



875382

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/06/2017	.	
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The Committee on Banking and Insurance (Mayfield) recommended the following:

Senate Amendment (with title amendment)

Delete lines 1674 - 2015

and insert:

otherwise related to the operation of a financial institution and caused or is likely to cause more than a minimal financial loss to, or a significant adverse effect on, the financial institution;

(i) A declaration under penalty of perjury, signed by the executive officer or managing member of the proposed registrant,



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11 that, to the best of his or her knowledge:

12 1. No financial institution-affiliated party of the
13 proposed registrant or financial institution-affiliated party of
14 any affiliated international trust entity:

15 a. Has been fined or sanctioned as a result of a complaint
16 to the office or any other state or federal regulatory agency;

17 b. Has been convicted of a felony; or

18 c. Has been ordered to pay a fine or penalty within the
19 prior 10 years in a proceeding initiated by a federal, state,
20 foreign, or local law enforcement agency or an international
21 agency which is related to money laundering, currency
22 transaction reporting, tax evasion, facilitating or furthering
23 terrorism, fraud, theft, larceny, embezzlement, fraudulent
24 conversion, misappropriation of property, dishonesty, breach of
25 trust, breach of fiduciary duty, moral turpitude, or which is
26 otherwise related to the operation of a financial institution
27 and is related to any offense that caused or is likely to cause
28 more than a minimal financial loss to, or a significant adverse
29 effect on, the financial institution.

30 2. No financial institution-affiliated party of the
31 proposed registrant:

32 a. Provides, or will provide, banking services; promotes or
33 sells, or will promote or sell, investments; or accepts, or will
34 accept, custody of assets; and

35 b. Acts, or will act, as a fiduciary in this state, which
36 includes, but is not limited to, accepting the fiduciary
37 appointment, executing the fiduciary documents that create the
38 fiduciary relationship, or making discretionary decisions
39 regarding the investment or distribution of fiduciary accounts.



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40 3. The jurisdiction of the international trust entity or
41 its offices, subsidiaries, or any affiliates that are directly
42 involved in or facilitate the financial services functions,
43 banking, or fiduciary activities of the international trust
44 entity is not listed on the Financial Action Task Force Public
45 Statement or on its list of jurisdictions with deficiencies in
46 anti-money laundering or counterterrorism;

47 (j) For each international trust entity that the proposed
48 registrant will provide services for in this state, the
49 following:

50 1. The name of the international trust entity;

51 2. A list of the current officers and directors of the
52 international trust entity;

53 3. Any country where the international trust entity is
54 organized or authorized to do business;

55 4. The name of the home-country regulator;

56 5. Proof that the international trust entity has been
57 authorized by charter, license, or similar authorization by its
58 home-country regulator to engage in trust business;

59 6. Proof that the international trust entity lawfully
60 exists and is in good standing under the laws of the
61 jurisdiction where it is chartered, licensed, or organized;

62 7. A statement that the international trust entity is not
63 in bankruptcy, conservatorship, receivership, liquidation, or a
64 similar status under the laws of any country;

65 8. Proof that the international trust entity is not
66 operating under the direct control of the government or the
67 regulatory or supervisory authority of the jurisdiction of its
68 incorporation, through government intervention or any other



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69 extraordinary actions, and confirmation that it has not been in
70 such a status or under such control at any time within the prior
71 3 years;

72 9. Proof and confirmation that the proposed registrant is
73 affiliated with the international trust entities provided in the
74 notice; and

75 10. Proof that the jurisdictions where the international
76 trust entity or its offices, subsidiaries, or any affiliates
77 that are directly involved in or that facilitate the financial
78 services functions, banking, or fiduciary activities of the
79 international trust entity are not listed on the Financial
80 Action Task Force Public Statement or on its list of
81 jurisdictions with deficiencies in anti-money laundering or
82 counterterrorism; and

83 (k) A declaration under penalty of perjury, signed by an
84 executive officer or managing member of each affiliated
85 international trust entity, declaring that the information
86 provided to the office is true and correct to the best of his or
87 her knowledge.

