

1 A bill to be entitled
2 An act relating to investor protection; amending s. 16.56,
3 F.S.; expanding jurisdiction of the Office of Statewide
4 Prosecution to investigate and prosecute certain
5 additional offenses; amending s. 517.021, F.S.; revising
6 definitions; amending s. 517.072, F.S.; exempting certain
7 transactions in viatical settlement investments from
8 certain registration requirements; specifying application
9 of certain provisions; amending s. 517.12, F.S.; revising
10 requirements for registration of dealers, associated
11 persons, investment advisers, and branch offices; amending
12 s. 517.121, F.S.; authorizing the Office of Financial
13 Regulation to suspend registration for registrant failure
14 to provide certain records; providing for rescinding
15 suspensions; amending ss. 517.1215 and 517.1217, F.S.;
16 changing an agency reference; amending s. 517.141, F.S.;
17 excluding postjudgment interest from payments from the
18 fund; amending s. 517.161, F.S.; expanding the class of
19 persons related to or associated with an applicant or
20 registrant for which certain violations may result in
21 adverse actions taken against registrations; authorizing
22 the office to suspend a registration under certain
23 circumstances; creating s. 517.1611, F.S.; requiring the
24 Financial Services Commission to adopt rules providing
25 certain disciplinary guidelines; specifying criteria for
26 such guidelines; requiring the commission to adopt rules
27 for disqualifying registrants for certain periods of time
28 for certain criminal actions; providing rules criteria;

29 | amending s. 517.191, F.S.; authorizing the office to apply
30 | to the court for orders directing restitution; authorizing
31 | the office to apply to the court to impose civil penalties
32 | for certain violations; specifying limitations; requiring
33 | deposit of civil penalties into the Anti-Fraud Trust Fund;
34 | authorizing the Attorney General to act as an enforcing
35 | authority for certain provisions of law; authorizing the
36 | Attorney General, with approval of the office, to
37 | investigate and enforce certain provisions; authorizing
38 | the Attorney General to bring certain actions for
39 | injunctive relief; authorizing the Attorney General to
40 | recover certain investigation and enforcement costs and
41 | attorney fees; providing for deposit of certain recovered
42 | moneys into the Legal Affairs Revolving Trust Fund;
43 | preserving the authority of the office to bring certain
44 | administrative actions; specifying time limitations on
45 | bringing certain enforcement actions; amending s. 517.221,
46 | F.S.; increasing the amount of certain administrative
47 | fines; authorizing the office to bar certain persons from
48 | submitting applications or notifications for a license or
49 | registration under certain circumstances; amending s.
50 | 517.275, F.S.; revising criteria for prohibited practices
51 | relating to commodities; amending s. 905.34, F.S.;
52 | expanding subject matter jurisdiction of the statewide
53 | grand jury to include certain additional offenses;
54 | providing an effective date.

55 |
56 | Be It Enacted by the Legislature of the State of Florida:

57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83

Section 1. Paragraphs (a) and (b) of subsection (1) of section 16.56, Florida Statutes, are amended to read:

16.56 Office of Statewide Prosecution.--

(1) There is created in the Department of Legal Affairs an Office of Statewide Prosecution. The office shall be a separate "budget entity" as that term is defined in chapter 216. The office may:

(a) Investigate and prosecute the offenses of:

1. Bribery, burglary, criminal usury, extortion, gambling, kidnapping, larceny, murder, prostitution, perjury, robbery, carjacking, and home-invasion robbery;

2. Any crime involving narcotic or other dangerous drugs;

3. Any violation of the provisions of the Florida RICO (Racketeer Influenced and Corrupt Organization) Act, including any offense listed in the definition of racketeering activity in s. 895.02(1)(a), providing such listed offense is investigated in connection with a violation of s. 895.03 and is charged in a separate count of an information or indictment containing a count charging a violation of s. 895.03, the prosecution of which listed offense may continue independently if the prosecution of the violation of s. 895.03 is terminated for any reason;

4. Any violation of the provisions of the Florida Anti-Fencing Act;

5. Any violation of the provisions of the Florida Antitrust Act of 1980, as amended;

84 6. Any crime involving, or resulting in, fraud or deceit
 85 upon any person;

86 7. Any violation of s. 847.0135, relating to computer
 87 pornography and child exploitation prevention, or any offense
 88 related to a violation of s. 847.0135 or any violation of
 89 chapter 827 where the crime is facilitated by or connected to
 90 the use of the Internet or any device capable of electronic data
 91 storage or transmission;

