

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF BANKING AND FINANCE

Division of Securities and Finance

RULE TITLES: Processing of Applications  
 RULE NO.: 3E-301.002

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rules 3E-301.002 is to allow for the electronic filing for Federal Covered Advisers and Investment Advisers through the Investment Advisor Registration Depository (IARD) of the NASD.

SUBJECT AREA TO BE ADDRESSED: Electronic filing for investment advisers and Federal Covered Advisers and revised forms.

SPECIFIC AUTHORITY: 517.03, 517.12, 517.1201 FS.

LAW IMPLEMENTED: 120.53, 120.60, 517.051, 517.081, 517.082, 517.12, 517.1201, 517.1205, 517.161 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:30 a.m., Tuesday, April 9, 2002

PLACE: 101 East Gaines Street, JAD Room G16, Fletcher Building, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Pamela P. Epting, Financial Examiner/Analyst Supervisor, 101 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0350, (850)410-9805

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

3E-301.002 Processing of Applications.

(1) Unchanged.

(2) Filing of Application and Fee. Applications in the format required by the Department, accompanied by the prescribed fee for the requested license action, shall be filed with the Department at the address indicated in subsection (1) above; however, all dealers who are members of the National Association of Securities Dealers, Inc. ("NASD") shall file such items in accordance with the provisions of Chapter 3E-600, F.A.C., as prescribed therein. However, all Federal Covered Advisers shall file such items in accordance with the provisions of Chapter 3E-600.0092, F.A.C. Investment advisers may file the required forms and fees with the Investment Adviser Registration Depository (IARD) in accordance with the provisions of 3E-600.0093 F.A.C. Issuers may file the required forms and fees with the Securities Registration Depository (SRD) in accordance with the provisions of Rules 3E-400.004 or 3E-800.001, F.A.C., upon implementation of the system in this state.

(3) through (6) No change.

(7)(a) The forms referred to in this section below ~~herein~~ which are incorporated and readopted by this Rule for the purposes of Rules Chapters 3E-100 through 3E-900 ~~are as follows:~~

1. DOSIP-S-1-91, Application for Registration of Securities (Revised 10/97);
2. DOSIP-S-7-91, Exhibit 1 (General Issue) (Revised 10/97);
3. DOSIP-S-5-91, Uniform Consent to Service of Process (Revised 1/91);
4. DOSIP-S-6-91, Corporate Resolution (Revised 1/91);
5. DOSIP-S-10-91, Report of Sales of Securities and Use of Proceeds Therefrom (Revised 1/91);
6. Form BD, Uniform Application for Broker-Dealer Registration (Revised 7/99);
7. Form ADV, Uniform Application for Investment Adviser Registration (Revised 01/01/01) ~~(Revised 1/99)~~;
8. Form U-4, Uniform Application for Securities Industry Registration or Transfer (Revised 03/2002) ~~(Revised 8/99)~~;
9. Form BDW, Uniform Request for Broker-Dealer Withdrawal (Revised 8/99);
10. Form ADV-W, Notice of Withdrawal from Registration as Investment Advisor (Revised 1/99);
11. Form U-5, Uniform Termination Notice for Securities Industry Registration (Revised 03/2002 ~~8/99~~);
12. DOSIP Form DA-1-91, Branch Office Registration Form (Revised 4/99);
13. DOSIP Form DA-5-91, Issuer/Dealer Compliance Form (Revised 1/91); and
14. Form FL921250Z, Florida Fingerprint Card (Revised 1/91).

(b) No change.

Specific Authority 517.03(1), 517.12, 517.1201 FS. Law Implemented 120.60(1), 517.051, 517.081, 517.082, 517.12, 517.161(5) FS. History—Revised and Transferred from 3E-300.01, 9-20-82, Formerly 3E-301.02, Amended 10-15-86, 2-1-87, 12-8-87, 7-29-90, 7-31-91, 6-16-92, 1-10-93, 3-13-94, 10-1-96, 10-23-97, 6-22-98, 6-10-99, 5-7-00,\_\_\_\_\_.

DEPARTMENT OF BANKING AND FINANCE

Division of Securities and Finance

RULE TITLES:	RULE NOS.:
Application for Registration as a Dealer, Issuer/Dealer, or Investment Adviser	3E-600.001
Application for Registration as Associated Person	3E-600.002
Investment Adviser Notification	3E-600.0021
Multiple Registration	3E-600.003
Registration of Issuer/Dealers, Principals and Branch Offices	3E-600.004
Changes in Name and Successor Registration Requirements	3E-600.007

Investment Adviser Registration Depository for Federal Covered Advisers	3E-600.0092
Investment Adviser Registration Depository for Investment Advisers	3E-600.0093
Dealer, Investment Adviser, Branch Office and Associated Persons Forms	3E-600.019