88
89 The proposed registrant may provide additional information in
90 the form of exhibits when attempting to satisfy any of the
91 registration requirements. All information that the proposed
92 registrant desires to present to support the written notice must
93 be submitted with the notice.

94 (2) The office may request additional information as the
95 office reasonably requires. Any request for additional
96 information must be made by the office within 30 days after
97 initial receipt of the written notice and the full amount of the



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98 fee specified in subsection (1). Additional information must be
99 submitted within 60 days after a request has been made by the
100 office. Failure to respond to such request within 60 days after
101 the date of the request is a ground for denial of the
102 registration. A notice is not deemed complete until all
103 requested information has been submitted to the office. Upon
104 deeming the notice complete, the office has 120 days to register
105 the limited service affiliate or issue a denial. An order
106 denying a registration must contain notice of opportunity for a
107 hearing pursuant to ss. 120.569 and 120.57.

108 (3) A registration under this part must be summarily
109 suspended by the office if the limited service affiliate made a
110 material false statement in the written notice. The summary
111 suspension must remain in effect until a final order is entered
112 by the office. For purposes of s. 120.60(6), a material false
113 statement made in the limited service affiliate's written notice
114 constitutes an immediate and serious danger to the public
115 health, safety, and welfare. If a limited service affiliate made
116 a material false statement in the written notice, the office
117 must enter a final order revoking the registration and may
118 impose a fine as prescribed by s. 655.041 or issue an order of
119 suspension, removal, or prohibition under s. 655.037 to a
120 financial institution-affiliated party of the limited service
121 affiliate.

122 (4) Any instance in which a director, executive officer,
123 principal shareholder, manager, or the equivalent has ever been
124 arrested for, charged with, convicted of, or pled guilty or nolo
125 contendere to, regardless of adjudication, any offense that
126 involves money laundering, currency transaction reporting, tax



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127 evasion, facilitating or furthering terrorism, fraud, theft,
128 larceny, embezzlement, fraudulent conversion, misappropriation
129 of property, dishonesty, breach of trust, breach of fiduciary
130 duty, or moral turpitude, or that is otherwise related to the
131 operation of a financial institution and caused or is likely to
132 cause more than a minimal financial loss to, or a significant
133 adverse effect on, the financial institution, is a ground for
134 denial of the registration.

135 (5) The existence of any previous violation, fine, or
136 penalty of a financial institution-affiliated party of a limited
137 service affiliate or the affiliated international trust entity
138 does not necessarily disqualify a registrant under this part.
139 When evaluating a registration, the office may consider factors
140 reasonably related to the violation, fine, or penalty, such as
141 mitigating factors, a history of multiple violations, the
142 severity of the offense, and a showing of rehabilitation.

143 (6) A registration is not transferable or assignable.

144 (7) Fees collected under this section must be submitted in
145 the manner prescribed by the commission and must be deposited
146 into the Financial Institutions' Regulatory Trust Fund pursuant
147 to s. 655.049 for the purpose of administering this part.

148 (8) A person or entity in operation as of January 1, 2018,
149 which meets the definition of a limited service affiliate under
150 s. 663.530 must, on or before March 31, 2018, apply for
151 registration as a limited service affiliate or cease doing
152 business in this state.

153 (9) No later than March 31, 2018, a person or entity that
154 previously qualified under the moratorium in s. 663.041 must
155 register under this part or cease doing business in this state.



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156 A person or entity that previously qualified under the
157 moratorium in s. 663.041 may remain open and in operation until
158 March 31, 2018, without registering under this part, but shall
159 refrain from engaging in new lines of business in this state
160 until the disposition of registration under this part.

161 Section 42. Section 663.533, Florida Statutes, is created
162 to read:

163 663.533 Applicability of the financial institutions codes.—

164 A limited service affiliate is subject to the financial
165 institutions codes. Without limiting the foregoing, the
166 following provisions are applicable to a limited service
167 affiliate:

168 (1) Section 655.012, relating to general supervisory powers
169 of the office.

