

By Senator Garcia

36-00617-17

20171078__

1 A bill to be entitled
2 An act relating to international financial
3 institutions; amending s. 655.005, F.S.; revising a
4 definition; amending s. 655.059, F.S.; revising
5 requirements for confidential books and records of
6 financial institutions that must be made available for
7 inspection and examination; revising examination
8 requirements; revising a definition; providing
9 applicability; amending s. 663.01, F.S.; revising a
10 definition to conform to changes made by the act;
11 providing a directive to the Division of Law Revision
12 and Information; creating s. 663.530, F.S.; providing
13 definitions; creating s. 663.531, F.S.; authorizing a
14 limited service affiliate to engage in specified
15 activities; prohibiting a limited service affiliate
16 from engaging in specified activities; providing the
17 Office of Financial Regulation with certain powers;
18 providing applicability; creating s. 663.532, F.S.;
19 providing limited service affiliate registration
20 requirements; creating s. 663.533, F.S.; providing
21 applicability of the financial institutions codes;
22 creating s. 663.534, F.S.; providing registrant
23 reporting requirements; creating s. 663.535, F.S.;
24 providing limited service affiliate notice
25 requirements; creating s. 663.536, F.S.; providing
26 registrant recordkeeping requirements; creating s.
27 663.537, F.S.; authorizing the office to conduct an
28 examination or investigation of a limited service
29 affiliate; providing powers of the office; providing

36-00617-17

20171078__

30 fee requirements; creating s. 663.538, F.S.; providing
31 for the suspension, revocation, or voluntary surrender
32 of registration; creating s. 663.539, F.S.; providing
33 registration renewal requirements; creating s.
34 663.540, F.S.; providing that an international trust
35 entity's limited service affiliate is not required, in
36 response to a subpoena, to produce certain books or
37 records under specified circumstances; providing an
38 effective date.

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

41
42 Section 1. Paragraph (i) of subsection (1) of section
43 655.005, Florida Statutes, is amended to read:

44 655.005 Definitions.—

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

47 (i) "Financial institution" means a state or federal
48 savings or thrift association, bank, savings bank, trust
49 company, international bank agency, international banking
50 corporation, international branch, international representative
51 office, international administrative office, international trust
52 entity, international trust company representative office,
53 limited service affiliate, credit union, or an agreement
54 corporation operating pursuant to s. 25 of the Federal Reserve
55 Act, 12 U.S.C. ss. 601 et seq. or Edge Act corporation organized
56 pursuant to s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss.
57 611 et seq.

58 Section 2. Paragraph (d) of subsection (1) and paragraph

36-00617-17

20171078__

59 (b) of subsection (2) of section 655.059, Florida Statutes, are
60 amended to read:

61 655.059 Access to books and records; confidentiality;
62 penalty for disclosure.—

63 (1) The books and records of a financial institution are
64 confidential and shall be made available for inspection and
65 examination only:

66 (d) With respect to an international banking corporation or
67 international trust entity, to the home-country supervisor of
68 the international banking corporation or international trust
69 entity, provided:

70 1. The home-country supervisor provides advance notice to
71 the office that the home-country supervisor intends to examine
72 the Florida office of the international banking corporation or
73 international trust entity. The examination may be conducted
74 onsite or offsite and may include ongoing reporting by the
75 principal Florida office of the international banking
76 corporation or international trust entity to the home-country
77 supervisor.

78 2. The home-country supervisor confirms to the office that
79 the purpose of the examination is to ensure the safety and
80 soundness of the international banking corporation or
81 international trust entity.

82 3. The books and records pertaining to customer deposit,
83 investment, ~~and~~ custodial, and trust accounts are not disclosed
84 to the home-country supervisor.

85 4. At any time during the conduct of the examination, the
86 office reserves the right to have an examiner present, ~~or to~~
87 participate jointly in the examination, or receive copies of all

36-00617-17

20171078__

88 of the books and records provided to the home-country
89 supervisor.