**PURPOSE AND EFFECT:** The purpose of the proposed amendments to 3E-600.001 is to allow for the electronic filing for Federal Covered Advisers and Investment Advisers through the Investment Advisor Registration Depository (IARD) of the NASD. The purpose of the proposed amendment to Rule 3E-600.002 is to allow for the electronic filing of applications for associated persons of investment advisers through the Central Registration Depository (CRD) of the NASD. Rule 3E-600.0021 is to be deleted because the NASD, in conjunction with the SEC and NASAA, has developed the IARD, an electronic licensing system for investment advisers. The IARD supports electronic filing of forms and centralized fee and form processing. Additionally, the NASD has developed technology for the processing of associated persons of investment advisers through the CRD. Along with an electronic filing process, examinations have been developed which test the knowledge of individuals seeking to become investment adviser representatives. The purpose of the proposed revisions to Rule 3E-600.003 is to require registration for dealers registered in Florida who receive separate compensation for investment advisory services. The purpose of the proposed revisions to Rule 3E-600.007 is to specify the time period for notifying the Division of changes in name and successor registrations. Additionally, the approved form reference information is being deleted because it is duplicative of Rule 3E-301.002(7). The purpose of the proposed creation of Rule 3E-600.0092 is to document the process for the electronic filing of information by Federal Covered Advisers and their associated persons. Beginning January 1, 2001, the SEC mandated that its investment adviser registrants use the IARD to make all filings with the Commission. Additionally, with the deployment of the investment adviser representative functionality in CRD, the Division proposes to mandate the filing of applications for associated persons of investment advisers. As these firms have been required at the federal level to make electronic filings, the state is likewise proposing that filings be made electronically. The purpose of the proposed creation of Rule 3E-600.0093 is to document the process for the electronic filing of information by investment advisers and their associated persons. In January, 2001, the IARD system was deployed by the NASD. This system provides the means for electronic filing of applications. Additionally, on March 18, 2002, the NASD will deploy functionality on CRD which will provide the means for electronic processing of applications for associated persons of investment advisers. If investment advisers firms elect to file their applications and those of their associated persons electronically, the Division is proposing a rule to document

such process. The approved form reference information of Rule 3E-600.019 is being deleted because it is duplicative of Rule 3E-301.002(7).

**SUBJECT AREA TO BE ADDRESSED:** Electronic filing for investment advisers; deletion of investment adviser notification provisions; registration requirements for dealers receiving separate compensation for investment advisory services; deletion of approved forms; creation of process for electronic filings by investment advisers and their associated persons.

**SPECIFIC AUTHORITY:** 517.03, 517.12, 517.1201 FS.

**LAW IMPLEMENTED:** 120.53, 120.60, 517.051, 517.081, 517.082, 517.12, 517.1201, 517.1205, 517.161 FS.

**A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:**

**TIME AND DATE:** 10:30 a.m., Tuesday, April 9, 2002

**PLACE:** 101 East Gaines Street, JAD Room G16, Fletcher Building, Tallahassee, Florida 32399

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS:** Pamela P. Epting, Financial Examiner/Analyst Supervisor, 101 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0350, (850)410-9805

**THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:**

3E-600.001 Application for Registration as a Dealer, Issuer/Dealer, or Investment Adviser.

(1)(a) Applications for initial and renewal registration of dealers, issuer/dealers, and investment advisers shall be filed on the forms prescribed by the Department in Rule 3E-301.002(7), F.A.C. and shall include all information required by such forms, any other information the Department may require, and payment of the statutory fees required by Sections 517.12(10) and 517.131, F.S. Except as otherwise provided in Rule 3E-600.0091, or Rule 3E-600.0093, F.A.C., ~~the~~ The Department shall deem an application to be received at such time as it and the appropriate fee have been date stamped by the cashier's office of the Department of Banking and Finance. For dealers that are members of the National Association of Securities Dealers (NASD), such application shall be filed with the Department through the Central Registration Depository (CRD) of the NASD in accordance with Rule 3E-600.0091, F.A.C. For investment advisers, such application may be filed with the Department through the Investment Advisor Registration Depository (IARD) of the NASD in accordance with Rule 3E-600.0093, F.A.C.

(b) A complete application must include the following exhibits or forms that are appropriate for the type of registration requested:

1. For registration as a dealer or issuer/dealer, a Uniform Application for Broker-Dealer Registration, Form BD (Revised 7/99). For dealers that are members of the NASD,

such application shall be filed with the Department through the CRD in accordance with Rule 3E-600.0091, F.A.C. For registration as an investment adviser, a Uniform Application for Investment Adviser Registration, Form ADV (Revised 1/1/01) shall be filed with the Department (~~Revised 1/99~~). Such application may be filed with the Department through the Investment Advisor Registration Depository (IARD) of the NASD in accordance with Rule 3E-600.0093, F.A.C.

2. No change.

3. A Uniform Application for Securities Industry Registration or Transfer, Form U-4 (Revised 03/2002 8/99), to register at least one principal as set forth in Rule 3E-600.002, F.A.C. Evidence of current membership as a dealer with the NASD shall satisfy this requirement;

4. No change.

5. Proof of effective registration for dealers with the Securities and Exchange Commission (SEC). Where required by Section 517.12(16), F.S., applicants for registration as a dealer shall also provide the Department with proof of insurance coverage by the Securities Investor Protection Corporation. Evidence of current membership as a dealer with the NASD shall satisfy this requirement;

6. through 9. No change.

