

HB 707

2010

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

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 s. 663.064, F.S.; revising application of provisions of  
 30 law to establishing branches of international banking  
 31 corporations; amending s. 663.065, F.S.; revising  
 32 application of provisions of law to organize a state-  
 33 chartered investment company; amending s. 663.11, F.S.;  
 34 providing for termination of an international banking  
 35 corporation's charter or authority; prohibiting  
 36 international banking corporations from continuing to  
 37 conduct licensed business in this state under certain  
 38 circumstances; amending s. 663.12, F.S.; increasing a  
 39 license application filing fee; imposing an annual  
 40 assessment upon certain entities; amending s. 663.16,  
 41 F.S.; revising definitions to conform to changes made by  
 42 the act; amending s. 663.17, F.S.; expanding criteria  
 43 under which the Office of Financial Regulation may take  
 44 possession of certain business and property of certain  
 45 international banking corporations; revising provisions to  
 46 conform to changes made by the act; amending ss. 663.171  
 47 and 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  
 56 the context otherwise requires, the term:

57 (h) "Financial institution" means a state or federal  
 58 savings or thrift association, bank, savings bank, trust  
 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  
 74 663.01, Florida Statutes, are amended, subsections (9) and (10)  
 75 of that 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  
 80 United States and includes any colony, dependency, or possession  
 81 of such country notwithstanding any definitions in chapter 658,  
 82 and 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~~  
 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  
 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 shall be applicable to such banks or  
 144 corporations: s. 655.031, relating to administrative enforcement  
 145 guidelines; s. 655.032, relating to investigations, subpoenas,  
 146 hearings, and witnesses; s. 655.0321, relating to hearings,  
 147 proceedings, and related documents and restricted access  
 148 thereto; s. 655.033, relating to cease and desist orders; s.  
 149 655.037, relating to removal by the office of an officer,  
 150 director, committee member, employee, or other person; s.  
 151 655.041, relating to administrative fines and enforcement; s.  
 152 655.50, relating to control of money laundering ; and s. 658.49,  
 153 relating to loans by banks not exceeding \$50,000; and any  
 154 provision of law for which the penalty is increased under s.  
 155 775.31 for facilitating or furthering terrorism. International  
 156 banking corporations shall not have the powers conferred on  
 157 domestic banks by the provisions of s. 658.60, relating to  
 158 deposits of public funds. The provisions of chapter 687,  
 159 relating to interest and usury, shall apply to all loans not  
 160 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  
 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  
 188 nature and character of its business and as to its financial  
 189 condition 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  
 195 office.

196 (5) Has capital accounts no less than the minimums

197 required per s. 663.055 and is not imminently insolvent or  
 198 insolvent per s. 655.005(1).

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

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

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

209 Section 5. Section 663.05, Florida Statutes, is amended to  
 210 read:

211 663.05 Application for license; approval or disapproval.—

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

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

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

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

223 (d) The total amount of the capital accounts of the  
 224 international banking corporation.



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

233 (f) A listing of any occasion within the preceding 10-year  
234 period in which either the international banking corporation or  
235 any of its directors, executive officers, or principal  
236 shareholders has been arrested for, charged with, convicted of,  
237 or pled guilty or nolo contendere to, regardless of  
238 adjudication, any offense with respect to which the penalties  
239 include the possibility of imprisonment for 1 year or more, or  
240 to any offense involving money laundering, currency transaction  
241 reporting, facilitating or furthering terrorism, fraud, or  
242 otherwise related to the operation of a financial institution.