90
91 For purposes of this paragraph, "home-country supervisor" means
92 the governmental entity in the international banking
93 corporation's or international trust entity's home country with
94 responsibility for the supervision and regulation of the safety
95 and soundness of the international banking corporation or
96 international trust entity;

97 (2)

98 (b) The books and records pertaining to the deposit
99 accounts and loans of depositors, borrowers, members, trust
100 customers including trust beneficiaries, and stockholders of any
101 financial institution shall be kept confidential by the
102 financial institution and its directors, officers, and employees
103 and shall not be released except upon express authorization of
104 the account holder or customer as to her or his own accounts,
105 loans, trust, or voting rights. However, information relating to
106 any loan made by a financial institution may be released without
107 the borrower's authorization in a manner prescribed by the board
108 of directors for the purpose of meeting the needs of commerce
109 and for fair and accurate credit information. Information may
110 also be released, without the authorization of a member or
111 depositor but in a manner prescribed by the board of directors,
112 to verify or corroborate the existence or amount of a customer's
113 or member's account when such information is reasonably provided
114 to meet the needs of commerce and to ensure accurate credit
115 information. In addition, a financial institution, affiliate,
116 and its subsidiaries, and any holding company of the financial

36-00617-17

20171078__

117 institution or subsidiary of such holding company, may furnish
118 to one another information relating to their customers or
119 members, subject to the requirement that each corporation
120 receiving information that is confidential maintain the
121 confidentiality of such information and not provide or disclose
122 such information to any unaffiliated person or entity.
123 Notwithstanding this paragraph, nothing in this subsection shall
124 prohibit:

125 1. A financial institution from disclosing financial
126 information as referenced in this subsection as permitted by
127 Pub. L. No. 106-102(1999), as set forth in 15 U.S.C.A. s. 6802,
128 as amended.

129 2. The principal Florida office of the international
130 banking corporation or international trust entity from
131 disclosing the books and records as referenced in this
132 subsection with the home-country supervisor in accordance with
133 subsection (1).

134 Section 3. Subsection (6) of section 663.01, Florida
135 Statutes, is amended to read:

136 663.01 Definitions.—As used in this part, the term:

137 (6) "International banking corporation" means a banking
138 corporation organized and licensed under the laws of a foreign
139 country. The term "international banking corporation" includes,
140 without limitation, a foreign commercial bank, foreign merchant
141 bank, or other foreign institution that engages in banking
142 activities usual in connection with the business of banking in
143 the country where such foreign institution is organized or
144 operating, including a corporation: the sole shareholders of
145 which are one or more international banking corporations or

36-00617-17

20171078__

146 holding companies which own or control one or more international
147 banking corporations which are authorized to carry on a banking
148 business, or a central bank or government agency of a foreign
149 country and any affiliate or division thereof; which has the
150 power to receive deposits from the general public in the country
151 where it is chartered and organized; and which is under the
152 supervision of the central bank or other bank regulatory
153 authority of such country. The term also includes ~~foreign trust~~
154 ~~companies, or any similar business entities, including, but not~~
155 ~~limited to,~~ foreign banks with fiduciary powers, that conduct
156 trust business as defined in the financial institutions codes.

157 Section 4. The Division of Law Revision and Information is
158 directed to create part III of chapter 663, Florida Statutes,
159 consisting of ss. 663.530-663.540, Florida Statutes, to be
160 entitled "Limited Service Affiliates of International Trust
161 Entities."

162 Section 5. Section 663.530, Florida Statutes, is created to
163 read:

164 663.530 Definitions.—

165 (1) As used in this part:

166 (a) "Foreign country" means a country other than the United
167 States and includes any colony, dependency, or possession of
168 such country, notwithstanding any definitions in chapter 658,
169 and any territory of the United States, including Guam, American
170 Samoa, the Virgin Islands, and the Commonwealth of Puerto Rico.

171 (b) "Home country regulator" means the supervisory
172 authority or its equivalent, or other similarly sanctioned body,
173 organization, governmental entity, or recognized authority that
174 has similar responsibilities in a foreign country in which and

36-00617-17

20171078__

175 by whom an international trust entity is licensed, chartered, or
176 has similar authorization to organize and operate.

177 (c) "International trust entity" means an international
178 trust company or any international business, international
179 business organization, or an affiliated or subsidiary entity
180 that is licensed, chartered, or similarly permitted to conduct
181 trust business in a foreign country or countries under the laws
182 of which it is organized and supervised.

