 (12) "Licensed office ~~Branch or agency~~ net payments
629 entitlement" means, with respect to a qualified financial
630 contract, the amount, if any, that would have been owed by a
631 party to the international banking corporation after netting
632 only those transactions entered into by the licensed office
633 ~~branch or agency~~ and such party under such qualified financial
634 contract.

635 Section 16. Section 663.17, Florida Statutes, is amended to
636 read:

637 663.17 Liquidation; possession of business and property;
638 inventory of assets; wages; depositing collected assets;

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639 appointing agents; appointment of judges.—

640 (1) The office may, at its discretion, take possession of
641 the business and property in this state of any international
642 banking corporation that has been licensed to operate in this
643 state upon finding that the corporation, or any of the
644 corporation's licensed offices ~~international bank agency~~
645 operating in this state has violated any law, has neglected or
646 refused to comply with the terms of a duly issued order of the
647 office, is insolvent or imminently insolvent, or is transacting
648 business in an unsound, unsafe, or unauthorized manner such that
649 the corporation is threatened with imminent insolvency, or that
650 the corporation is dissolved, its authority or existence is
651 otherwise terminated or canceled in the jurisdiction of its
652 incorporation, it is in bankruptcy, conservatorship,
653 receivership, liquidation, or similar status under the laws of
654 any country, or it is operating under the direct control of the
655 government or the regulatory or supervisory authority of the
656 jurisdiction of its incorporation through government
657 intervention or any other extraordinary actions ~~in liquidation~~
658 at its domicile or elsewhere. Title to such business and
659 property shall vest by operation of law in the office upon
660 taking possession. Thereafter, the office shall liquidate or
661 otherwise deal with such business and property in accordance
662 with the provisions of this part, chapter 658, and any other
663 provision relating to the liquidation of banking corporations.
664 The office may deal with such business and property and
665 prosecute and defend any and all actions relating to the
666 liquidation. Only the claims of creditors of the international
667 banking corporation arising out of transactions those creditors

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668 had with the international banking corporation, or any of the
669 corporation's licensed offices ~~international bank agency or~~
670 ~~agencies~~ located in this state, shall be accepted by the office
671 for payment out of the business and property which it has taken
672 possession of in this state. Acceptance or rejection of such
673 claims by the office shall not prejudice any creditor's rights
674 to otherwise share in other assets of the international banking
675 corporation. The following claims shall not be accepted by the
676 office for payment out of the business and property in the
677 office's possession in this state:

678 (a) Claims which would not represent an enforceable legal
679 obligation against an international banking corporation, or any
680 of the corporation's licensed offices located in this state, if
681 such office was ~~bank agency if such agency were~~ a separate and
682 independent legal entity.

683 (b) Amounts due and other liabilities to other offices,
684 agencies, and branches of and affiliates of such international
685 banking corporation.

686 (2) Whenever all accepted claims, together with interest on
687 such claims, and the expenses of the liquidation have been paid
688 in full or properly provided for, the office, upon the order of
689 a court of competent jurisdiction, shall transfer the remaining
690 assets to the principal office of such international banking
691 corporation, or to the duly appointed domiciliary liquidator or
692 receiver of such corporation. Dividends and other amounts that
693 remain unclaimed or unpaid and are in the possession of the
694 office for 6 months after such transfer shall be deposited by
695 the office as provided by law.

696 (3) When the office takes possession of the property and

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697 business of any international banking corporation, including any
698 of the corporation's licensed offices located in this state, the
699 office shall:

700 (a) Give notice of such fact to all corporations,
701 unincorporated associations, partnerships, governmental
702 entities, and other entities and individuals known by the office
703 to hold any assets of such corporation. No corporation,
704 unincorporated association, partnership, governmental entity, or
705 other entity or individual having notice or knowledge that the
706 office has taken possession of such property and business of a
707 international banking corporation shall have a lien or charge
708 for any payment, advance, or clearance thereafter made against
709 any of the assets of such corporation for liability thereafter
710 incurred.