(2) If the information contained in any application for registration as a dealer or investment adviser or in any amendment thereto, becomes inaccurate for any reason, the dealer or investment adviser shall ~~promptly~~ file an amendment on the Form BD or the Form ADV, respectively, correcting such information within 30 days. For applicants and registrants that are members of the NASD, each such amendment, including those required by Rule 3E-600.007, F.A.C., shall be filed with the Department through the CRD system. For investment adviser applicants and registrants who file via the IARD, each such amendment, including those required by Rule 3E-600.007, F.A.C., may be filed with the Department through the IARD system in accordance with Rule 600.0093, F.A.C. All other applicants and registrants shall file such amendments, including those required by Rule 3E-600.007, F.A.C., directly with the Department.

(3) through (4) No change.

Specific Authority 517.03(1), 517.12(6) FS. Law Implemented 517.12(6),(7), 517.1205 FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.01, Amended 7-29-90, 8-1-91, 6-16-92, 1-11-93, 11-14-93, 4-30-96, 6-22-98, 5-10-00, 9-19-00, \_\_\_\_\_.

3E-600.002 Application for Registration as Associated Person.

(1)(a) Applications for initial, reaffiliation, and renewal registrations of a principal or associated person agent shall be filed on Form U-4 (Revised 3/2002), Uniform Application for Securities Industry Registration or Transfer (Revised 8/99), which hereby is incorporated by reference, and shall include all information required by such form, any other information the Department may require, and payment of the statutory fees

required by Section 517.12(10), F.S. Except as otherwise provided in Rule 3E-600.0091, 3E-600.0092, or 3E-600.0093, F.A.C., the Department shall deem an application to be received at such time as it and the appropriate fee have been date stamped by the cashier's office of the Department of Banking and Finance. For dealers that are members of the National Association of Securities Dealers ("NASD"), such application shall be filed with the Department through the Central Registration Depository ("CRD") of the NASD in accordance with Rule 3E-600.0091, F.A.C. For federal covered advisers, such application shall be filed with the Department through the Central Registration Depository ("CRD") of the NASD in accordance with Rule 3E-600.0092, F.A.C. For investment adviser applicants and registrants who file via the IARD, such application may be filed with the Department through the CRD of the NASD in accordance with Rule 3E-600.0093, F.A.C.

(b) A complete initial application must include the following exhibits or forms that are appropriate for the type of registration requested:

1. Uniform Application for Securities Industry Registration or Transfer, Form U-4 (Revised 3/2002 8/99). As used on the Form U-4 (Revised 3/2002), the term "Office of Employment Address" shall mean the location where the person seeking registration will regularly conduct business on behalf of the dealer or investment adviser. For dealers that are members of the NASD, such application shall be filed with the Department through the CRD of the NASD.

2. Statutory fee in the amount of \$40, for each registration sought, as required by Section 517.12(10), F.S.

3. through 5. No change.

(c) If the information contained in any Uniform Application Form U-4 (Revised 3/2002) becomes inaccurate for any reason before or after the associated person becomes registered, the associated person through the dealer or investment adviser, as applicable, shall be responsible for correcting the inaccurate information in thirty (30) days. If the information being updated relates to the applicant's or registrant's disciplinary history, in addition to updating the Uniform Application Form U-4 (Revised 3/2002), the associated person through the dealer or investment adviser shall also provide the Department with notice and copies of each civil, criminal or administrative action initiated against the associated person as provided in Rule 3E-600.010, F.A.C. For associated persons who have filed by using the CRD of the NASD, such amendments shall be made through the CRD of the NASD.

(2) No change.

Specific Authority 517.03(1), 517.12(6) FS. Law Implemented 517.12(6),(7),(10), 517.1205 FS. History—New 9-20-82, Formerly 3E-301.02, Amended 10-15-86, 10-4-88, 6-24-90, 7-29-90, 10-14-90, 8-1-91, 6-16-92, 6-28-93, 11-14-93, 3-13-94, 4-30-96, 12-29-96, 6-22-98, 5-10-00, 9-19-00, \_\_\_\_\_.

3E-600.0021 Investment Adviser Notification.

Specific Authority 517.03 FS. Law Implemented 517.12(4) FS. History--New 9-20-82, Formerly 3E-600.021, Amended 5-5-94, Repealed.

3E-600.003 Multiple Registration.

(1) A dealer registered in Florida who receives separate compensation for investment advisory services may render investment advice upon registration with the Department as an investment adviser pursuant to Rule 3E-600.001, F.A.C., or satisfaction of the notification requirements pursuant to Rule 3E-600.0092, F.A.C.

(2)(+) An applicant for registration as an associated person may apply to be registered as an associated person of more than one dealer, issuer/dealer or investment adviser, or any combination thereof, by the filing of separate applications by each registered dealer, issuer/dealer or investment adviser, and payment of separate application fees as required.