183 (d) "Limited service affiliate" means a marketing and
184 liaison office that engages in the permissible activities in s.
185 663.531 for the benefit of an international trust entity.

186 (e) "Nonresident" has the same meaning as provided in s.
187 663.01(11).

188 (f) "Professional" means an accountant, attorney, or other
189 financial services and wealth planning professional who is
190 licensed by a governing body or affiliated with a licensed,
191 chartered, or similarly authorized entity.

192 (g) "Registrant" means a person or entity registered to
193 perform the activities in s. 663.531 related to, or for the
194 benefit of, an affiliated international trust entity.

195 (2) The definitions provided in s. 655.005 shall apply to
196 this part, except a definition in conflict with or superseded or
197 modified by the provisions of this section.

198 Section 6. Section 663.531, Florida Statutes, is created to
199 read:

200 663.531 Permissible activities.-

201 (1) A limited service affiliate may engage in any of the
202 following activities:

203 (a) Marketing and liaison services related to, or for the

36-00617-17

20171078__

204 benefit of, an affiliated international trust entity if such
205 services are directed exclusively at professionals and current
206 or prospective nonresident clients of an affiliated
207 international trust entity.

208 (b) Advertising and marketing at trade, industry, or
209 professional events.

210 (c) Transmitting documents between an international trust
211 entity and its current or prospective clients or a designee of
212 such clients.

213 (d) Transmitting information relating to the trust or trust
214 holdings of current clients between current clients, or their
215 designees, and the international trust entity.

216 (2) A limited service affiliate may not engage in any of
217 the following activities:

218 (a) Advertising and marketing services related to, or for
219 the benefit of, the international trust entity if such services
220 are directed at the general public.

221 (b) Acting as a fiduciary, including, but not limited to,
222 accepting a fiduciary appointment, executing a fiduciary
223 document that creates a fiduciary relationship, or making
224 discretionary decisions regarding the investment or distribution
225 of fiduciary accounts.

226 (c) Accepting custody of any trust property or any other
227 good, asset, or thing of value on behalf of an affiliated
228 international trust entity, its subsidiaries or affiliates, or
229 subsidiaries and affiliates of the international trust company
230 representative office.

231 (d) Soliciting business within the state from the general
232 public related to, or for the benefit of, an affiliated

36-00617-17

20171078__

233 international trust entity.

234 (e) Adding a financial institution-affiliated party to the
235 limited service affiliate without prior written notification to
236 the office.

237 (f) Providing services for an international trust entity
238 without complying with the requirements of s. 663.532.

239 (g) Conducting banking or trust business.

240 (3) The provisions of subsection (2) do not prevent the use
241 of the Internet, provided that the posted information or
242 communication:

243 (a) Includes the statement: "Fiduciary services described
244 herein are not offered to the general public in the State of
245 Florida. Such services are marketed by (insert name of limited
246 service affiliate) exclusively to professionals and current or
247 prospective non-U.S. resident clients of its affiliated
248 international trust entities."

249 (b) Includes the notice required in s. 663.535.

250 (4) The office, in addition to any other power conferred
251 upon it to enforce and administer this chapter and the financial
252 institutions codes, may impose any remedy or penalty pursuant to
253 s. 655.033, relating to cease and desist orders; s. 655.034,
254 relating to injunctions; s. 655.037, relating to removal by the
255 office of an officer, director, committee member, employee, or
256 other person; or s. 655.041, relating to administrative fines
257 and enforcement, for a violation of subsection (2).

258 (5) This section does not subject a limited service
259 affiliate to the financial institutions code with respect to
260 business activities that do not otherwise require a license or
261 registration under general law.

36-00617-17

20171078__

262 Section 7. Section 663.532, Florida Statutes, is created to
263 read:

264 663.532 Registration.—

265 (1) To register as a limited service affiliate, a proposed
266 registrant must file a written notice with the office, in the
267 manner and on a form prescribed by the commission, with a
268 nonrefundable registration fee of \$2,500. Such notice must
269 include:

270 (a) The name under which the proposed registrant will
271 conduct business in this state.

272 (b) A copy of the articles of incorporation, articles of
273 organization, or the equivalent, of the proposed registrant.