711 (b) Upon written demand of the office, any corporation,
712 unincorporated association, partnership, governmental entity, or
713 other entity or individual holding assets of such corporation
714 shall deliver such assets to the office and shall be discharged
715 from liability with respect to any claim upon such assets;
716 provided, such demand shall not affect the right of a secured
717 creditor with a perfected security interest, or other valid lien
718 or security interest enforceable against third parties, to
719 retain collateral, including any right of such secured creditor
720 under any security agreement related to a qualified financial
721 contract to retain collateral and apply such collateral in
722 accordance with the provisions of the financial institutions
723 codes.

724 (c) Nothing in paragraphs (a) and (b) shall affect any
725 right of setoff permitted under applicable law; provided, in

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726 connection with the liquidation of a licensed office ~~an~~
727 ~~international bank agency~~ of any other international banking
728 corporation pursuant to this part, no entity or individual may
729 set off the business and property in this state of an
730 international banking corporation being liquidated under this
731 subsection, against the liabilities of such corporation other
732 than those that arise out of transactions engaged in by such
733 entity or individual with such licensed office ~~international~~
734 ~~bank agency~~. For purposes of this paragraph, liabilities shall
735 be deemed to include, in the case of qualified financial
736 contracts, the lesser of the two amounts calculated with respect
737 to any such qualified financial contract pursuant to s.
738 663.172(3), and this paragraph shall not be deemed to authorize
739 setoff except as otherwise permissible under applicable law.

740 (4) Any licensed office of an international banking
741 corporation of which the office has taken possession or which is
742 operating under restrictions imposed by duly constituted
743 authority may be permitted to resume business subject to the
744 office's discretion and any conditions that the office may
745 impose.

746 (5) After the office takes possession of and determines to
747 liquidate the property and business of any licensed office of an
748 international banking corporation, the office shall make an
749 inventory, in duplicate, of the assets of such licensed office
750 ~~corporation~~. One copy of such inventory shall be filed with the
751 office and one copy shall be filed with a court of competent
752 jurisdiction in the county in which the licensed office
753 ~~principal office of such corporation~~ is located.

754 (6) Notwithstanding s. 658.84, all wages actually owing to

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755 the employees of an international banking corporation for
756 services rendered within 3 months prior to the date possession
757 was taken by the office, and not exceeding \$10,000 ~~\$2,000~~ to
758 each employee, shall be paid prior to the payment of any other
759 debt or claim, and, in the discretion of the office, may be paid
760 as soon as practicable after taking possession, except that at
761 all times the office shall reserve such funds as will, in the
762 office's opinion, be sufficient for the expenses of
763 administration.

764 (7) The office is authorized, upon taking possession of any
765 licensed office of an international banking corporation, to
766 liquidate the affairs of such licensed office ~~corporation~~ and to
767 do all acts and to make such expenditures as in the office's
768 judgment are necessary to conserve the assets and business of
769 the corporation. The office shall proceed to collect the debts
770 due to the corporation. The office may, upon an order of a court
771 of competent jurisdiction, sell, assign, compromise, or
772 otherwise dispose of all bad or doubtful debts held by, and
773 compromise claims against, such corporation, other than deposit
774 claims, provided, whenever the principal amount of any such debt
775 or claim owed by or owing to such corporation does not exceed
776 \$50,000, the office may sell, assign, compromise, or otherwise
777 dispose of such debt or claim upon such terms as the office may
778 deem to be in the best interests of such corporation wherever
779 situated. When the real property of an international banking
780 corporation, to be disposed of pursuant to this subsection, is
781 located in a county in this state other than a county in which
782 an application to the court for leave to dispose is made, the
783 office shall file a certified copy of the order of such court

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784 authorizing such disposal in the office of the clerk of the
785 county in which such real property is located.

786 (8) Moneys collected by the office in liquidating a
787 licensed office of an international banking corporation shall
788 be:

789 (a) Deposited on demand, time or otherwise, in one or more
790 banks, associations, or trust companies organized under the laws
791 of this state and, in the case of insolvency or voluntary or
792 involuntary liquidation of the depositary, such deposits shall
793 be entitled to priority of payment equally with any other
794 priority given under the financial institutions codes;

795 (b) Deposited on demand, time or otherwise, in one or more
796 national banks with a principal office located in this state and
797 with total assets exceeding \$1 billion; or

798 (c) Invested in obligations of the United States, or
799 obligation for which the full faith and credit of the United
800 States is pledged to provide for the payment of interest and
801 principal.