92 8. Any violation of the provisions of chapter 815;

93 9. Any criminal violation of part I of chapter 499;

94 10. Any violation of the provisions of the Florida Motor
 95 Fuel Tax Relief Act of 2004;

96 11. Any criminal violation of s. 409.920 or s. 409.9201;
 97 ~~or~~

98 12. Any crime involving voter registration, voting, or
 99 candidate or issue petition activities;

100 13. Any criminal violation of the Florida Money Laundering
 101 Act; or

102 14. Any criminal violation of the Florida Securities and
 103 Investor Protection Act;

104
 105 or any attempt, solicitation, or conspiracy to commit any of the
 106 crimes specifically enumerated above. The office shall have such
 107 power only when any such offense is occurring, or has occurred,
 108 in two or more judicial circuits as part of a related
 109 transaction, or when any such offense is connected with an
 110 organized criminal conspiracy affecting two or more judicial
 111 circuits. Information or indictments used in bringing criminal

112 cases in more than one judicial circuit shall contain general
 113 allegations stating the judicial circuits and counties in which
 114 crimes are alleged to have occurred or the judicial circuits and
 115 counties in which crimes affecting such circuits or counties are
 116 alleged to have been connected with an organized criminal
 117 conspiracy.

118 (b) Investigate and prosecute any crime enumerated in
 119 subparagraphs (a)1.-14. ~~(a)1.-12.~~ facilitated by or connected to
 120 the use of the Internet. Any such crime is a crime occurring in
 121 every judicial circuit within the state.

122 Section 2. Subsection (4), paragraph (a) of subsection
 123 (13), and subsection (23) of section 517.021, Florida Statutes,
 124 are amended to read:

125 517.021 Definitions.--When used in this chapter, unless
 126 the context otherwise indicates, the following terms have the
 127 following respective meanings:

128 (4) "Branch office" means any location in this state of a
 129 dealer or investment adviser at which one or more associated
 130 persons regularly conduct the business of rendering investment
 131 advice or effecting any transactions in, or inducing or
 132 attempting to induce the purchase or sale of, any security or
 133 any location that is held out as such. The commission may adopt
 134 by rule exceptions to this definition for dealers in order to
 135 maintain consistency with the definition of a branch office used
 136 by self-regulatory organizations authorized by the Securities
 137 and Exchange Commission, including, but not limited to, the
 138 Financial Industry Regulatory Authority ~~National Association of~~
 139 ~~Securities Dealers or the New York Stock Exchange.~~ The

140 commission may adopt by rule exceptions to this definition for
 141 investment advisers.

142 (13) (a) "Investment adviser" includes any person who
 143 receives for compensation, directly or indirectly, and engages
 144 for all or part of her or his time, directly or indirectly, or
 145 through publications or writings, in the business of advising
 146 others as to the value of securities or as to the advisability
 147 of investments in, purchasing of, or selling of securities,
 148 except a dealer whose performance of these services is solely
 149 incidental to the conduct of her or his business as a dealer and
 150 who receives no special compensation for such services.

151 (23) "Viatical settlement investment" means an agreement
 152 for the purchase, sale, assignment, transfer, devise, or bequest
 153 of all or any portion of a legal or equitable interest in a
 154 viaticated policy as defined in chapter 626. ~~The term does not~~
 155 ~~include:~~

156 ~~(a) The transfer or assignment of an interest in a~~
 157 ~~previously viaticated policy from a natural person who transfers~~
 158 ~~or assigns no more than one such interest in 1 calendar year.~~

159 ~~(b) The provision of stop-loss coverage to a viatical~~
 160 ~~settlement provider, financing entity, or related provider~~
 161 ~~trust, as those terms are defined in s. 626.9911, by an~~
 162 ~~authorized or eligible insurer.~~

163 ~~(c) The transfer or assignment of a viaticated policy from~~
 164 ~~a licensed viatical settlement provider to another licensed~~
 165 ~~viatical settlement provider, a related provider trust, a~~
 166 ~~financing entity, or a special purpose entity, as those terms~~
 167 ~~are defined in s. 626.9911, or to a contingency insurer provided~~

168 ~~that such transfer or assignment is not the direct or indirect~~
 169 ~~promotion of any scheme or enterprise with the intent of~~
 170 ~~violating or evading any provision of this chapter.~~