170 (2) Section 655.031, relating to administrative enforcement
171 guidelines.

172 (3) Section 655.032, relating to investigations, subpoenas,
173 hearings, and witnesses.

174 (4) Section 655.0321, relating to restricted access to
175 certain hearings, proceedings, and related documents.

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

177 (6) Section 655.034, relating to injunctions.

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

180 (8) Section 655.041, relating to administrative fines and
181 enforcement.

182 (9) Section 655.057, relating to restrictions on access to
183 public records.

184 (10) Section 655.059, relating to access to books and



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185 records.

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

187 (12) Section 655.91, relating to records of institutions
188 and copies thereof; retention and destruction.

189 (13) Section 655.968, relating to financial institutions;
190 transactions relating to Iran or terrorism.

191

192 This section does not prohibit the office from investigating or
193 examining an entity to ensure that it is not in violation of
194 this chapter or applicable provisions of the financial
195 institutions codes.

196 Section 43. Section 663.534, Florida Statutes, is created
197 to read:

198 663.534 Events that require notice to be provided to the
199 office.—A registrant must report to the office, within 15 days
200 of its knowledge of the occurrence, any changes to the
201 information previously relied upon by the office when
202 registering or renewing a registration under this part.

203 Section 44. Section 663.535, Florida Statutes, is created
204 to read:

205 663.535 Notice to customers.—All marketing documents and
206 advertisements and any display at the location of the limited
207 service affiliate or at any trade or marketing event must
208 contain the following statement in a contrasting color in at
209 least 10-point type: "The Florida Office of Financial Regulation
210 DOES NOT provide safety and soundness oversight of this company,
211 does not provide any opinion as to any affiliated companies or
212 products, and does not provide the oversight of this company's
213 affiliated international trust entities or the jurisdictions



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214 within which they operate. This company may not act as a
215 fiduciary and may not accept the fiduciary appointment, execute
216 or transmit fiduciary documents, take possession of any assets,
217 create a fiduciary relationship, make discretionary decisions
218 regarding the investment or distribution of fiduciary accounts,
219 provide banking services, or promote or sell investments.”

220 Section 45. Section 663.536, Florida Statutes, is created
221 to read:

222 663.536 Recordkeeping requirements for trade, industry, or
223 professional events.—A registrant registered only under this
224 part who participates in a trade, industry, or professional
225 event pursuant to s. 663.531 must keep a record of its
226 participation in the event. The record must be maintained for at
227 least 2 years following the event and must contain the following
228 information:

229 (1) The date, time, and location of the event;

230 (2) To the extent known or available, a list of
231 participants in the event, including other vendors, presenters,
232 attendees, and targeted attendees;

233 (3) The nature and purpose of the event;

234 (4) The registrant’s purpose for participating in the
235 event; and

236 (5) Samples of materials or, when samples are unavailable,
237 descriptions of materials provided by the registrant to
238 attendees and other participants.

239 Section 46. Section 663.537, Florida Statutes, is created
240 to read:

241 663.537 Examination or investigation of a limited service
242 affiliate.—



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243 (1) The office may conduct an examination or investigation
244 of a limited service affiliate at any time that it deems
245 necessary to determine whether the limited service affiliate or
246 financial institution-affiliated party thereof has violated, or
247 is about to violate, any provision of this chapter, any
248 applicable provision of the financial institutions codes, or any
249 rule adopted by the commission pursuant to this chapter or the
250 financial institutions codes. The office shall conduct an
251 examination of each limited service affiliate at least once
252 every 18 months to assess compliance with this part and the
253 financial institutions codes. The office may conduct an
254 examination, before or after registration, of any person or
255 entity that submits a notice for registration to confirm
256 information provided in the registration filing and to confirm
257 the activities of the person or entity seeking registration.