(3)(2) A person registered with the Department as an associated person of an investment adviser ~~firm or a dually registered dealer/investment adviser~~ shall not be required to register as an associated person of any other investment adviser ~~firm~~ on whose behalf such person solicits, refers, offers or negotiates advisory services, provided each of the following conditions are met:

(a) All compensation received by the associated person is paid by the investment adviser ~~firm or dually registered dealer/investment adviser~~ with which the associated person is registered;

(b) All customer funds and securities are maintained by the dealer, investment adviser, dually registered dealer/investment adviser or a clearing dealer;

(c) The investment adviser ~~firm or the dually registered dealer/investment adviser~~ shall ensure that all associated persons comply with the provisions of Chapter 517, F.S., and the administrative rules promulgated thereunder; and

(d) Each investment adviser ~~firm~~ must be registered with the Department and the advisory services must be approved by the investment adviser ~~firm or dually registered dealer/investment adviser~~ the associated person is registered with prior to any services being recommended.

(3) Associated persons exempted from the examination requirements as provided by Rule 3E-600.004(1)(b) may not be registered with more than one (1) issuer/dealer at the same time.

Specific Authority 517.03 FS. Law Implemented 517.12(1),(4), 120.53 FS. History--New 12-5-79, Amended 9-20-82, Formerly 3E-600.03, Amended 8-1-91, 5-5-94, \_\_\_\_\_.

3E-600.004 Registration of Issuer/Dealers, Principals and Branch Offices.

(1) through (2) No change.

(3)(a) No change.

(b) A complete application must include the following exhibits or forms that are appropriate for the type of registration requested:

1. Branch Office Registration Form under Rule 3E-301.002 ~~3E-600.019~~.

2. Statutory fee in the amount required by Section 517.12(10), F.S.

3. Manager and resident agent as appropriate in this Rule must be registered as set forth in Rule 3E-600.002.

4. Evidence of registration with the Florida Secretary of State as a foreign corporation.

(c) through (d) No change.

Specific Authority 517.03(1), 517.12(6) FS. Law Implemented 517.12(5),(6),(10) FS. History--New 12-5-79, Amended 9-20-82, Formerly 3E-600.04, Amended 10-14-90, 6-16-92, 1-11-93, 11-7-93, 11-14-93, 12-29-96, 10-20-97, 6-10-99, 8-19-99, 5-27-01, \_\_\_\_\_.

3E-600.007 Changes in Name and Successor Registration Requirements.

(1) No change.

(2) Where there is a change in legal entity of a proprietary, partnership, or corporate registrant, the successor entity shall file with the Department an amendment to Form BD, Uniform Application for Broker-Dealer Registration (Revised 7/99) or Form ADV, Uniform Application for Investment Adviser Registration (Revised 01/01/01) (~~Revised 1/99~~) within thirty (30) calendar days of the date of such change. For registrants who are a member of the NASD, such amendment shall be filed with the Department through the CRD System pursuant to Rule 3E-600.001(2), F.A.C. Any amendments to organizational documents, accompanying letters of explanation, or current financial statements of the ~~successor~~ shall be promptly submitted directly to the Department when specifically requested by the Department.

(3) Merger Situations: Where there is a merger of dealer or investment adviser registrants involving (a) the assumption by the successor of substantially all assets and liabilities of the merged entities, and (b) the continuation of the activities of the merged entities successor entity, the merging entities successor shall file notification with the Department denoting such changes as are applicable within thirty (30) calendar days prior to the date of such change. The successor entity shall file an amendment to Form BD (Revised 7/99) or Form ADV (Revised 01/01/01) denoting such changes as are applicable within thirty (30) calendar days of date of such change. For registrants who are a member of the NASD, each such amendment shall be filed with the Department through the CRD System pursuant to Rule 3E-600.001(2), F.A.C. A copy of the plan of merger/merger agreement, amended organizational documents, accompanying letters of explanation, or current financial statements of the successor (merged) entity shall be promptly provided to the Department when specifically requested by the Department.

## (4) Change of Control:

(a) Where a person or a group of persons directly or indirectly or acting by or through one or more persons, proposes to acquire a controlling interest in a dealer or investment advisor registrant, and where the acquiror is currently registered with the Department, or where the acquiror has not within the preceding 10 years committed any reportable act as defined in Rule 3E-200.001, the resulting entity shall ~~prior to such acquisition~~ file with the Department an amendment to Form BD (Revised 7/99) or Form ADV (Revised 01/01/01) denoting such changes as are applicable thirty (30) calendar days prior to the date of such acquisition. Any amended organizational documents, accompanying letters of explanation, or financial statements of the resulting entity shall be promptly filed directly with the Department when specifically requested by the Department.

(b) through (c) No change.

(5) For the purposes of subsections ~~(1), (2) and (3), and paragraph (4)(a)~~ of this Rule, in the event that a person(s) succeeds to and continues the business of a Florida registered dealer or investment adviser, the registration of the predecessor shall be deemed to remain effective as the registration of the successor for a period of thirty (30) calendar days after such succession, provided that an amendment to Form BD (Revised 7/99) or Form ADV (Revised 01/01/01) Application for Registration, together with the accompanying documents as prescribed heretofore, is filed by the successor within thirty (30) calendar days after such succession.

(6) No change.

