

1                   A bill to be entitled  
2           An act relating to transactions with foreign financial  
3           institutions; creating s. 655.969, F.S.; requiring  
4           financial institutions chartered in this state with  
5           certain correspondent or payable-through accounts to  
6           report specified information to the Office of  
7           Financial Regulation; amending s. 663.01, F.S.;  
8           defining the term "international trust entity";  
9           creating s. 663.041, F.S.; providing for a moratorium  
10          for a specified timeframe on enforcement by the office  
11          of certain licensure requirements for certain  
12          organizations and entities providing services to  
13          international trust companies; providing moratorium  
14          eligibility requirements; specifying that the office  
15          may otherwise enforce the financial institutions  
16          codes; requiring the office to confirm specified  
17          findings when processing a request; specifying  
18          circumstances for establishing adequate supervision;  
19          providing procedures and timeframes for the office's  
20          processing of requests and the office's requests for  
21          additional information; providing timeframes for the  
22          office to confirm with the organization or entity  
23          whether or not it is a party to the moratorium;  
24          requiring the office to issue a notice of denial if it  
25          determines that an organization or entity is not a  
26          party to the moratorium; providing that a denied

27 organization or entity may request a certain hearing  
 28 to contest the denial; providing for construction if  
 29 certain timeframes are not met; authorizing the office  
 30 to conduct an onsite visitation of an organization or  
 31 entity for a specified purpose until a specified time;  
 32 requiring the office to issue an immediate final order  
 33 disqualifying an organization or entity if it finds  
 34 that such organization or entity made a material false  
 35 statement in its request; providing for construction;  
 36 providing for future repeal; providing an effective  
 37 date.

38  
 39 Be It Enacted by the Legislature of the State of Florida:

40  
 41 Section 1. Section 655.969, Florida Statutes, is created  
 42 to read:

43 655.969 Correspondent accounts with a foreign financial  
 44 institution.—A financial institution chartered in this state  
 45 which maintains a correspondent account or a payable-through  
 46 account with a foreign financial institution owned by a country  
 47 under a sanctions program administered by the United States  
 48 Department of the Treasury must, within 5 business days,  
 49 identify and report the source of every transaction that passes  
 50 through the foreign correspondent account to the office and  
 51 certify that the source does not involve any confiscated  
 52 property, as defined in the federal Cuban Liberty and Democratic

53 Solidarity Act of 1996, 22 U.S.C. s. 6023(4) and (12).

54 Section 2. Subsections (10) and (11) of section 663.01,  
55 Florida Statutes, are renumbered as subsections (11) and (12),  
56 respectively, and a new subsection (10) is added to that section  
57 to read:

58 663.01 Definitions.—As used in this part, the term:

59 (10) "International trust entity" means an international  
60 trust company, an international business, an international  
61 business organization, or an affiliated or subsidiary entity  
62 that is licensed, chartered, or similarly permitted to conduct  
63 trust business in a foreign country or countries under the laws  
64 of which it is organized and supervised. This subsection is  
65 repealed July 1, 2017.

66 Section 3. Section 663.041, Florida Statutes, is created  
67 to read:

68 663.041 Moratorium on enforcement of licensing  
69 requirements for an international trust entity or related  
70 entities.—

71 (1) Until June 30, 2017, the office shall delay  
72 enforcement of the provisions of s. 663.04(4) requiring  
73 licensure of an organization or entity in this state, if such  
74 organization or entity provides services to an international  
75 trust entity that engages in the activities described in s.  
76 663.0625. This moratorium applies to any person who manages or  
77 controls or is employed by such organization or entity that:

78 (a) Has been organized to conduct business in this state

79 since October 1, 2013;

80 (b) Has not been fined or sanctioned as a result of any  
81 complaint to the office or to any other state or federal  
82 regulatory agency;

83 (c) Has not been convicted of a felony or ordered to pay a  
84 fine or penalty in any proceeding initiated by any federal,  
85 state, foreign, or local law enforcement agency or international  
86 agency within the 10 years before the effective date of this  
87 section;

88 (d) Has not had any of its directors, executive officers,  
89 principal shareholders, managers, or employees arrested for,  
90 charged with, convicted of, or plead guilty or nolo contendere  
91 to, regardless of adjudication, any offense that is punishable  
92 by imprisonment for 1 year or more, or to any offense that  
93 involves money laundering, currency transaction reporting, tax  
94 evasion, facilitating or furthering terrorism, or fraud, or that  
95 is otherwise related to the operation of a financial  
96 institution, within the 10 years before the effective date of  
97 this section;

98 (e) Does not provide services to any international trust  
99 entity that is in bankruptcy, conservatorship, receivership,  
100 liquidation, or a similar status under the laws of any country;

101 (f) Does not provide banking services or promote or sell  
102 investments or accept custody of assets;

103 (g) Does not act as a fiduciary, which includes, but is  
104 not limited to, accepting a fiduciary appointment, executing

105 fiduciary documents that create a fiduciary relationship, or  
106 making discretionary decisions regarding the investment or  
107 distribution of fiduciary accounts; and

108 (h) Conducts those activities permissible for an  
109 international trust company representative office as described  
110 in s. 663.0625.