171 ~~(d) The transfer or assignment of a viaticated policy to a~~
 172 ~~bank, trust company, savings institution, insurance company,~~
 173 ~~dealer, investment company as defined in the Investment Company~~
 174 ~~Act of 1940, pension or profit sharing trust, or qualified~~
 175 ~~institutional buyer as defined in United States Securities and~~
 176 ~~Exchange Commission Rule 144A, 17 C.F.R. s. 230.144A(a), or to~~
 177 ~~an accredited investor as defined by Rule 501 of Regulation D of~~
 178 ~~the Securities Act Rules, provided such transfer or assignment~~
 179 ~~is not for the direct or indirect promotion of any scheme or~~
 180 ~~enterprise with the intent of violating or evading any provision~~
 181 ~~of this chapter.~~

182 ~~(e) The transfer or assignment of a viaticated policy by a~~
 183 ~~conservator of a viatical settlement provider appointed by a~~
 184 ~~court of competent jurisdiction who transfers or assigns~~
 185 ~~ownership of viaticated policies pursuant to that court's order.~~

186 Section 3. Section 517.072, Florida Statutes, is amended
 187 to read:

188 517.072 Viatical settlement investments.--

189 (1) The exemptions provided for by ss. 517.051(6), (8),
 190 and (10) do not apply to a viatical settlement investment.

191 (2) The offering of a viatical settlement investment is
 192 not an exempt transaction under s. 517.061(2), (3), (8), (11),
 193 and (18), regardless of whether the offering otherwise complies
 194 with the conditions of that section, unless such offering is to
 195 a qualified institutional buyer.

196 (3) The registration provisions of ss. 517.07 and 517.12
 197 do not apply to any of the following transactions in viatical
 198 settlement investments; however, such transactions in viatical
 199 settlement investments are subject to the provisions of ss.
 200 517.301, 517.311, and 517.312:

201 (a) The transfer or assignment of an interest in a
 202 previously viaticated policy from a natural person who transfers
 203 or assigns no more than one such interest in a single calendar
 204 year.

205 (b) The provision of stop-loss coverage to a viatical
 206 settlement provider, financing entity, or related provider
 207 trust, as those terms are defined in s. 626.9911, by an
 208 authorized or eligible insurer.

209 (c) The transfer or assignment of a viaticated policy from
 210 a licensed viatical settlement provider to another licensed
 211 viatical settlement provider, a related provider trust, a
 212 financing entity, or a special purpose entity, as those terms
 213 are defined in s. 626.9911, or to a contingency insurer,
 214 provided such transfer or assignment is not the direct or
 215 indirect promotion of any scheme or enterprise with the intent
 216 of violating or evading any provision of this chapter.

217 (d) The transfer or assignment of a viaticated policy to a
 218 bank, trust company, savings institution, insurance company,
 219 dealer, investment company as defined in the Investment Company
 220 Act of 1940, pension or profit-sharing trust, or qualified
 221 institutional buyer as defined in United States Securities and
 222 Exchange Commission Rule 144A, 17 C.F.R. s. 230.144A(a), or to
 223 an accredited investor as defined by Rule 501 of Regulation D of

224 the Securities Act Rules, provided such transfer or assignment
225 is not for the direct or indirect promotion of any scheme or
226 enterprise with the intent of violating or evading any provision
227 of this chapter.

228 (e) The transfer or assignment of a viaticated policy by a
229 conservator of a viatical settlement provider appointed by a
230 court of competent jurisdiction who transfers or assigns
231 ownership of viaticated policies pursuant to that court's order.

232 Section 4. Subsections (7), (8), and (11) and paragraph
233 (b) of subsection (15) of section 517.12, Florida Statutes, are
234 amended to read:

235 517.12 Registration of dealers, associated persons,
236 investment advisers, and branch offices.--

237 (7) The application shall also contain such information as
238 the commission or office may require about the applicant; any
239 partner, member, officer, or director of the applicant or any
240 person having a similar status or performing similar functions;
241 any person directly or indirectly controlling the applicant; or
242 any employee of a dealer or of an investment adviser rendering
243 investment advisory services. Each applicant or any person
244 listed on the application form or subsequent amendment to the
245 application form shall file a complete set of fingerprints. A
246 fingerprint card submitted to the office must be taken by an
247 authorized law enforcement agency or in a manner approved by the
248 commission by rule. The office shall submit the fingerprints to
249 the Department of Law Enforcement for state processing, and the
250 Department of Law Enforcement shall forward the fingerprints to
251 the Federal Bureau of Investigation for federal processing. The