~~(7) The changes described in this rule shall be filed with the Department on the following forms:~~

~~(a) Uniform Application for Broker-Dealer Registration (Form BD) (Revised 7/99)~~

~~(b) Uniform Request for Broker-Dealer Withdrawal (Form BDW) (Revised 8/99)~~

~~(c) Uniform Application for Investment Adviser Registration (Form ADV) (Revised 1/99)~~

~~(d) Notice of Withdrawal from Registration as Investment Adviser (Form ADV-W) (Revised 1/99)~~

~~(e) Uniform Application for Securities Industry Registration or Transfer (Form U-4) (Revised 8/99)~~

~~(f) Uniform Termination Notice for Securities Industry Registration (Form U-5) (Revised 8/99).~~

Specific Authority 517.03(1), 517.12(13) FS. Law Implemented 517.12(13), FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.07(4), Amended 10-15-86, 12-8-87, 8-1-91, 6-16-92, 1-11-93, 8-9-98, 5-10-00, \_\_\_\_\_. Cf. See rule 3E-301.002(7) for forms referenced herein which have been previously adopted by the Department.

3E-600.0092 Investment Adviser Registration Depository for Federal Covered Advisers.

Wherever the Rules of this Department require the filing of applications, fees, and other documents with the Department, in lieu thereof, all federal covered advisers shall file such items as specified below:

(1) All federal covered advisers making, renewing, or terminating a notice filing in this state shall file the appropriate Form ADV (Revised 01/01/01) or ADVW (Revised 01/99) and the assessment fee required by Sections 517.1201(1) or (2), F.S., with the Investment Adviser Registration Depository (“IARD”) of the NASD. When requested by the Department, Form ADV (Revised 01/01/01), Part 2, and all responses to any other request for additional information, shall be filed directly with the Department.

(2) Any notice filing made by a federal covered adviser with the Department through the IARD shall be deemed received by the Department upon receipt of the Form ADV (Revised 01/01/01) and the filing fee. The filing fee shall be deemed received by the Department on the “payment date” reflected on the CRD “disbursement detail” report.

(3) All amendments to the Form ADV (Revised 01/01/01), shall be filed with the Department through the IARD system.

(4) All federal covered advisers who notice file in this state and who request initial registration, renewal, reaffiliation or termination of an associated person of such federal covered adviser shall file the appropriate Form U-4 (Revised 3/2002) or U-5 (Revised 3/2002) and the assessment fee required by Sections 517.12(10) or (11), F.S. with the CRD of the NASD. However, any response to any request for additional information shall be filed directly with the Department.

(5) Any application for registration as an associated person of a federal covered adviser which is filed with the Department by way of the CRD shall be deemed received by the Department on the date designated in the “Status Date” field on the line notated “FL” with a “Registration Status” of “pending” as indicated on the CRD “Registrations with Current Employers” screen.

(6) All federal covered advisers currently registered with the Department shall transition the Florida registration of their associated persons onto the CRD before June 30, 2002. All associated persons who transition onto the CRD shall file a complete Form U-4 (Revised 3/2002) through the CRD within 30 days of the transition date, unless the associated person has a current and complete Form U-4 (Revised 3/2002) on the CRD with the federal covered adviser filing such transition.

Specific Authority 517.03, 517.12(6), 517.12(15), 517.1201 FS. Law Implemented 517.1201(1), (2), (15) FS. History—New \_\_\_\_\_.

3E-600.0093 Investment Adviser Registration Depository for Investment Advisers.

Wherever the Rules of this Department require the filing of applications, fees, and other documents with the Department, in lieu thereof, investment advisers may file such items as specified below:

(1) All investment advisers requesting initial registration, renewal or termination of registration in this state may file the appropriate Form ADV (Revised 01/01/01) or ADVW (Revised 01/99) and the assessment fee required by Sections 517.12(10) or (11), F.S., with the Investment Adviser Registration Depository ("IARD") of the NASDR. Form ADV (Revised 01/01/01), Part 2, and all responses to other requests for additional information, shall be filed directly with the Department.

(2) Any application for registration as an investment adviser filed with the Department through the IARD shall be deemed received by the Department upon receipt of the Form ADV (Revised 01/01/01) and the filing fee. The filing fee shall be deemed received by the Department on the "payment date" reflected on the CRD "disbursement detail" report.

(3) All investment advisers registered in this state by the IARD requesting initial registration, renewal, reaffiliation or termination of an associated person of such investment adviser may file the appropriate Form U-4 (Revised 3/2002) or U-5 (Revised 3/2002) and the assessment fee required by Sections 517.12(10) or (11), F.S. with the CRD of the NASD. However, all responses to any requests for additional information shall be filed directly with the Department.

(4) All investment advisers currently registered with the Department who register their associated persons by the CRD shall transition the Florida registrations of their associated persons onto the CRD. All associated persons who transition onto the CRD shall file a complete Form U-4 (Revised 3/2002) through the CRD within 30 days of the transition date, unless the associated person has a current and complete Form U-4 (Revised 3/2002) on the CRD with the investment adviser filing such transition.

(5) Any application for registration as an associated person of an investment adviser filed with the Department by the CRD shall be deemed received by the Department on the date designated in the "Status Date" field on the line notated "FL" with a "Registration Status" of "pending" as indicated on the CRD "Registrations with Current Employers" screen.

Specific Authority 517.03, 517.12(6), 517.12(15) FS. Law Implemented 517.12(10),(11),(15) FS. History--New \_\_\_\_\_.