274 (c) The physical address at which the proposed registrant
275 will conduct business.

276 (d) The mailing address of the proposed registrant.

277 (e) The name and biographical information of the executive
278 officer or managing member of the proposed registrant, submitted
279 on a separate form prescribed by the commission.

280 (f) The number of officers and employees of the proposed
281 registrant's business.

282 (g) A detailed list and description of the activities the
283 proposed registrant will conduct that must include:

284 1. The services and activities of the proposed registrant.

285 2. An explanation of how the services and activities of the
286 proposed registrant serve the business purpose of each
287 international trust entity.

288 3. An explanation of how the services and activities of the
289 proposed registrant are distinguishable from those of the
290 permissible activities of an international trust company

36-00617-17

20171078__

291 representative office.

292 (h) Disclosure of any instance in which a director,
293 executive officer, principal shareholder, manager, or the
294 equivalent has ever been arrested for, charged with, convicted
295 of, or plead guilty or nolo contendere to, regardless of
296 adjudication, any offense that is punishable by imprisonment for
297 a term exceeding 1 year, or to any offense that involves money
298 laundering, currency transaction reporting, tax evasion,
299 facilitating or furthering terrorism, fraud, theft, larceny,
300 embezzlement, fraudulent conversion, misappropriation of
301 property, dishonesty, breach of trust, breach of fiduciary duty,
302 moral turpitude, or that is otherwise related to the operation
303 of a financial institution, within the prior 10 years.

304 (i) A declaration under penalty of perjury, signed by the
305 executive officer or managing member of the proposed registrant,
306 that, to the best of his or her knowledge:

307 1. No financial institution-affiliated party of the
308 proposed registrant or of any affiliated international trust
309 entity:

310 a. Has been fined or sanctioned as a result of any
311 complaint to the office or any other state or federal regulatory
312 agency.

313 b. Has been convicted of a felony or ordered to pay a fine
314 or penalty in any proceeding initiated by any federal, state,
315 foreign, or local law enforcement agency or international agency
316 within the prior 10 years.

317 c. Provides or will provide services for any international
318 trust entity that is in bankruptcy, conservatorship,
319 receivership, liquidation, or in a similar status under the laws

36-00617-17

20171078__

320 of any country.

321 d. Provides or will provide banking services or promote or
322 sell investments or accept custody of assets.

323 e. Acts or will act as a fiduciary in this state,
324 including, but not limited to, accepting the fiduciary
325 appointment, executing the fiduciary documents that create the
326 fiduciary relationship, or making discretionary decisions
327 regarding the investment or distribution of fiduciary accounts.

328 2. The jurisdiction of the international trust entity or
329 its offices, subsidiaries, or any affiliates that are directly
330 involved in, or facilitate the financial services functions,
331 banking, or fiduciary activities of, the international trust
332 entity, is not listed on the Financial Action Task Force Public
333 Statement or on its list of jurisdictions with deficiencies in
334 anti-money laundering or counterterrorism.

335 (j) For each international trust entity that the proposed
336 registrant will provide services for in this state:

337 1. The name of the international trust entity.

338 2. The names of the current officers and directors of the
339 international trust entity.

340 3. Any country in which the international trust entity is
341 organized or authorized to do business and the name of the home
342 country regulator.

343 4. Proof that the international trust entity has been
344 authorized by charter, license, or similar authorization by its
345 home country regulator to engage in trust business.

346 5. Proof that the international trust entity lawfully
347 exists and is in good standing under the laws of the
348 jurisdiction where it is chartered, licensed, or organized.

36-00617-17

20171078__

349 6. A statement that the international trust entity is not
350 in bankruptcy, conservatorship, receivership, liquidation, or in
351 a similar status under the laws of any country.

352 7. Proof that the international trust entity is not
353 operating under the direct control of government, regulatory, or
354 supervisory authority of the jurisdiction of its incorporation,
355 through government intervention or any other extraordinary
356 actions, and confirmation that it has not been in such a status
357 or under such control at any time within the prior 3 years.

358 8. Proof that the proposed registrant is affiliated with
359 the international trust entities provided in the notice.