111 (2) This moratorium does not prevent the office from  
112 otherwise enforcing the financial institutions codes.

113 (3) An organization or entity that requests to qualify for  
114 this moratorium shall notify the office in writing by letter on  
115 official letterhead via the United States Postal Service or a  
116 commercial mail delivery service by July 1, 2016, and shall  
117 provide the following:

118 (a) Written proof that it has been organized to do  
119 business in this state since October 1, 2013;

120 (b) The name or names under which it conducts business in  
121 this state;

122 (c) The addresses of the locations from which it conducts  
123 business;

124 (d) A detailed list and description of the activities  
125 being conducted at the locations from which it conducts  
126 business. The detailed description must include the types of  
127 consumers that utilize those activities and an explanation of  
128 how those activities serve the business purpose of an  
129 international trust entity.

130 (e) As to each international trust entity for which the

131 organization or entity provides services in this state, the  
132 following:

133 1. The name of the international trust entity;

134 2. A list of the current officers and directors of the  
135 international trust entity;

136 3. The country or countries where the international trust  
137 entity is organized;

138 4. The supervisory or regulatory authority or equivalent  
139 or other similarly sanctioned body, organization, governmental  
140 entity, or recognized authority that has licensing, chartering,  
141 oversight, or similar responsibilities over the international  
142 trust entity;

143 5. Proof that the international trust entity has been  
144 authorized by a charter, license, or similar authorization by  
145 operation of law in its home country jurisdiction to engage in  
146 trust business;

147 6. Proof that the international trust entity lawfully  
148 exists and is in good standing under the laws of the  
149 jurisdiction where it is chartered, licensed, organized, or  
150 lawfully existing. The organization or entity shall submit a  
151 certificate of good standing or equivalent document issued by  
152 the supervisory or regulatory authority, or equivalent or other  
153 similarly sanctioned body, organization, governmental entity, or  
154 recognized authority that has similar responsibilities, of the  
155 country where the international trust entity is licensed,  
156 chartered, or has similar authorization by operation of law and

157 is duly organized and lawfully exists;

158 7. A statement that the international trust entity is not  
159 in bankruptcy, conservatorship, receivership, liquidation, or a  
160 similar status under the laws of any country; and

161 8. Proof that the international trust entity is not  
162 operating under the direct control of the government,  
163 regulatory, or supervisory authority of the jurisdiction of its  
164 incorporation, through government intervention or any other  
165 extraordinary actions, and confirmation that it has not been in  
166 such a status or under such control at any time within the 7  
167 years before the date of notification to the office.

168 (f) A declaration under penalty of perjury, signed by an  
169 executive officer or managing member of the organization or  
170 entity, that the information provided to the office is true and  
171 correct to the best of his or her knowledge.

172 (4) In processing the request to qualify for the  
173 moratorium, the office shall confirm the following:

174 (a) That the international trust entity is adequately  
175 supervised by the appropriate regulatory authority or equivalent  
176 or other similarly sanctioned body, organization, governmental  
177 entity, or recognized authority that has similar  
178 responsibilities in the foreign country where it is organized,  
179 chartered, or licensed or has similar authorization by operation  
180 of law; and

181 (b) That the jurisdiction of the international trust  
182 entity or its offices, subsidiaries, or any affiliates that are

183 directly involved in or facilitate the financial services  
184 functions, banking, or fiduciary activities of the international  
185 trust entity is not listed on the Financial Action Task Force  
186 Public Statement or on its list of jurisdictions with  
187 deficiencies in anti-money laundering or counterterrorism.

188 (5) For purposes of establishing adequate supervision  
189 under paragraph (4) (a):

190 (a) An international trust entity with foreign  
191 establishments is considered adequately supervised if it is  
192 subject to consolidated supervision. As used in this paragraph,  
193 "consolidated supervision" means supervision that enables the  
194 appropriate regulatory authority or equivalent or other  
195 similarly sanctioned body, organization, governmental entity, or  
196 recognized authority that has similar responsibilities of the  
197 home-country supervisor to evaluate:

198 1. The safety and soundness of the international trust  
199 entity's operations located within the home-country supervisor's  
200 primary jurisdiction; and

201 2. The safety and soundness of the operations performed by  
202 the international trust entity's offices, subsidiaries, or any  
203 affiliates that are directly involved in or facilitate the  
204 financial services functions, banking, or fiduciary activities  
205 of the international trust entity, wherever located.

206 (b) An international trust entity with no foreign  
207 establishments is considered adequately supervised if the home-  
208 country supervisor can evaluate the safety and soundness of the



209 international trust entity's operations through its offices or  
210 subsidiaries located in the home country. For purposes of this  
211 paragraph, the home-country supervisor is deemed to be able to  
212 evaluate the safety and soundness of the international trust  
213 entity of the home-country supervisor if the home-country  
214 supervisor has the authority to collect and maintain information  
215 on the following regulatory components:

216 1. The technical competence and administrative ability of  
217 the management of the international trust entity;

218 2. The adequacy of the operational, accounting, and  
219 internal control systems of the international trust entity,  
220 particularly the international trust entity's ability to monitor  
221 and supervise the activities of its offices or subsidiaries,  
222 wherever located;

223 3. The adequacy of asset management and asset  
224 administration policies and procedures;

225 4. The capital adequacy of the international trust entity,  
226 its offices, or its subsidiaries as specified by any capital  
227 adequacy guidelines in the home country;

228 5. The earnings of the international trust entity; and

229 6. The external and internal auditors' reports as well as  
230 any management comment letters or any documented corrective  
231 action by management.