802 (9) The office may appoint one or more persons as agent or
803 agents to assist in the liquidation of the business and affairs
804 of any international banking corporation, or any of the
805 corporation's licensed offices located in this state, in the
806 office's possession. The office shall serve a copy of the file~~a~~
807 certificate of such appointment to the international banking
808 corporation in the headquarters of the office and shall file a
809 certified copy of such certificate with a court of competent
810 jurisdiction in the county in which the licensed principal
811 office of such corporation is located in this state. The office
812 may employ such counsel and expert assistants under such titles

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813 that the office shall assign to them, and may retain such
814 officers or employees of such corporation as the office deems
815 necessary in the liquidation and distribution of the
816 corporation's assets. The office may require such security as it
817 may deem proper from the agents and assistants appointed
818 pursuant to the provisions of this subsection.

819 (10) When the office has taken possession of and is
820 liquidating the business and property in this state of any
821 international banking corporation under the provisions of this
822 part, the office shall be entitled to the appointment of a
823 single judge to supervise the liquidation in the judicial
824 circuit in which the licensed ~~principal~~ office of such
825 corporation is located. Such judge shall have the power to order
826 expedited or simplified procedures or order a reference whenever
827 necessary to resolve a matter in such liquidation.

828 (11) The compensation of agents and any other employees
829 appointed by the office to assist in the liquidation of an
830 international banking corporation, or any of the corporation's
831 licensed offices located in this state ~~bank agency~~, the
832 distribution of its assets, or the expenses of supervision,
833 shall be paid out of the assets of the corporation ~~agency~~ in the
834 hands of the office. Expenses of liquidation and approved claims
835 for fees and assessments due the office shall be given first
836 priority among unsecured creditors.

837 Section 17. Section 663.171, Florida Statutes, is amended
838 to read:

839 663.171 Liquidation; repudiation of contracts.—

840 (1) Except as otherwise provided in this section, when the
841 office has taken possession of the business and property in this

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842 state of an international banking corporation, or any of the
843 corporation's licensed offices located in this state, the office
844 may assume or repudiate any contract, including an unexpired
845 lease, of the corporation:

846 (a) To which such corporation is a party.

847 (b) The performance of which the office, in its discretion,
848 determines to be burdensome.

849 (c) The repudiation of which the office, in its discretion,
850 determines will promote the orderly administration of the
851 corporation's affairs.

852 (2) After the expiration of 90 days after the date the
853 office takes possession of the business and property of an
854 international banking corporation, or any of the corporation's
855 licensed offices located in this state, any party to a contract
856 with such corporation may demand in writing that the office
857 assume or repudiate such contract. If the office has not assumed
858 or repudiated the contract within 15 calendar days after the
859 date of receipt of such demand, the affected party may bring an
860 action in a court of competent jurisdiction in the county in
861 which the licensed ~~principal~~ office of the corporation is
862 located to obtain an order requiring the office to assume or
863 repudiate the contract. If the office has not assumed or
864 repudiated the contract by at least 1 month before the last date
865 for filing claims against the corporation, such contract shall
866 be deemed repudiated.

867 (3) Notwithstanding subsection (2), with respect to an
868 unexpired lease of the corporation for rental of real property
869 under which the corporation was a lessee, if the office remains
870 in possession of the leasehold, the office shall not be required

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871 to assume or repudiate such lease and may continue in possession
872 of such leasehold for the remainder of the term of the lease in
873 accordance with the terms of the lease; provided, if the office
874 later repudiates the lease before the end of the lease term, any
875 amounts that may be due the lessor with respect to such lease
876 shall be calculated as provided by law.

877 (4) Notwithstanding any other provision of this section
878 relating to liquidating an international banking corporation, or
879 any of the corporation's licensed offices located in this state,
880 the office shall not assume or repudiate any qualified financial
881 contract that the international banking corporation ~~bank agency~~
882 entered into which is subject to a multibranch or multiagency
883 netting agreement or arrangement that provides for netting
884 present or future payment obligations or payment entitlements,
885 including termination or closeout values relating to the
886 obligations or entitlements, among the parties to the contract
887 and agreement or arrangement and the office may, but shall not
888 be required to, assume or repudiate any other qualified
889 financial contract an international banking corporation ~~bank~~
890 ~~agency~~ entered into; provided, upon the repudiation of any
891 qualified financial contract or the termination or liquidation
892 of any qualified financial contract in accordance with its
893 terms, the liability of the office under such qualified
894 financial contract shall be determined in accordance with s.
895 663.172.