258 (2) For each examination of a limited service affiliate
259 authorized under this part, the limited service affiliate shall
260 pay a fee for the costs of the examination by the office. As
261 used in this section, the term "costs" means the salary and
262 travel expenses of fieldstaff which are directly attributable
263 to the examination of the registrant and the travel expenses of
264 any supervisory and support staff required as a result of
265 examination findings. The costs of examination must be
266 determined as follows:

267 (a) The office shall charge each limited service affiliate
268 in this state an examination fee equal to the actual cost of
269 each examiner's participation during each examination of such
270 limited service affiliate. The examination fee must equal the
271 actual cost of the examination, but such fees, inclusive of



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272 travel expenses and other incidental expenses, may not be less
273 than \$200 per day for each examiner participating in the
274 examination.

275 (b) As used in this section, the term "actual cost" means
276 the direct salary, excluding employee benefits; travel expenses;
277 and other incidental expenses required as a result of the
278 examination staff's onsite and offsite examination of the
279 limited service affiliate. In addition, the term includes the
280 travel expenses of any supervisory staff required as a result of
281 examination findings.

282 (3) All examination fee payments must be received within 30
283 days after receipt of an invoice from the office and must be
284 submitted in a manner prescribed by the commission. The office
285 may levy a late fee of up to \$100 per day that a payment is
286 overdue, unless waived by the office for good cause. However, if
287 the late payment of costs is intentional, the office may levy an
288 administrative fine of up to \$1,000 per day for each day the
289 payment is overdue.

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

294 Section 47. Section 663.538, Florida Statutes, is created
295 to read:

296 663.538 Suspension, revocation, or voluntary surrender of
297 registration.—

298 (1) A registrant that proposes to terminate operations in
299 this state shall surrender its registration to the office and
300 comply with such procedures as required by rule of the



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301 commission.

302 (2) A registrant that fails to renew its registration may
303 be subject to a fine and penalty; however, such registrant may
304 renew its registration within 30 days after expiration or may
305 surrender the registration in accordance with procedures
306 prescribed by commission rule.

307 (3) The registration of a limited service affiliate in this
308 state may be suspended or revoked by the office, with or without
309 examination, upon the office's determination that the registrant
310 does not meet all requirements for original or renewal
311 registration.

312 (4) If a registrant surrenders its registration or its
313 registration is suspended or revoked by the office, all rights
314 and privileges afforded by this part to the registered limited
315 service affiliate cease.

316 (5) At least 60 days before a proposed date of voluntary
317 termination of a registration, a registrant must provide to the
318 office written notice by letter of its intention to surrender
319 its registration and terminate operations. The notice must
320 include the proposed date of termination and the name of the
321 officer in charge of the termination procedures.

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

326 (7) Operations of a registrant are deemed terminated
327 effective upon the later of the expiration of 60 days from the
328 date of the filing of the notice of voluntary surrender or upon
329 the date provided in the notice of voluntary surrender, unless



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330 the office provides written notice specifying the grounds for
331 denial of such proposed termination. The office may not deny a
332 request to terminate unless it learns of the existence of any
333 outstanding claim or claims against the registrant, it finds
334 that the requirements to terminate operations have not been
335 satisfied, or there is an immediate and serious danger to the
336 public health, safety, and welfare if the termination occurred.

337 Section 48. Section 663.539, Florida Statutes, is created
338 to read:

339 663.539 Biennial registration renewal.—A registration must
340 be renewed every 2 years. A registration must be renewed by
341 furnishing such information as the commission requires, together
342 with payment of a \$500 nonrefundable renewal fee. All fees
343 received by the office pursuant to this section must be
344 submitted in the manner prescribed by the commission and must be
345 deposited into the Financial Institutions' Regulatory Trust Fund
346 pursuant to s. 655.049 for the purpose of administering this
347 part. A complete biennial renewal of registration must include a
348 declaration under penalty of perjury, signed by the executive
349 officer or managing member of the registrant, declaring that the
350 information submitted for the purposes of renewal is true and
351 correct to the best of his or her knowledge, and confirming or
352 providing all of the following:

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

354 (2) The physical location of the principal place of
355 business of the registrant.