252 cost of the fingerprint processing may be borne by the office,
253 the employer, or the person subject to the background check. The
254 Department of Law Enforcement shall submit an invoice to the
255 office for the fingerprints received each month. The office
256 shall screen the background results to determine if the
257 applicant meets licensure requirements. The commission may
258 waive, by rule, the requirement that applicants or any person
259 listed on the application form must file a set of fingerprints
260 or the requirement that such fingerprints must be processed by
261 the Department of Law Enforcement or the Federal Bureau of
262 Investigation. The commission or office may require information
263 about any such applicant or person concerning such matters as:

264 (a) His or her full name, and any other names by which he
265 or she may have been known, and his or her age, social security
266 number, photograph, qualifications, and educational and business
267 history.

268 (b) Any injunction or administrative order by a state or
269 federal agency, national securities exchange, or national
270 securities association involving a security or any aspect of the
271 securities business and any injunction or administrative order
272 by a state or federal agency regulating banking, insurance,
273 finance, or small loan companies, real estate, mortgage brokers,
274 or other related or similar industries, which injunctions or
275 administrative orders relate to such person.

276 (c) His or her conviction of, or plea of nolo contendere
277 to, a criminal offense or his or her commission of any acts
278 which would be grounds for refusal of an application under s.
279 517.161.

280 (d) The names and addresses of other persons of whom the
281 office may inquire as to his or her character, reputation, and
282 financial responsibility.

283 (8) The commission or office may require the applicant or
284 one or more principals or general partners, or natural persons
285 exercising similar functions, or any associated person applicant
286 to successfully pass oral or written examinations. Because any
287 principal, manager, supervisor, or person exercising similar
288 functions shall be responsible for the acts of the associated
289 persons affiliated with a dealer ~~or investment adviser~~, the
290 examination standards may be higher for a dealer, office
291 manager, principal, or person exercising similar functions than
292 for a nonsupervisory associated person. The commission may waive
293 the examination process when it determines that such
294 examinations are not in the public interest. The office shall
295 waive the examination requirements for any person who has passed
296 any tests as prescribed in s. 15(b)(7) of the Securities
297 Exchange Act of 1934 that relates to the position to be filled
298 by the applicant.

299 (11) If the office finds that the applicant is of good
300 repute and character and has complied with the provisions of
301 this chapter and the rules made pursuant hereto, it shall
302 register the applicant. The registration of each dealer,
303 investment adviser, branch office, and associated person expires
304 on December 31 of the year the registration became effective
305 unless the registrant has renewed his or her registration on or
306 before that date. The commission may establish by rule
307 procedures for renewing the registration of a branch office

308 through the Central Registration Depository. Registration may be
 309 renewed by furnishing such information as the commission may
 310 require, together with payment of the fee required in subsection
 311 (10) for dealers, investment advisers, associated persons, or
 312 branch offices and the payment of any amount lawfully due and
 313 owing to the office pursuant to any order of the office or
 314 pursuant to any agreement with the office. Any dealer,
 315 investment adviser, ~~or~~ associated person, or branch office
 316 registrant who has not renewed a registration by the time the
 317 current registration expires may request reinstatement of such
 318 registration by filing with the office, on or before January 31
 319 of the year following the year of expiration, such information
 320 as may be required by the commission, together with payment of
 321 the fee required in subsection (10) for dealers, investment
 322 advisers, ~~or~~ associated persons, or branch office and a late fee
 323 equal to the amount of such fee. Any reinstatement of
 324 registration granted by the office during the month of January
 325 shall be deemed effective retroactive to January 1 of that year.

326 (15)

327 (b) In lieu of filing with the office the applications
 328 specified in subsection (6), the fees required by subsection
 329 (10), the renewals required by subsection (11), and the
 330 termination notices required by subsection (12), the commission
 331 may by rule establish procedures for the deposit of such fees
 332 and documents with the Central Registration Depository or the
 333 Investment Adviser Registration Depository of the Financial
 334 Industry Regulatory Authority ~~National Association of Securities~~

CS/HB 483

2009

335 ~~Dealers, Inc.~~, as developed under contract with the North
336 American Securities Administrators Association, Inc.