360 9. Proof that the jurisdictions where the international
361 trust entity or its offices, subsidiaries, or any affiliates
362 that are directly involved in or facilitate the financial
363 services functions, banking, or fiduciary activities of the
364 international trust entity are not listed on the Financial
365 Action Task Force Public Statement or on its list of
366 jurisdictions with deficiencies in anti-money laundering or
367 counterterrorism.

368 (k) A declaration under penalty of perjury signed by an
369 executive officer or managing member of each affiliated
370 international trust entity declaring that the information
371 provided to the office is true and correct to the best of his or
372 her knowledge.

373
374 The proposed registrant may provide additional information in
375 the form of exhibits when attempting to satisfy any of the
376 registration requirements. All information the proposed
377 registrant desires to present to support the written notice

36-00617-17

20171078__

378 shall be submitted with the notice.

379 (2) The office may request additional information as the
380 office reasonably requires. A request for additional information
381 must be made by the office within 30 days after initial receipt
382 of the proposed registrant's written notice and the full amount
383 of the prescribed fee. Additional information shall be submitted
384 by the proposed registrant within 60 days after a request has
385 been made by the office. Failure to respond to such request
386 within 60 days after the date of the request is a ground for
387 denial of the registration. No notice shall be deemed complete
388 until all requested information has been submitted to the
389 office. Upon deeming the notice complete, the office has 120
390 days to register the limited service affiliate or issue a
391 denial. Any order denying a registration must contain notice of
392 opportunity for a hearing pursuant to ss. 120.569 and 120.57.

393 (3) A registration under this part shall be suspended by
394 the office if the limited service affiliate made a material
395 false statement in the written notice. The suspension shall
396 remain in effect until a final order is entered by the office.
397 For the purposes of s. 120.60(6), a material false statement
398 made in the limited service affiliate's written notice
399 constitutes an immediate and serious danger to the public
400 health, safety, and welfare. If a limited service affiliate made
401 a material false statement in the written notice, the office
402 shall enter a final order revoking the registration and may
403 issue a fine as prescribed by s. 655.041 or issue an order of
404 suspension, removal, or prohibition under s. 655.037 to a
405 financial institution-affiliated party of the limited service
406 affiliate.

36-00617-17

20171078__

407 (4) Any instance wherein a director, executive officer,
408 principal shareholder, manager, or the equivalent has ever been
409 arrested for, charged with, convicted of, or plead guilty or
410 nolo contendere to, regardless of adjudication, any offense that
411 involves money laundering, currency transaction reporting, tax
412 evasion, facilitating or furthering terrorism, fraud, theft,
413 larceny, embezzlement, fraudulent conversion, misappropriation
414 of property, dishonesty, breach of trust, breach of fiduciary
415 duty, moral turpitude, or that is otherwise related to the
416 operation of a financial institution, is a ground for denial of
417 the registration.

418 (5) A registration is not transferable or assignable.

419 (6) Fees collected under this section must be submitted in
420 the manner prescribed by the commission and must be deposited
421 into the Financial Institutions' Regulatory Trust Fund pursuant
422 to s. 655.049 for the purpose of administering this part.

423 (7) Any person or entity in operation as of January 1,
424 2018, that is a limited service affiliate must, on or before
425 March 31, 2018, apply for registration as a limited service
426 affiliate or cease doing business in this state.

427 (8) On or before March 31, 2018, any person or entity that
428 is a limited service affiliate and previously qualified under
429 the moratorium in s. 663.041 must register under this part or
430 cease doing business in this state. Any person or entity that is
431 a limited service affiliate and previously qualified under the
432 moratorium in s. 663.041 may remain open and in operation until
433 March 31, 2018, without registering under this part but must
434 refrain from engaging in new lines of business in this state
435 until the disposition of registration under this section.

36-00617-17

20171078__

436 Section 8. Section 663.533, Florida Statutes, is created to
437 read:

438 663.533 Applicability of the financial institutions codes.-
439 Except as otherwise provided, the following provisions of the
440 financial institutions codes are applicable to a limited service
441 affiliate:

442 (1) Section 655.012, relating to general supervisory powers
443 of the office.

444 (2) Section 655.031, relating to administrative enforcement
445 guidelines.

446 (3) Section 655.032, relating to investigations.

447 (4) Section 655.0321, relating to hearings and proceedings.