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

248 (3) At the time an application is submitted to the office,  
249 the international banking corporation shall also submit a ~~duly~~  
250 ~~authenticated copy of its articles of incorporation and a copy~~  
251 ~~of its bylaws, or an equivalent thereof satisfactory to the~~  
252 ~~office. Such corporation shall also submit a certificate issued~~

253 | by the banking or supervisory authority of the country in which  
 254 | the international banking corporation is chartered stating that  
 255 | the international banking corporation is duly organized and  
 256 | licensed and lawfully existing in good standing ~~and listing any~~  
 257 | ~~instance in which the international banking corporation has been~~  
 258 | ~~convicted of, or pled guilty or nolo contendere to, a violation~~  
 259 | ~~of any currency transaction reporting or money laundering law~~  
 260 | ~~which may exist in that country.~~

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

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

279 |         (6) The office may ~~shall~~ not issue a license to an  
 280 | international banking corporation unless:

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

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

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

291 (a) An international bank agency or an international  
 292 branch in this state unless the ~~international banking~~  
 293 corporation:

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

298 2.~~(b)~~ Has been authorized by the foreign country's bank  
 299 regulatory authority to establish the proposed international  
 300 bank office.

301 3.~~(c)~~ Is adequately supervised by the central bank or bank  
 302 regulatory agency in the foreign country in which it is  
 303 organized and chartered.

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

306 (b) An international representative office or an  
 307 international administrative office in this state unless the  
 308 ~~international banking~~ corporation:

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309        1.~~(a)~~ Has been authorized by the foreign country's bank  
310 regulatory authority to establish the proposed international  
311 bank office. ~~and~~

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

315        (c) A trust representative office in this state unless the  
316 corporation:

317        1. Holds an unrestricted license to conduct trust business  
318 in the foreign country under the laws of which it is organized  
319 and chartered.

320        2. Has been authorized by the foreign country's trust  
321 business regulatory authority to establish the proposed  
322 international trust representative office.

323        3. Is adequately supervised by the central bank or trust  
324 regulatory agency in the foreign country in which it is  
325 organized and chartered.

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

330        (8)~~(9)~~ The commission shall establish, by rule, the  
331 general principles which shall determine the adequacy of  
332 supervision of an international banking corporation's foreign  
333 establishments. These principles shall be based upon the need  
334 for cooperative supervisory efforts and consistent regulatory  
335 guidelines and shall address, at a minimum, the capital  
336 adequacy, asset quality, management, earnings, liquidity,

337 internal controls, audits, and foreign exchange operations and  
 338 positions of the international banking corporation. This  
 339 subsection shall not require examination by the home-country  
 340 regulatory authorities of any office of an international banking  
 341 corporation in this state. The commission may also establish, by  
 342 rule, other standards for approval of an application for a  
 343 license as considered necessary to ensure the safe and sound  
 344 operations of the international bank or trust representative  
 345 office in this state.

346 ~~(10) The requirements of subsection (7) shall not apply to~~  
 347 ~~any international banking corporation that held a license to~~  
 348 ~~operate an international bank agency in this state before July~~  
 349 ~~1, 1992.~~

350 ~~(11) The requirements of subsection (8) shall not apply to~~  
 351 ~~any international banking corporation that held a license to~~  
 352 ~~operate an international representative office or international~~  
 353 ~~administrative office in this state before July 1, 1992.~~

354 Section 6. Section 663.055, Florida Statutes, is amended  
 355 to read:

356 663.055 Capital requirements.—

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

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

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365 (b) Twenty ~~Ten~~ million dollars for the establishment of an  
366 international representative office or international trust  
367 representative office.

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

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

377 (b) The office receives a certificate that is issued by  
378 the banking or supervisory authority of the country in which the  
379 international banking corporation is organized and licensed and  
380 states that the international banking corporation is duly  
381 organized and licensed and lawfully existing in good standing,  
382 and is empowered to conduct a banking business; and

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

392 (3) The office may specify such other conditions as it

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393 determines appropriate, considering the public interest, the  
394 need to maintain a safe, sound, and competitive banking system,  
395 and the preservation of an environment conducive to the conduct  
396 of an international banking business in this state. In  
397 translating the capital accounts of an international banking  
398 corporation, the office may consider monetary corrections  
399 accounts that reflect results consistent with the requirements  
400 of generally accepted accounting principles in the United  
401 States.