232 (c) As used in paragraph (4) (a) and paragraphs (a) and  
233 (b), adequate supervision does not require supervision of  
234 companies that control the international trust entity or

235 supervision of companies under common control with the  
236 international trust entity but that are not in the international  
237 trust entity's chain of control. However, in cases in which a  
238 holding company is the only controlling element in a trust  
239 business group, holding company supervision by a home-country  
240 supervisor is required when it is needed to ensure consolidated  
241 supervision of all trust business entities in the group.

242 (d) If a holding company is not supervised, adequate  
243 supervision is deemed to exist if the home-country supervisor  
244 regulates transactions between the international trust entity  
245 and controlling persons or entities under common control.

246 (e) An international trust entity and its offices or  
247 subsidiaries is deemed to be adequately supervised if it is  
248 subject to comprehensive supervision. For purposes of this  
249 paragraph, comprehensive supervision:

250 1. Means supervision that ensures that the supervisory  
251 processes and procedures are designed to inform the home-country  
252 supervisor about the international trust entity's financial  
253 condition, including capital position; asset management and  
254 asset administration; internal controls and audit; compliance  
255 with existing laws and regulations; and capability of  
256 management.

257 2. Does not require the home-country supervisor to conduct  
258 onsite examinations of the international trust entity or its  
259 offices or subsidiaries. However, at a minimum, it requires that  
260 the home-country supervisor:

261 a. Is able to determine that the international trust  
262 entity and its offices and subsidiaries have adequate procedures  
263 for monitoring and controlling its domestic and foreign  
264 operations;

265 b. Is authorized to obtain information, by examination,  
266 audits, or any other means, on the domestic and foreign  
267 operations of the international trust entity, including its  
268 offices and subsidiaries, and the authority to demand financial  
269 reports that permit analysis of the consolidated condition of  
270 the international trust entity;

271 c. Is able to obtain information on the dealings and  
272 relationships between the international trust entity and its  
273 offices and subsidiaries, wherever located; and

274 d. Is authorized by the home country's laws to ensure the  
275 safety and soundness of the international trust entity and its  
276 offices and subsidiaries.

277 3. Includes the ability and willingness of the home-  
278 country supervisor to provide the office early notice of any  
279 weaknesses being experienced by the international trust entity,  
280 including its offices or subsidiaries, wherever located.

281 4. Includes the ability of the home-country supervisor to  
282 provide the office assurance of cooperation by both the  
283 international trust entity and the home-country supervisor.

284 (6) The office shall process requests made for inclusion  
285 under the moratorium as follows:

286 (a) Upon receipt of any request, the office shall review

287 the information contained therein and request any additional  
288 information to complete the request to qualify for the  
289 moratorium within 30 days after receipt. The organization or  
290 entity shall provide the requested additional information within  
291 45 days after the receipt of the notice from the office. If the  
292 office does not make such request within 30 days after receipt,  
293 the request to qualify for the moratorium is deemed complete as  
294 of the date it was received.

295 (b) Within 20 days after receipt of any additional  
296 information requested, the office shall deem the request to  
297 qualify for the moratorium complete or provide notification to  
298 the organization or entity that the information provided does  
299 not satisfy the office's request or requests.

300 (c) Within 90 days after receipt of a completed request to  
301 qualify for the moratorium, the office shall confirm with the  
302 organization or entity whether or not it is a party to the  
303 moratorium.

304 1. If the office determines that an organization or entity  
305 is not a party to the moratorium, the office shall issue a  
306 notice of denial informing the organization or entity of its  
307 determination. An organization or entity receiving a notice of  
308 denial may request a hearing under chapter 120 to contest the  
309 denial.

310 2. If the office fails to notify the organization or  
311 entity within such time whether or not the organization or  
312 entity is a party to the moratorium, the organization or entity

313 is considered a party to the moratorium by operation of law.

314 (d) During the period of the moratorium, the office may  
315 conduct an onsite visitation of an organization or entity to  
316 confirm information provided to the office in deeming the  
317 organization or entity qualified for the moratorium. If the  
318 office finds that the organization or entity made a material  
319 false statement in its request to qualify for the moratorium,  
320 the office shall issue an immediate final order suspending the  
321 organization's or entity's qualification and disqualifying the  
322 organization or entity from participating in the moratorium. A  
323 material false statement made in the request to qualify for the  
324 moratorium constitutes an immediate and serious danger to the  
325 public health, safety, and welfare.

326 (7) This section is repealed July 1, 2017.

327 Section 4. This act shall take effect upon becoming a law.