**3E-600.019 Dealer, Investment Adviser, Branch Office and Associated Persons Forms.**

Specific Authority 517.03(1) FS. Law Implemented 517.12 FS. History--New 12-5-79, Amended 9-20-82, Formerly 3E-600.19, Amended 8-1-91, 6-16-92, 1-11-93, 6-22-98, 6-10-99, 5-10-00, Repealed \_\_\_\_\_.

**DEPARTMENT OF INSURANCE**

RULE TITLE: Annual Audited Financial Reports  
 RULE NO.: 4-137.002

PURPOSE AND EFFECT: The rule adopts the form which is required by statute for insurers to claim exemptions and meet reporting requirements.

SUBJECT AREA TO BE ADDRESSED: Form DI4-1431 "Audited Financial Statements Exemption Affidavit," to be completed by insurers wishing to claim exemption from filing audited financial statements as permitted by Section 624.424(8)(e), Florida Statutes.

SPECIFIC AUTHORITY: 624.308(1), 624.424(8)(e) FS.

LAW IMPLEMENTED: 624.307(1), 624.324, 624.424(8) FS.  
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., April 22, 2002

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting the person listed above.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Sam Coskey, Bureau of P & C Insurer Solvency, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0329, (850)413-5021

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

4-137.002 Annual Audited Financial Reports.

(1) through (13) No change.

(14) Exemptions and Effective Dates.

(a) through (b) No change.

(c) Form DI4-1431, (rev. 7/01), "Audited Financial Statements Exemption Affidavit", is hereby incorporated by reference to be the form specified in Section 624.424(8)(b), Florida Statutes, for exemptions from compliance with the filing of an annual audited financial statement.

(15) No change.

Specific Authority 624.308(1), 624.424(8)(e) FS. Law Implemented 624.307(1), 624.324, 624.424(8) FS. History--New 3-31-92, Amended 3-14-94, 8-17-98, \_\_\_\_\_.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE TITLE: Requirements for Programs and Courses  
 Which Are Funded Through the Florida  
 Education Finance Program and for  
 Which the Student May Earn Credit  
 Toward High School Graduation

RULE NO.: 6A-1.09441

PURPOSE AND EFFECT: The purpose of this rule development is to update the "Course Code Directory and Instructional Personnel Assignments" which is incorporated by reference within the rule. The effect is to provide public school personnel with an updated listing of all courses offered in the public elementary, secondary, vocational-technical, and adult schools of Florida including related teacher certification coverages.

SUBJECT AREA TO BE ADDRESSED: The subject to be addressed will be courses to be offered in public schools throughout Florida and the related teacher certification coverages.

SPECIFIC AUTHORITY: 236.081 FS.

LAW IMPLEMENTED: 236.081 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

Requests for the rule development workshop should be addressed to: Wayne V. Pierson, Agency Clerk, Department of Education, Room 1702, The Capitol, Tallahassee, Florida 32399-0400.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Barbara Elzie, Administrator, Curriculum Support Section, Division of Public Schools, 325 West Gaines Street, Room 444, Tallahassee, Florida 32399-0400, (850)488-1701

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

6A-1.09441 Requirements for Programs and Courses Which Are Funded Through the Florida Education Finance Program and for Which the Student May Earn Credit Toward High School Graduation.

For student membership in a program or course to generate funding through the Florida Education Finance Program and for the student to receive elective or required credit toward high school graduation for such a program or course, the following conditions shall be met:

(1) The program in which the student is in membership shall be one of the programs listed in Section 236.081(1)(c), Florida Statutes.

(2) The course or program in which the student is in membership shall be an educational activity which constitutes a part of the instructional program approved by the district school board.

(3) The student shall be under the supervision of an instructional staff member as defined in Rule 6A-1.0501, FAC.

(4) The course or program shall be listed in the "Course Code Directory and Instructional Personnel Assignments 1999-2000" for the year in which the student is in membership; ~~except as provided in subsection (5) of this rule.~~

~~(5) Each district school board may approve special topics courses using course numbers provided in the Course Code Directory. Each special topic course must include as part of its requirements the appropriate Sunshine State Standards.~~

(5)(6) The "Course Code Directory and Instructional Personnel Assignments 2000-2001 1999-2000" is hereby incorporated by reference and made a part of this rule ~~to become effective with the 1999-2000 school year. The "1998-1999 Course Code Directory and Instructional Personnel Assignments" shall remain in effect until that time.~~ The Commissioner may publish the document in appropriate and useful formats such as printed copy, electronic database access, or electronic disc. The directory may be obtained from the Division of Public Schools and Community Education, Department of Education, Turlington Building, Tallahassee, Florida 32399. The Commissioner of Education may approve additional courses for which funding could be generated through the Florida Education Finance Program. Such additional course listings will be made available as approved.