337 Section 5. Subsection (3) is added to section 517.121,
338 Florida Statutes, to read:

339 517.121 Books and records requirements; examinations.--

340 (3) Registration under s. 517.12 may be immediately
341 suspended by the office if the registrant fails to promptly
342 provide to the office, after a written request, any of the
343 records required by this section and the rules adopted under
344 this section. The suspension may be rescinded if the registrant
345 submits the requested records to the office. For purposes of s.
346 120.60(6), failure to provide any of such records constitutes
347 immediate and serious danger to the public health, safety, and
348 welfare.

349 Section 6. Subsection (2) of section 517.1215, Florida
350 Statutes, is amended to read:

351 517.1215 Requirements, rules of conduct, and prohibited
352 business practices for investment advisors and their associated
353 persons.--

354 (2) The commission shall by rule establish rules of
355 conduct and prohibited business practices for investment
356 advisers and their associated persons. In adopting the rules,
357 the commission shall consider general industry standards as
358 expressed in the rules and regulations of the various federal
359 and self-regulatory agencies and regulatory associations,
360 including, but not limited to, the United States Securities and
361 Exchange Commission, the Financial Industry Regulatory Authority

362 ~~National Association of Securities Dealers~~, and the North
 363 American Securities Administrators Association.

364 Section 7. Section 517.1217, Florida Statutes, is amended
 365 to read:

366 517.1217 Rules of conduct and prohibited business
 367 practices for dealers and their associated persons.--The
 368 commission by rule may establish rules of conduct and prohibited
 369 business practices for dealers and their associated persons. In
 370 adopting the rules, the commission shall consider general
 371 industry standards as expressed in the rules and regulations of
 372 the various federal and self-regulatory agencies and regulatory
 373 associations, including, but not limited to, the United States
 374 Securities and Exchange Commission, the Financial Industry
 375 Regulatory Authority ~~National Association of Securities Dealers~~,
 376 and the North American Securities Administrators Association.

377 Section 8. Subsection (1) of section 517.141, Florida
 378 Statutes, is amended to read:

379 517.141 Payment from the fund.--

380 (1) Any person who meets all of the conditions prescribed
 381 in s. 517.131 may apply to the office for payment to be made to
 382 such person from the Securities Guaranty Fund in the amount
 383 equal to the unsatisfied portion of such person's judgment or
 384 \$10,000, whichever is less, but only to the extent and amount
 385 reflected in the judgment as being actual or compensatory
 386 damages, excluding postjudgment interest, costs, and attorney's
 387 fees.

388 Section 9. Subsections (1) and (6) of section 517.161,
 389 Florida Statutes, are amended to read:

390 517.161 Revocation, denial, or suspension of registration
 391 of dealer, investment adviser, associated person, or branch
 392 office.--

393 (1) Registration under s. 517.12 may be denied or any
 394 registration granted may be revoked, restricted, or suspended by
 395 the office if the office determines that such applicant or
 396 registrant; any partner, member, officer, or director of the
 397 applicant or registrant or any person having a similar status or
 398 performing similar functions; or any person directly or
 399 indirectly controlling the applicant or registrant:

400 (a) Has violated any provision of this chapter or any rule
 401 or order made under this chapter;

402 (b) Has made a material false statement in the application
 403 for registration;

404 (c) Has been guilty of a fraudulent act in connection with
 405 rendering investment advice or in connection with any sale of
 406 securities, has been or is engaged or is about to engage in
 407 making fictitious or pretended sales or purchases of any such
 408 securities or in any practice involving the rendering of
 409 investment advice or the sale of securities which is fraudulent
 410 or in violation of the law;

411 (d) Has made a misrepresentation or false statement to, or
 412 concealed any essential or material fact from, any person in the
 413 rendering of investment advice or the sale of a security to such
 414 person;

415 (e) Has failed to account to persons interested for all
 416 money and property received;

417 (f) Has not delivered, after a reasonable time, to persons
418 entitled thereto securities held or agreed to be delivered by
419 the dealer, broker, or investment adviser, as and when paid for,
420 and due to be delivered;

421 (g) Is rendering investment advice or selling or offering
422 for sale securities through any associated person not registered
423 in compliance with the provisions of this chapter;

424 (h) Has demonstrated unworthiness to transact the business
425 of dealer, investment adviser, or associated person;

426 (i) Has exercised management or policy control over or
427 owned 10 percent or more of the securities of any dealer or
428 investment adviser that has been declared bankrupt, or had a
429 trustee appointed under the Securities Investor Protection Act;
430 or is, in the case of a dealer or investment adviser, insolvent;