448 (5) Section 655.033, relating to cease and desist orders.

449 (6) Section 655.034, relating to injunctions.

450 (7) Section 655.037, relating to removal of a financial
451 institution-affiliated party by the office.

452 (8) Section 655.041, relating to administrative fines.

453 (9) Section 655.057, relating to public records.

454 (10) Section 655.059, relating to access to books and
455 records.

456 (11) Section 655.0591, relating to trade secret documents.

457 (12) Section 655.91, relating to records of institutions
458 and copies thereof and retention and destruction.

459 (a) With respect to a limited service affiliate registered
460 under this part, s. 655.91 requires only the retention of:

461 1. Correct and complete books and records of account of
462 financial transactions by such limited service affiliate. All
463 policies and procedures relating specifically to the financial
464 transactions of such limited service affiliate, as well as any

36-00617-17

20171078__

465 existing general ledger or subsidiary accounts, must be
466 maintained in English. Any policies and procedures of the
467 limited service affiliate which are not specific to the
468 operations of such office may be maintained in a language other
469 than English.

470 2. Current copies of the articles of incorporation or
471 organization and bylaws of the limited service affiliate, and
472 minutes of the proceedings of its directors, officers, or
473 committees relative to the business of the limited service
474 affiliate. Such records may be maintained in a language other
475 than English, and shall be kept pursuant to s. 655.91 and made
476 available to the office, upon request, at any time during
477 regular business hours of the limited service affiliate.

478 3. Information required to be provided to the office or
479 retained under ss. 663.531, 663.532, 663.534, 663.535, 663.536,
480 663.538, and 663.539, including any source documents used to
481 prepare any application or report required under this part.

482 4. Copies of agreements with third parties.

483 5. Marketing or advertising materials used by the limited
484 service affiliate.

485 6. Policies and procedures adopted or followed by the
486 limited service affiliate regarding compliance with this part.

487 (b) Limited service affiliates are not required to preserve
488 or retain any of their records or copies thereof for a period
489 longer than is expressly required by an applicable statute or
490 rule or regulation of this state or the United States which
491 identifies, either specifically or by type or category, the
492 relevant records or copies thereof. If there is no such statute,
493 rule, or regulation that specifies a retention period applicable

36-00617-17

20171078__

494 to the records or copies thereof, limited service affiliates
495 shall adopt their own records retention policies, provided that
496 the records required under paragraph (a) must be retained for at
497 least 18 months. A limited service affiliate may destroy any of
498 its records or copies thereof after the expiration of the
499 retention period determined as provided in this paragraph.

500 (c) The office may require, at any time, that any document
501 not written in English that the office deems necessary for the
502 purposes of its regulatory and supervisory functions be
503 translated into English at the expense of the limited service
504 affiliate.

505 (d) If the law of the home country jurisdiction of an
506 international trust entity affiliated with the limited service
507 affiliate prohibits disclosure of information that is in the
508 possession of the limited service affiliate, the limited service
509 affiliate must inform the office, specifically identifying the
510 applicable provisions of law of the home country jurisdiction
511 that prohibit such disclosure. In such case, the office may
512 examine only the nonconfidential portions of a record unless it
513 has obtained consent from the home country regulator or a final
514 nonappealable order of a court of competent jurisdiction
515 requiring the disclosure of such information.

516 (e) Any record required to be maintained may be maintained
517 in any format determined by the limited service affiliate,
518 including electronic formats.

519 (13) Section 655.968, relating to financial institutions
520 and transactions relating to Iran or terrorism.

521
522 This section does not prohibit the office from investigating or

36-00617-17

20171078__

523 examining an entity to ensure that it is not in violation of
524 this chapter or provisions of the financial institutions codes
525 made applicable hereby.

526 Section 9. Section 663.534, Florida Statutes, is created to
527 read:

528 663.534 Events that require notice be provided to the
529 office.—A registrant must report to the office within 15 days
530 after the registrant's knowledge of any change to the
531 information previously relied upon by the office for
532 registration or renewal of a registration under this part.