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

411 Section 7. Subsections (1), (2), and (3) of section  
412 663.06, Florida Statutes, are amended to read:

413 663.06 Licenses; permissible activities.—

414 (1) An international banking corporation licensed to  
415 operate an office in this state may engage in the business  
416 authorized by this part at the office specified in such license  
417 for an indefinite period. An international banking corporation  
418 may operate more than one licensed office ~~international bank~~  
419 ~~agency, international branch, or international representative~~  
420 ~~office~~, each at a different place of business, provided that

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421 each office shall be separately licensed. No license ~~to operate~~  
422 ~~an international bank office~~ is transferable or assignable.  
423 However, the location of a licensed ~~an international bank~~ office  
424 may be changed after notification of the office. Every such  
425 license shall be, at all times, conspicuously displayed in the  
426 place of business specified therein.

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

433 (3) ~~The An international bank agency, international~~  
434 ~~branch, international representative office, or international~~  
435 ~~administrative office~~ license for any international banking  
436 corporation office in this state may be suspended or revoked by  
437 the office, with or without examination, upon its determination  
438 that the international banking corporation or the licensed  
439 office does not meet all requirements for original licensing.  
440 Additionally, the office shall revoke the license of any  
441 licensed office that the office determines has been inactive for  
442 6 months or longer. The commission may by rule prescribe  
443 additional conditions or standards under which the license of an  
444 international bank agency, international branch, international  
445 representative office, international trust company  
446 representative office, or international administrative office  
447 may be suspended or revoked.

448 Section 8. Subsection (3) of section 663.061, Florida



449 Statutes, is amended to read:

450 663.061 International bank agencies; permissible  
451 activities.—

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

465 Section 9. Section 663.062, Florida Statutes, is amended  
466 to read:

467 663.062 International representative offices; permissible  
468 activities.—An international representative office may promote  
469 or assist the deposit-taking, lending, or other financial or  
470 banking activities of an international banking corporation. An  
471 international representative office may serve as a liaison in  
472 Florida between an international banking corporation and its  
473 existing and potential customers. Representatives and employees  
474 based at such office may solicit business for the international  
475 banking corporation and its subsidiaries and affiliates, provide  
476 information to customers concerning their accounts, answer

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477 | questions, receive applications for extensions of credit and  
478 | other banking services, transmit documents on behalf of  
479 | customers, and make arrangements for customers to transact  
480 | business on their accounts, but a representative office may not  
481 | conduct any banking or trust business in this state.

482 |       Section 10. Section 663.0625, Florida Statutes, is created  
483 | to read:

484 |       663.0625 International trust company representative  
485 | offices; permissible activities; requirements.—An international  
486 | trust company representative office may conduct any nonfiduciary  
487 | activities that are ancillary to the fiduciary business of its  
488 | international banking corporation or trust company, but may not  
489 | act as a fiduciary. Permissible activities include advertising,  
490 | marketing, and soliciting for fiduciary business on behalf of an  
491 | international banking corporation or trust company; contacting  
492 | existing or potential customers, answering questions, and  
493 | providing information about matters related to their accounts;  
494 | servicing as a liaison in this state between the international  
495 | banking corporation or trust company and its existing or  
496 | potential customers; and engaging in any other activities  
497 | approved by the office or under rules of the commission.  
498 | Representatives and employees at such office may not act as a  
499 | fiduciary, including, but not limited to, accepting the  
500 | fiduciary appointment, executing the fiduciary documents that  
501 | create the fiduciary relationship, or making discretionary  
502 | decisions regarding the investment or distribution of fiduciary  
503 | accounts.

504 Section 11. Section 663.064, Florida Statutes, is amended  
 505 to read:

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

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

522 663.065 State-chartered investment companies; formation;  
 523 permissible activities; restrictions.—

524 (3) An application for approval to organize a state-  
 525 chartered investment company shall be subject to the provisions  
 526 of chapter 658 ~~655~~ relating to the organization of de novo  
 527 financial institutions and to rules adopted by the commission as  
 528 necessary to ensure that the proposed state-chartered investment  
 529 company will be operated in a safe and lawful manner, except  
 530 that the applicant is not required to become a member of the  
 531 Federal Reserve System or the Federal Deposit Insurance

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532 Corporation. State-chartered investment companies shall be  
533 subject to the examination and supervision of the office and are  
534 subject to the financial institutions codes to the same extent  
535 as international banking corporations pursuant to s. 663.02.