Specific Authority 229.053(1) FS. Law Implemented 229.592, 232.246, 236.081, 240.40202 FS. History—New 12-20-83, Formerly 6A-1.9441, Amended 2-6-86, Amended 12-28-86, 4-4-88, 12-13-88, 12-11-89, 1-15-91, 2-20-92, 7-13-93, 10-18-94, 8-28-95, 4-19-96, 7-17-97, 8-12-98, 5-3-99,

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE TITLE: Florida Teacher Certification Examination

RULE NO.: 6A-4.0021

PURPOSE AND EFFECT: The purpose of this rule development is to adopt minimum passing scores for the new General Knowledge, Exceptional Student Education, and Kindergarten-Grade 6 Tests. The effect is that these new certification examinations will have a passing score.

SUBJECT AREA TO BE ADDRESSED: Passing scores for the new Florida Teacher Certification Examination tests.

SPECIFIC AUTHORITY: 231.002, 231.15(1), 231.17 FS.

LAW IMPLEMENTED: 231.17 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., April 9, 2002





**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Monitoring Sex Offender Conditions of Supervision

RULE NO.: 33-302.108

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify the process for conducting computer searches to determine if an offender has violated a computer restriction condition of supervision.

SUBJECT AREA TO BE ADDRESSED: Sex Offender Conditions of Supervision.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09, 947.1405, 948.03 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-302.108 Monitoring Sex Offender Conditions of Supervision.

(1) through (2) No change.

(3) Submission of Blood or Biological Specimens for DNA Analysis – If the court or releasing authority imposes a ~~this~~ condition for submission of blood specimens or other biological specimens, or if the offender’s offense meets statutory criteria of pursuant to s. 943.325 948.03(5)(a) and (b), F.S., the officer shall ensure collection of the offender’s specimens as directed and verify that the DNA specimens were received by the Florida Department of Law Enforcement;

~~(a) The circuit administrator shall ensure agreements are formulated and upheld with DNA collection sites within the circuit; and,~~

~~(b) The officer will ensure documentation is received from the collection site verifying the DNA blood specimens were drawn.~~

(4) through (7) No change.

(8) Computer or Internet Restrictions – If the court or releasing authority imposes a condition of supervision that limits or prohibits use of computers or the internet, the officer shall monitor compliance by:

(a) Conducting walk through searches during the initial and subsequent visits to the offender’s residence to ensure the offender is in compliance with the condition of supervision;

(b) If the officer verifies or suspects that the offender has access to the internet, and this is prohibited as a condition of supervision, the officer shall contact a correctional probation

officer or supervisor certified to conduct computer searches ~~FDLE or a local law enforcement officer certified to conduct computer searches~~ computer experts to investigate further. Under no circumstances will an officer who has not been certified in conducting computer searches be authorized to touch the offender’s computer in an ~~The officer will not attempt to view icons for internet access or other graphic file formats created by the Joint Photographic Experts Group; unless the officer has successfully completed the Basic Computer Data Recovery Class and has been authorized, in writing, by the circuit administrator to conduct computer searches.~~

Specific Authority 944.09 FS. Law Implemented 944.09, 947.1405, 948.03 FS. History–New 12-18-01, Amended

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Control of Contraband

RULE NO.: 33-602.203

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify the process for handling seized contraband.

SUBJECT AREA TO BE ADDRESSED: Contraband.

SPECIFIC AUTHORITY: 944.09, 945.215 FS.

LAW IMPLEMENTED: 944.47, 945.215 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-602.203 Control of Contraband.

(1) General Definition of Contraband.

(a) Contraband is any item or article inside an institution or facility, on the property of a facility or in the possession of an inmate that was neither:

1. No change.
2. Approved for purchase in at the canteen commissary,
3. through 5. No change.
- (b) through (4) No change.

(5)(a) No money shall be given directly to or received by an inmate assigned to a work release community correctional center unless authorized by the chief of security or his designated representative. On a case by case basis, each chief of security may authorize a draw of funds from the inmate’s account that exceeds the approved amount authorized under 33-203.201(3) if a specific request is made and a review

determines it is warranted. Any money found in the possession of an inmate in excess of \$50 in work release community correctional centers shall be considered contraband and shall be confiscated and deposited in the inmate welfare trust fund.

(b) through (6) No change.

(7) Disposition of Contraband.

(a) Those contraband items retained for use in disciplinary hearings as evidence will be stored until such time as the warden or his designee approves of their being destroyed or disposed of. A secure area within the institution will be designated as the storage area for all contraband items. A Contraband Log, Form DC6-219, will be utilized to document the storage of contraband items. Form DC6-219 is hereby incorporated by reference. Copies of this form may be obtained from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. ~~Requests for copies to be mailed must be accompanied by a self-addressed stamped envelope.~~ The effective date of this form is March 2, 2000.

(b) Contraband items to be used during outside court cases as evidence will be referred to the Inspector General's Office for handling held as evidence by the institution inspector or senior inspector assigned to the criminal investigation. The Inspector General's Office will either assume custody of the contraband or instruct the institution to hold it as evidence. In either case, the initial confiscating authority will establish the chain of evidence, and ensure it is properly followed. Form DC1-801, Chain of Custody, shall be used for this purpose. Form DC1-801 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is \_\_\_\_\_.

(c) through (d) No change.

(e) The provisions of the above this paragraph shall not be construed to apply to property impounded incident to the initial reception or the subsequent transfer of an inmate unless the inmate's possession of the property was in violation of law or Department or institution rule.