896 Section 18. Section 663.172, Florida Statutes, is amended
897 to read:

898 663.172 Liability on repudiation or termination of
899 contracts.—

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900 (1) Except as otherwise provided in this section, upon the
901 repudiation or termination of any contract pursuant to s.
902 663.171, the liability of the office shall be limited to the
903 actual direct compensatory damages of the parties to the
904 contract, determined as of the date the office took possession
905 of the business and property of the international banking
906 corporation or the corporation's licensed offices located in
907 this state. The office shall not be liable for any future wages
908 other than severance payments, to the extent such payments are
909 reasonable standards, or for payments for future service, costs
910 of cover, or any consequential, punitive, or exemplary damages,
911 damages for lost profits or lost opportunity, or damages for
912 pain and suffering.

913 (2) Except as otherwise provided in this section, the
914 liability of the office, upon the repudiation of any qualified
915 financial contract or in connection with the termination or
916 liquidation of any qualified financial contract in accordance
917 with the terms of such contract, shall be limited as provided in
918 subsection (1), except compensatory damages shall be deemed to
919 include normal and reasonable costs of cover or other reasonable
920 measures of damages used among participants in the market for
921 qualified financial contract claims, calculated as of the date
922 of repudiation or the date of the termination of such qualified
923 financial contract in accordance with the terms of the contract.
924 Upon the repudiation of any qualified financial contract or in
925 connection with the termination or liquidation of any qualified
926 financial contract in accordance with the terms of such
927 contract, the office shall be entitled to damages and such
928 damages shall be paid to the office upon written demand from the

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929 office to the other party or parties to the contract.

930 (3) In the case of the liquidation of the business and
931 property of an international banking corporation, or any of the
932 corporation's licensed offices located in this state, bank
933 ~~agency of an international banking corporation~~ by the office,
934 with respect to qualified financial contracts subject to netting
935 agreements or arrangements that provide for netting present or
936 future payment obligations or payment entitlements, including
937 termination or closeout values relating to the obligations or
938 entitlements, among the parties to the contracts and agreements
939 or arrangements, the liability of the office to any party to any
940 such qualified financial contract upon the repudiation or in any
941 connection with the termination or liquidation of such qualified
942 financial contract in accordance with the terms of such contract
943 shall be limited to the lesser of:

944 (a) The global net payment obligation; or

945 (b) The licensed office ~~branch to agency or agency to~~
946 ~~agency~~ net payment obligation.

947 (4) The liability of the office to a party under this
948 section shall be reduced by any amount otherwise paid or
949 received by the party with respect to the global net payment
950 obligation pursuant to such qualified financial contract which,
951 if added to the liability of the office under subsection (1),
952 would exceed the global net payment obligation. The liability of
953 the office under this section to a party to a qualified
954 financial contract also shall be reduced by the fair market
955 value or the amount of any proceeds of collateral that secures
956 and has been applied to satisfy the obligations of the
957 international banking corporation to the party pursuant to such

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958 qualified financial contract. If netting under the applicable
959 netting agreement or arrangement results in a licensed office
960 ~~branch-to-agency~~ net payment entitlement, notwithstanding any
961 provision in any such contract that purports to effect a
962 forfeiture of such entitlement, the office may make written
963 demand for and shall be entitled to receive from the party to
964 such contract an amount not to exceed the lesser of the global
965 net payment entitlement or the licensed office ~~branch-to-agency~~
966 net payment entitlement.

967 (5) The liability of a party under this section shall be
968 reduced by any amount otherwise paid to or received by the
969 office or any other liquidator or receiver of the international
970 banking corporation or licensed office with respect to the
971 global net payment entitlement pursuant to such qualified
972 financial contract which, if added to the liability of the party
973 under this section, would exceed the global net payments
974 entitlement. The liability of a party under this section to the
975 office pursuant to such qualified financial contract also shall
976 be reduced by the fair market value of the amount of any
977 proceeds of the collateral that secures and has been applied to
978 satisfy the obligations of the party to the international
979 banking corporation pursuant to such qualified financial
980 contract.

981 Section 19. This act shall take effect July 1, 2010.