536 Section 13. Section 663.11, Florida Statutes, is amended  
537 to read:

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

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560 control of its government or a regulatory or supervisory  
561 authority, shall be delivered by the international banking  
562 corporation or its surviving officers and directors to the  
563 office. The filing of the certificate, order, documentation, or  
564 decree shall have the same effect as the revocation of the  
565 license of such international banking corporation as provided in  
566 s. 663.06.

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

569 663.12 Fees; assessments; fines.—

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

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

576 (2) Each international bank agency, international branch,  
577 and state-chartered investment company shall pay to the office a  
578 semiannual assessment, payable on or before January 31 and July  
579 31 of each year, in an amount determined by rule by the  
580 commission and calculated in a manner so as to recover the costs  
581 of the office incurred in connection with the supervision of  
582 international banking activities licensed under this part. These  
583 rules shall provide for uniform rates of assessment for all  
584 licenses of the same type, shall provide for declining rates of  
585 assessment in relation to the total assets of the licensee held  
586 in the state, but shall not, in any event, provide for rates of  
587 assessment which exceed the rate applicable to state banks

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588 | pursuant to s. 658.73, unless the rate of assessment would  
589 | result in a semiannual assessment of less than \$1,000. For the  
590 | purposes of this subsection, the total assets of an  
591 | international bank agency, international branch, or state-  
592 | chartered investment company shall include amounts due the  
593 | agency or branch or state investment company from other offices,  
594 | branches, or subsidiaries of the international banking  
595 | corporations or other corporations of which the agency, branch,  
596 | or state-chartered investment company is a part or from entities  
597 | related to that international banking corporation. Each  
598 | international representative office, international  
599 | administrative office, or international trust company  
600 | representative office shall pay to the office an annual  
601 | assessment in the amount of \$2,000, payable on or before January  
602 | 31 of each year.

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

605 | 663.16 Definitions; ss. 663.17-663.181.—As used in ss.  
606 | 663.17-663.181, the term:

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

611 | (a) Wherever situated, constituting a part of the business  
612 | of the Florida licensed office ~~agency~~ and appearing on its books  
613 | as such.

614 | (b) Situated within this state whether or not constituting  
615 | part of the business of the Florida licensed office ~~agency~~ or so

616 appearing on its books.

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

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

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

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

637 Section 16. Section 663.17, Florida Statutes, is amended  
 638 to read:

639 663.17 Liquidation; possession of business and property;  
 640 inventory of assets; wages; depositing collected assets;  
 641 appointing agents; appointment of judges.-

642 (1) The office may, at its discretion, take possession of  
 643 the business and property in this state of any international

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



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

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

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

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

698 (3) When the office takes possession of the property and  
699 business of any international banking corporation, including any

700 of the corporation's licensed offices located in this state, the  
 701 office shall:

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

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

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

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728 connection with the liquidation of a licensed office ~~an~~  
729 ~~international bank agency~~ of any other international banking  
730 corporation pursuant to this part, no entity or individual may  
731 set off the business and property in this state of an  
732 international banking corporation being liquidated under this  
733 subsection, against the liabilities of such corporation other  
734 than those that arise out of transactions engaged in by such  
735 entity or individual with such licensed office ~~international~~  
736 ~~bank agency~~. For purposes of this paragraph, liabilities shall  
737 be deemed to include, in the case of qualified financial  
738 contracts, the lesser of the two amounts calculated with respect  
739 to any such qualified financial contract pursuant to s.  
740 663.172(3), and this paragraph shall not be deemed to authorize  
741 setoff except as otherwise permissible under applicable law.

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

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

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756           (6) Notwithstanding s. 658.84, all wages actually owing to  
757 the employees of an international banking corporation for  
758 services rendered within 3 months prior to the date possession  
759 was taken by the office, and not exceeding \$10,000 ~~\$2,000~~ to  
760 each employee, shall be paid prior to the payment of any other  
761 debt or claim, and, in the discretion of the office, may be paid  
762 as soon as practicable after taking possession, except that at  
763 all times the office shall reserve such funds as will, in the  
764 office's opinion, be sufficient for the expenses of  
765 administration.