356 (3) The telephone number of the registrant.

357 (4) A list of current financial institution-affiliated
358 parties operating under the registration to be renewed.



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359 (5) Any updates or changes in information which were not
360 previously provided either in the initial registration or in
361 subsequent registration renewals or which were not previously
362 disclosed to the office.

363 Section 49. Section 663.5395, Florida Statutes, is created
364 to read:

365 663.5395 Civil action subpoena enforcement.-

366 (1) Notwithstanding s. 655.059, a limited service affiliate
367 established under this chapter is not required to produce a book
368 or record pertaining to a customer of an affiliated
369 international trust entity that is located outside the United
370 States or its territories in response to a subpoena if the book
371 or record is maintained outside the United States or its
372 territories and is not in the possession, custody, or control of
373 the affiliated limited service affiliate established in this
374 state.

375 (2) This section applies only to a subpoena issued pursuant
376 to the Florida Rules of Civil Procedure, the Federal Rules of
377 Civil Procedure, or other similar law or rule of civil procedure
378 in another state or territory of the United States. This section
379 does not apply to a subpoena issued by or on behalf of a
380 federal, state, or local government law enforcement agency,
381 administrative or regulatory agency, legislative body, or grand
382 jury and does not limit the power of the office to access all
383 books and records in the exercise of the office's regulatory and
384 supervisory powers under the financial institutions codes.

385
386 ===== T I T L E A M E N D M E N T =====

387 And the title is amended as follows:



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388 Delete lines 167 - 208
389 and insert:
390 registration; providing that violations, fines, or
391 penalties of certain entities do not necessarily
392 disqualify registrants from registration; authorizing
393 the office to consider certain factors in evaluating
394 registrations; providing that registrations are not
395 transferable or assignable; providing for deposit of
396 fees into a specified trust fund; requiring the
397 commission to adopt rules; requiring certain persons
398 or entities to be registered as limited service
399 affiliates by a specified date; creating s. 663.533,
400 F.S.; providing applicability of the financial
401 institutions codes as to limited service affiliates;
402 providing construction; creating s. 663.534, F.S.;
403 requiring a registrant to report changes of certain
404 information to the office within a specified
405 timeframe; creating s. 663.535, F.S.; requiring a
406 specified notice to customers in marketing documents,
407 advertisements, and displays at the limited service
408 affiliate's location or at certain events; creating s.
409 663.536, F.S.; specifying recordkeeping requirements
410 relating to certain events that a registered limited
411 service affiliate participates in; creating s.
412 663.537, F.S.; authorizing the office to conduct
413 examinations or investigations of limited service
414 affiliates for certain purposes; specifying a minimum
415 interval of examinations to assess compliance;
416 authorizing the office to examine a person or entity



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417 submitting a notice of registration for certain
418 purposes; requiring limited service affiliates to pay
419 specified costs of examination within a specified
420 time; defining the terms "costs" and "actual cost";
421 providing penalties; specifying the trust fund where
422 examination fees must be deposited; requiring the
423 commission to adopt rules; creating s. 663.538, F.S.;
424 providing requirements and procedures relating to the
425 suspension, revocation, or voluntary surrender of a
426 limited service affiliate's registration; providing a
427 penalty; authorizing the office to conduct
428 examinations under certain circumstances; prohibiting
429 the office from denying a request to terminate
430 operations except under certain circumstances;
431 providing construction; creating s. 663.539, F.S.;
432 requiring a limited service affiliate to renew its
433 registration biennially; specifying the renewal fee
434 and the trust fund where such fee must be deposited;
435 specifying requirements for the renewal registration;
436 creating s. 663.5395, F.S.; providing that limited
437 service affiliates are not required to produce certain
438 books and records under certain circumstances;
439 providing applicability;