431 (j) Has been convicted of, or has entered a plea of guilty
432 or nolo contendere to, regardless of whether adjudication was
433 withheld, a crime against the laws of this state or any other
434 state or of the United States or of any other country or
435 government which relates to registration as a dealer, investment
436 adviser, issuer of securities, associated person, or branch
437 office; which relates to the application for such registration;
438 or which involves moral turpitude or fraudulent or dishonest
439 dealing;

440 (k) Has had a final judgment entered against her or him in
441 a civil action upon grounds of fraud, embezzlement,
442 misrepresentation, or deceit;

443 (l) Is of bad business repute;

CS/HB 483

2009

444 (m) Has been the subject of any decision, finding, award,
445 injunction, suspension, prohibition, revocation, denial,
446 judgment, or administrative order by any court of competent
447 jurisdiction, administrative law judge, or by any state or
448 federal agency, national securities, commodities, or option
449 exchange, or national securities, commodities, or option
450 association, involving a violation of any federal or state
451 securities or commodities law or any rule or regulation
452 promulgated thereunder, or any rule or regulation of any
453 national securities, commodities, or options exchange or
454 national securities, commodities, or options association, or has
455 been the subject of any injunction or adverse administrative
456 order by a state or federal agency regulating banking,
457 insurance, finance or small loan companies, real estate,
458 mortgage brokers or lenders, money transmitters, or other
459 related or similar industries. For purposes of this subsection,
460 the office may not deny registration to any applicant who has
461 been continuously registered with the office for 5 years after
462 ~~from~~ the date of entry of such decision, finding, injunction,
463 suspension, prohibition, revocation, denial, judgment, or
464 administrative order provided such decision, finding,
465 injunction, suspension, prohibition, revocation, denial,
466 judgment, or administrative order has been timely reported to
467 the office pursuant to the commission's rules. For purposes of
468 this paragraph, the term "state" includes Canadian provinces,
469 and the term "national" includes other countries; or

470 (n) Made payment to the office for a registration or
471 notice filing with a check or electronic transmission of funds

472 that is dishonored by the applicant's, registrant's, or notice
 473 filer's financial institution.

474 (6) Registration under s. 517.12 may be denied or any
 475 registration granted may be suspended or restricted if an
 476 applicant or registrant is charged, in a pending enforcement
 477 action or pending criminal prosecution, with any conduct that
 478 would authorize denial or revocation under subsection (1).
 479 Registration under s. 517.12 may be suspended or restricted if a
 480 registrant is arrested for any conduct that would authorize
 481 revocation under subsection (1).

482 (a) Any denial of registration ordered under this
 483 subsection shall be without prejudice to the applicant's ability
 484 to reapply for registration.

485 (b) Any order of suspension or restriction under this
 486 subsection shall:

487 1. Take effect only after a hearing, unless no hearing is
 488 requested by the registrant or unless the suspension or
 489 restriction is made in accordance with s. 120.60(6).

490 2. Contain a finding that evidence of a prima facie case
 491 supports the charge made in the enforcement action or criminal
 492 prosecution.

493 3. Operate for no longer than 10 days beyond receipt of
 494 notice by the office of termination with respect to the
 495 registrant of the enforcement action or criminal prosecution.

496 (c) For purposes of this subsection:

497 1. The term "enforcement action" means any judicial
 498 proceeding or any administrative proceeding where such judicial
 499 or administrative proceeding is brought by an agency of the

500 United States or of any state to enforce or restrain violation
 501 of any state or federal law, or any disciplinary proceeding
 502 maintained by the Financial Industry Regulatory Authority
 503 ~~National Association of Securities Dealers~~, the National Futures
 504 Association, ~~the New York Stock Exchange~~, or any other similar
 505 self-regulatory organization.

506 2. An enforcement action is pending at any time after
 507 notice to the applicant or registrant of such action and is
 508 terminated at any time after entry of final judgment or decree
 509 in the case of judicial proceedings, final agency action in the
 510 case of administrative proceedings, and final disposition by a
 511 self-regulatory organization in the case of disciplinary
 512 proceedings.

513 3. A criminal prosecution is pending at any time after
 514 criminal charges are filed and is terminated at any time after
 515 conviction, acquittal, or dismissal.

516 Section 10. Section 517.1611, Florida Statutes, is created
 517 to read:

518 517.1611 Guidelines.--

519 (1) The commission shall adopt by rule disciplinary
 520 guidelines applicable to each ground for disciplinary action
 521 that may be imposed by the office.