533 Section 10. Section 663.535, Florida Statutes, is created
534 to read:

535 663.535 Notice to customers.—All marketing documents and
536 advertisements and any display at the location of the limited
537 service affiliate or at any trade or marketing event must
538 contain the following statement in a contrasting color in at
539 least 10-point font: "The Florida Office of Financial Regulation
540 DOES NOT provide safety and soundness oversight of this company
541 or provide any opinion as to any affiliated companies or
542 products, or the oversight of its affiliated international trust
543 entities or the jurisdictions in which they operate. This
544 company may not act as a fiduciary and may not accept the
545 fiduciary appointment, execute fiduciary documents, take
546 possession of any assets, create the fiduciary relationship,
547 make discretionary decisions regarding the investment or
548 distribution of fiduciary accounts, provide banking services, or
549 promote or sell investments."

550 Section 11. Section 663.536, Florida Statutes, is created
551 to read:

36-00617-17

20171078__

552 663.536 Recordkeeping requirements for trade, industry, or
553 professional events.—Any registrant under this part which
554 participates in a trade, industry, or professional event under
555 s. 663.531 must maintain a record of its participation in the
556 event. The record must be maintained for at least 2 years after
557 the event and must contain the following information:

558 (1) The date, time, and location of the event.

559 (2) The list of participants in the event, including other
560 vendors, presenters, attendees, and targeted attendees, to the
561 extent known or available.

562 (3) The nature and purpose of the event.

563 (4) The registrant's purpose for participating in the
564 event.

565 (5) Samples of materials or, if samples are unavailable,
566 descriptions of materials provided by the registrant to
567 attendees and other participants at the event.

568 Section 12. Section 663.537, Florida Statutes, is created
569 to read:

570 663.537 Examinations and investigations of a limited
571 service affiliate.—

572 (1) The office may conduct an examination or investigation
573 of a limited service affiliate at any time it deems necessary to
574 determine whether the limited service affiliate or financial
575 institution-affiliated party thereof is in violation of any
576 provision of this chapter, any applicable provision of the
577 financial institutions codes, or any rule adopted by the
578 commission pursuant to this chapter or the codes. The office
579 shall conduct an examination of each limited service affiliate
580 within the first 18 months after the initial registration to

36-00617-17

20171078__

581 assess compliance with this part and the financial institutions
582 codes applicable to this part. The office may conduct an
583 examination of any person or entity who submits a notice for
584 registration, to confirm information provided in the
585 registration filing and to confirm the activities of the person
586 or entity registering, before or after registration.

587 (2) For each examination of a limited service affiliate
588 authorized under this part, the limited service affiliate shall
589 pay a fee for the costs of the examination. As used in this
590 section, the term "costs" means the salary and travel expenses
591 of field staff which are directly attributable to the
592 examination of the registrant and the travel expenses of any
593 supervisory and support staff required as a result of
594 examination findings. The costs of examination shall be
595 determined as follows:

596 (a) The office shall charge each limited service affiliate
597 in this state an examination fee equal to the actual cost of
598 each examiner's participation during each examination of such
599 limited service affiliate. The examination fee shall equal the
600 actual cost of the examination, but in no event shall such fees,
601 including travel expenses and other incidental expenses, be less
602 than \$200 per day for each examiner participating in the
603 examination;

604 (b) For purposes of this section, "actual cost" means the
605 direct salary not including employee benefits, travel expenses,
606 and other incidental expenses required as a result of the
607 examination staff's onsite and offsite examination of the
608 limited service affiliate. The term includes the travel expenses
609 of any supervisory staff required as a result of examination

36-00617-17

20171078__

610 findings.

611 (3) All examination fee payments must be received within 30
612 days after receipt of an invoice from the office and submitted
613 in a manner prescribed by the commission. The office may levy a
614 late fee of up to \$100 per day for each day that a payment is
615 overdue unless the fee is waived by the office for good cause.
616 However, if the office determines that the late payment of costs
617 is intentional, the office may levy an administrative fine of up
618 to \$1,000 per day for each day the payment is overdue.

619 (4) All fees collected under this section must be submitted
620 in the manner prescribed by the commission and deposited into
621 the Financial Institutions' Regulatory Trust Fund pursuant to s.
622 655.049 for the purpose of administering this part.