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

784 an application to the court for leave to dispose is made, the  
 785 office shall file a certified copy of the order of such court  
 786 authorizing such disposal in the office of the clerk of the  
 787 county in which such real property is located.

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

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

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

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

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

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812 jurisdiction in the county in which the licensed ~~principal~~  
813 office of such corporation is located in this state. The office  
814 may employ such counsel and expert assistants under such titles  
815 that the office shall assign to them, and may retain such  
816 officers or employees of such corporation as the office deems  
817 necessary in the liquidation and distribution of the  
818 corporation's assets. The office may require such security as it  
819 may deem proper from the agents and assistants appointed  
820 pursuant to the provisions of this subsection.

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

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

839 Section 17. Section 663.171, Florida Statutes, is amended

840 to read:

841 663.171 Liquidation; repudiation of contracts.—

842 (1) Except as otherwise provided in this section, when the  
 843 office has taken possession of the business and property in this  
 844 state of an international banking corporation, or any of the  
 845 corporation's licensed offices located in this state, the office  
 846 may assume or repudiate any contract, including an unexpired  
 847 lease, of the corporation:

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

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

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

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

868 | be deemed repudiated.

869 |       (3) Notwithstanding subsection (2), with respect to an  
 870 | unexpired lease of the corporation for rental of real property  
 871 | under which the corporation was a lessee, if the office remains  
 872 | in possession of the leasehold, the office shall not be required  
 873 | to assume or repudiate such lease and may continue in possession  
 874 | of such leasehold for the remainder of the term of the lease in  
 875 | accordance with the terms of the lease; provided, if the office  
 876 | later repudiates the lease before the end of the lease term, any  
 877 | amounts that may be due the lessor with respect to such lease  
 878 | shall be calculated as provided by law.

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



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896 financial contract shall be determined in accordance with s.  
897 663.172.

898 Section 18. Section 663.172, Florida Statutes, is amended  
899 to read:

900 663.172 Liability on repudiation or termination of  
901 contracts.—

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

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

924 of repudiation or the date of the termination of such qualified  
 925 financial contract in accordance with the terms of the contract.  
 926 Upon the repudiation of any qualified financial contract or in  
 927 connection with the termination or liquidation of any qualified  
 928 financial contract in accordance with the terms of such  
 929 contract, the office shall be entitled to damages and such  
 930 damages shall be paid to the office upon written demand from the  
 931 office to the other party or parties to the contract.

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

- 946 (a) The global net payment obligation; or
- 947 (b) The licensed office ~~branch-to-agency or agency-to-~~  
 948 ~~agency~~ net payment obligation.

949 (4) The liability of the office to a party under this  
 950 section shall be reduced by any amount otherwise paid or  
 951 received by the party with respect to the global net payment

952 obligation pursuant to such qualified financial contract which,  
 953 if added to the liability of the office under subsection (1),  
 954 would exceed the global net payment obligation. The liability of  
 955 the office under this section to a party to a qualified  
 956 financial contract also shall be reduced by the fair market  
 957 value or the amount of any proceeds of collateral that secures  
 958 and has been applied to satisfy the obligations of the  
 959 international banking corporation to the party pursuant to such  
 960 qualified financial contract. If netting under the applicable  
 961 netting agreement or arrangement results in a licensed office  
 962 ~~branch-to-agency~~ net payment entitlement, notwithstanding any  
 963 provision in any such contract that purports to effect a  
 964 forfeiture of such entitlement, the office may make written  
 965 demand for and shall be entitled to receive from the party to  
 966 such contract an amount not to exceed the lesser of the global  
 967 net payment entitlement or the licensed office ~~branch-to-agency~~  
 968 net payment entitlement.

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

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980 | satisfy the obligations of the party to the international  
981 | banking corporation pursuant to such qualified financial  
982 | contract.

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