522 (a) The disciplinary guidelines shall specify a range of
 523 penalties based upon the severity and repetition of specific
 524 offenses. The disciplinary guidelines shall distinguish minor
 525 violations from violations that endanger the public health,
 526 safety, or welfare; provide reasonable notice to the public of
 527 penalties that may be imposed for proscribed conduct; and ensure

528 that penalties are imposed in a consistent manner by the office.

529 (b) The commission shall identify mitigating and
 530 aggravating circumstances by rule that allow the office to
 531 impose a penalty other than that specified in the guidelines.

532 (2) The commission shall adopt by rule disqualifying
 533 periods pursuant to which an applicant will be disqualified from
 534 eligibility for registration based upon criminal convictions,
 535 pleas of nolo contendere, or pleas of guilt, regardless of
 536 whether adjudication was withheld, by the applicant; any
 537 partner, member, officer, or director of the applicant or any
 538 person having a similar status or performing similar functions;
 539 or any person directly or indirectly controlling the applicant.

540 (a) The disqualifying periods shall be 15 years for a
 541 felony and 5 years for a misdemeanor.

542 (b) The disqualifying periods shall be related to crimes
 543 involving registration as a dealer, investment adviser, issuer
 544 of securities, associated person, or branch office or the
 545 application for such registration or involving moral turpitude
 546 or fraudulent or dishonest dealing.

547 (c) The rules may also address mitigating factors, an
 548 additional waiting period based upon dates of imprisonment or
 549 community supervision, an additional waiting period based upon
 550 commitment of multiple crimes, and other factors reasonably
 551 related to the consideration of an applicant's criminal history.

552 (d) An applicant is not eligible for registration until
 553 the expiration of the disqualifying period set by rule. Section
 554 112.011 does not apply to the registration provisions under this
 555 chapter. Nothing in this section changes or amends the grounds

556 for denial under s. 517.161.

557 Section 11. Subsection (3) of section 517.191, Florida
 558 Statutes, is amended, and subsections (4), (5), (6), and (7) are
 559 added to that section, to read:

560 517.191 Injunction to restrain violations; civil
 561 penalties; enforcement by Attorney General.--

562 (3) In addition to, or in lieu of, any other remedies
 563 provided by this chapter, the office may apply to the court
 564 hearing this matter for an order directing the defendant ~~of~~
 565 ~~restitution whereby the defendants in such action shall be~~
 566 ~~ordered~~ to make restitution of those sums shown by the office to
 567 have been obtained ~~by them~~ in violation of any of the provisions
 568 of this chapter. The office has standing to request such
 569 restitution on behalf of victims in cases brought by the office
 570 under this chapter, regardless of the appointment of an
 571 administrator or receiver under subsection (2) or an injunction
 572 under subsection (1). Further, such restitution shall, at the
 573 option of the court, be payable to the administrator or receiver
 574 appointed pursuant to this section or directly to the persons
 575 whose assets were obtained in violation of this chapter.

576 (4) In addition to any other remedies provided by this
 577 chapter, the office may apply to the court hearing the matter
 578 for, and the court shall have jurisdiction to impose, a civil
 579 penalty against any person found to have violated any provision
 580 of this chapter, any rule or order adopted by the commission or
 581 office, or any written agreement entered into with the office in
 582 an amount not to exceed \$10,000 for a natural person or \$25,000
 583 for any other person, or the gross amount of any pecuniary gain

584 to such defendant for each such violation other than a violation
585 of s. 517.301 plus \$50,000 for a natural person or \$250,000 for
586 any other person, or the gross amount of any pecuniary gain to
587 such defendant for each violation of s. 517.301. All civil
588 penalties collected pursuant to this subsection shall be
589 deposited into the Anti-Fraud Trust Fund.

590 (5) In addition to all other means provided by law for
591 enforcing any of the provisions of this chapter, when it appears
592 to the Attorney General upon complaint or otherwise that a
593 person has engaged or is engaged in any act or practice
594 constituting a violation of s. 517.275, s. 517.301, s. 517.311,
595 or s. 517.312, or any rule or order issued under such sections,
596 the Attorney General may act as an enforcing authority of this
597 chapter as specified in this chapter, after written approval
598 from the office. The Attorney General may investigate and
599 enforce the provisions of this section in the same manner as
600 provided in ss. 517.201, 517.2015, and 517.171 and shall be
601 subject to s. 517.2015. Whenever the Attorney General is acting
602 as an enforcing authority of this chapter and has reason to
603 believe that any such person has engaged or is engaged in any
604 act or practice constituting a violation of s. 517.275, s.
605 517.301, s. 517.311, or s. 517.312, or any rule or orders issued
606 under such sections, the Attorney General may bring an action
607 against such person and any other person in any way
608 participating in such act or practice or engaging in such act or
609 practice or doing any act in furtherance of such act or
610 practice, to obtain injunctive relief, restitution, civil
611 penalties, and any remedies provided for in this section. The