623 Section 13. Section 663.538, Florida Statutes, is created
624 to read:

625 663.538 Suspension, revocation, or voluntary surrender of
626 registration.-

627 (1) A registrant that proposes to terminate operations in
628 this state must surrender its registration to the office and
629 comply with the procedures required by the commission.

630 (2) A registrant that fails to renew their registration is
631 subject to a fine and penalty. A registrant shall have 30 days
632 after the expiration of its registration to renew the
633 registration or must surrender the registration in accordance
634 with procedures as the commission prescribes by rule.

635 (3) The registration of a limited service affiliate in this
636 state may be suspended or revoked by the office, with or without
637 examination, upon the office's determination that the registrant
638 does not meet all requirements for registration or renewal.

36-00617-17

20171078__

639 (4) If a registration is surrendered by the registrant or
640 is suspended or revoked by the office, all rights and privileges
641 afforded by this part to the limited service affiliate shall
642 cease.

643 (5) If a registrant voluntarily surrenders a registration,
644 the registrant must provide the office with a written notice of
645 its intention to surrender its registration and terminate
646 operations at least 60 days before the proposed date of
647 termination. The notice must include the proposed date of
648 termination and the name of the officer in charge of the
649 termination procedures.

650 (6) The office may conduct an examination of the books and
651 records of a limited service affiliate at any time after receipt
652 of the notice of surrender of registration to confirm the
653 winding down of operations.

654 (7) Operations of a registrant are terminated 60 days after
655 the date of the filing of the notice of voluntary surrender, or
656 upon the date provided in the notice of voluntary surrender,
657 unless the office provides written notice specifying the grounds
658 for denial of such proposed termination. The office may not deny
659 a request to terminate a registration unless it learns of the
660 existence of an outstanding claim or claims against the
661 registrant, that the requirements to terminate operations have
662 not been satisfied, or that there would be an immediate and
663 serious danger to the public health, safety, and welfare if the
664 termination were to occur.

665 Section 14. Section 663.539, Florida Statutes, is created
666 to read:

667 663.539 Biennial registration renewal.—A registration must

36-00617-17

20171078__

668 be renewed every 2 years. Registration must be renewed by
669 furnishing information required by the commission with payment
670 of a \$500 nonrefundable renewal fee. All fees received by the
671 office pursuant to this section must be submitted in the manner
672 prescribed by the commission and must be deposited into the
673 Financial Institutions' Regulatory Trust Fund pursuant to s.
674 655.049 for the purpose of administering this part. A complete
675 biennial renewal of registration shall include a declaration
676 under penalty of perjury, signed by the executive officer or
677 managing member of the registrant, declaring that the
678 information submitted for the purposes of renewal is true and
679 correct to the best of his or her knowledge, and confirming or
680 providing:

681 (1) That the registrant is in compliance with this part.

682 (2) The physical location of the principal place of
683 business of the registrant.

684 (3) The telephone number of the registrant.

685 (4) The current financial institution-affiliated parties
686 operating under the registration.

687 (5) Any updates or changes in the information previously
688 provided either in the initial registration or subsequent
689 renewals that were not previously disclosed to the office.

690 Section 15. Section 663.540, Florida Statutes, is created
691 to read:

692 663.540 Civil action subpoena enforcement.-

693 (1) Notwithstanding s. 655.059, an international trust
694 entity's limited service affiliate established under this
695 chapter is not required to produce a book or record pertaining
696 to a customer of the international trust entity's offices that

36-00617-17

20171078__

697 are located outside the United States or its territories in
698 response to a subpoena if the book or record is maintained
699 outside the United States or its territories and is not in the
700 possession, custody, or control of the international trust
701 entity's limited service affiliate established in this state.

702 (2) This section applies only to a subpoena issued pursuant
703 to the Florida Rules of Civil Procedure, the Federal Rules of
704 Civil Procedure, or other similar law or rule of civil procedure
705 in another state or territory of the United States. This section
706 does not apply to a subpoena issued by or on behalf of a
707 federal, state, or local government law enforcement agency,
708 administrative or regulatory agency, legislative body, or grand
709 jury and does not limit the power of the office to access all
710 books and records in the exercise of the office's regulatory and
711 supervisory powers under the financial institutions codes.

712 Section 16. This act shall take effect January 1, 2018.