612 Attorney General may recover any costs and attorney fees related
613 to the investigation or enforcement of this section.
614 Notwithstanding any other provision of law, moneys recovered by
615 the Attorney General for costs, attorney fees, and civil
616 penalties for a violation of s. 517.275, s. 517.301, s. 517.311,
617 or s. 517.312, or any rule or order issued pursuant such
618 sections, shall be deposited in the Legal Affairs Revolving
619 Trust Fund.

620 (6) This section does not limit the authority of the
621 office to bring an administrative action against any person that
622 is the subject of a civil action brought pursuant to this
623 section or limit the authority of the office to engage in
624 investigations or enforcement actions with the Attorney General.

625 (7) Notwithstanding s. 95.11(4)(e), an enforcement action
626 brought under this section based on a violation of any provision
627 of this chapter or any rule or order issued under this chapter
628 shall be brought within 6 years after the facts giving rise to
629 the cause of action were discovered or should have been
630 discovered with the exercise of due diligence, but not more than
631 10 years after the date such violation occurred.

632 Section 12. Subsection (3) of section 517.221, Florida
633 Statutes, is amended, and subsection (4) is added to that
634 section, to read:

635 517.221 Cease and desist orders.--

636 (3) The office may impose and collect an administrative
637 fine against any person found to have violated any provision of
638 this chapter, any rule or order promulgated by the commission or
639 office, or any written agreement entered into with the office in

640 an amount not to exceed \$10,000 ~~\$5,000~~ for each such violation.
 641 All fines collected hereunder shall be deposited as received in
 642 the Anti-Fraud Trust Fund.

643 (4) The office may bar, permanently or for a specific time
 644 period, any person found to have violated any provision of this
 645 chapter, any rule or order adopted by the commission or office,
 646 or any written agreement entered into with the office from
 647 submitting an application or notification for a license or
 648 registration with the office.

649 Section 13. Section 517.275, Florida Statutes, is amended
 650 to read:

651 517.275 Commodities; prohibited practices.--It is unlawful
 652 and a violation of this chapter for any person to engage in any
 653 act or practice in or from this state, which act or practice
 654 constitutes a violation of any provision of the Commodity
 655 Exchange Act, 7 U.S.C. ss. 1 et seq., as amended, or the rules
 656 and regulations of the Commodity Futures Trading Commission
 657 adopted under that act as amended ~~upon the effective date of~~
 658 ~~this act.~~

659 Section 14. Subsection (9) of section 905.34, Florida
 660 Statutes, is amended, and subsections (11) and (12) are added to
 661 that section, to read:

662 905.34 Powers and duties; law applicable.--The
 663 jurisdiction of a statewide grand jury impaneled under this
 664 chapter shall extend throughout the state. The subject matter
 665 jurisdiction of the statewide grand jury shall be limited to the
 666 offenses of:

667 (9) Any criminal violation of part I of chapter 499; ~~or~~

668 (11) Any criminal violation of the Florida Money
 669 Laundering Act; or
 670 (12) Any criminal violation of the Florida Securities and
 671 Investor Protection Act;
 672
 673 or any attempt, solicitation, or conspiracy to commit any
 674 violation of the crimes specifically enumerated above, when any
 675 such offense is occurring, or has occurred, in two or more
 676 judicial circuits as part of a related transaction or when any
 677 such offense is connected with an organized criminal conspiracy
 678 affecting two or more judicial circuits. The statewide grand
 679 jury may return indictments and presentments irrespective of the
 680 county or judicial circuit where the offense is committed or
 681 triable. If an indictment is returned, it shall be certified and
 682 transferred for trial to the county where the offense was
 683 committed. The powers and duties of, and law applicable to,
 684 county grand juries shall apply to a statewide grand jury except
 685 when such powers, duties, and law are inconsistent with the
 686 provisions of ss. 905.31-905.40.
 687 Section 15. This act shall take effect July 1, 2009.