(f)(e) No change.

(g) A seized contraband item that results in criminal charges shall be stored for six months or until the conclusion of the court proceedings. Confiscated weapons shall be stored for six months pending the outcome of the disciplinary charges and conclusion of the grievance process or the court proceedings. Staff shall obtain the approval of the warden or assistant warden prior to the item being destroyed or disposed of.

(h) Regardless of whether or not the seized contraband results in a disciplinary report or criminal charges, the inmate is authorized to appeal the action through the grievance process to have the property returned. If the inmate chooses to file a grievance, the inmate must notify the warden of his intent on

an Inmate Request, Form DC6-236, within 20 days of the seizure of the items. If no notice is received and the inmate has not been temporarily impeded from sending such notice due to unavoidable circumstances such as court appearances or hospitalization, the warden or assistant warden is authorized to approve disposal of the contraband. Form DC6-236 is incorporated by reference in Rule 33-103.019, F.A.C.

(8)(a) All cells, lockers, dormitories and other areas of an institution may be searched in a reasonable manner at any time. A copy of Form DC6-220, Inmate Impounded Personal Property List, shall be given for any property taken in such a search if the inmate acknowledges possession or if the property was taken from an area occupied by the inmate or under his control. The inmate's acceptance of his copy of Form DC6-220 shall not constitute admission of possession of contraband. Form DC6-220 is hereby incorporated by reference. Copies of the form are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. ~~Requests for copies to be mailed must be accompanied by a self-addressed stamped envelope.~~ The effective date of this form is March 2, 2000.

(b)1. The Regional Director is authorized to ~~may~~ declare an emergency situation to exist if he finds, upon the advice and request of the warden, that an immediate mass shakedown is necessary to preserve the security and order of the institution and sufficient staff are not available to follow routine procedures of accounting and receipting for property. Within 72 hours after the declaration, the warden shall prepare a written statement setting forth the facts showing such emergency, which statement shall be forwarded to the Regional Director, who shall prepare a report to the Secretary justifying the declaration.

2. through 4. No change.

Specific Authority 944.09, 945.215 FS. Law Implemented 944.47, 945.215 FS. History—New 10-8-76, Amended 2-24-81, 4-18-82, 8-13-84, 2-13-85, 6-2-85, Formerly 33-3.06, Amended 2-9-87, 11-3-87, 8-14-90, 11-22-91, 1-06-94, 5-28-96, 10-26-97, Formerly 33-3.006, Amended 3-2-00, \_\_\_\_\_.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

RULE TITLE: General Information and Forms  
 RULE NO.: 61-6.0015

PURPOSE AND EFFECT: The Department proposes to add a rule to clarify the forms to be used by the Department.

SUBJECT AREA TO BE ADDRESSED: Applications and related forms.

SPECIFIC AUTHORITY: 455.213(1) FS.

LAW IMPLEMENTED: 455.213(1) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Erica D. Glover, Assistant General Counsel, Department of Business and Professional Regulation, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-2202  
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

## Section II Proposed Rules

### DEPARTMENT OF INSURANCE

RULE TITLES:	RULE NOS.:
Small Group Health Rating Requirements Purpose	4-149.009
Applicability and Scope; Penalties	4-149.030
Requirement to Insure Entire Groups	4-149.031
Qualifying Previous and Qualifying Existing Coverages	4-149.032
Calculation of Premium Rates	4-149.033
Employee Health Care Access Act Annual and Quarterly Statement Reporting Requirement	4-149.034
Designation of Election to Become a Risk-Assuming or Reinsuring Carrier Under Section 627.6699, Florida Statutes, the Employee Health Care Access Act	4-149.035
Change of Status of Small Employer Carrier's Election to Become Risk-Assuming Carrier or Reinsuring Carrier	4-149.036
Marketing Communication Material and Marketing Guidelines	4-149.037
Small Employer Health Reinsurance Program Forms	4-149.038
	4-149.039
	4-149.040
	4-149.041
	4-149.042
	4-149.043
	4-149.044

PURPOSE, EFFECT AND SUMMARY: Changes are being made to address the following:

- Implementation of provisions recognizing alliances.
- Implementation of underwriting provisions in small group.
- Implementation of expanded family categories.
- Implementation of composite rating restriction and required tabular rating for groups less than 10.
- Implementation of semi-annual reporting requirement for underwriting considerations.
- Elimination of date specific provisions which have been in place since initial implementation of the rules in 1993 that provided certain phase-in provisions.
- Requirement that disclosure regarding quoting rates which have been adjusted due to underwriting.
- Prohibition of specific deceptive practices related to the quoting of health insurance rates.
- Interpretation of §627.6699(5)(a) to prohibit refusal to insure because of an employer's unwillingness to provide

information not necessary to establish eligibility pursuant to § 627.6699(3)(v).

- Deletion of provisions which have been identified that simply restate the statute with no additional clarification.
- Clarification of group eligibility standards.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 624.308(1), 626.9611, .9641, 627.4106(3),(5),(8), 627.6699(5)(i)3.a.,4.a., 627.6699(9)(b), (11)(b)3.a.,(13)(i),(15) FS.

LAW IMPLEMENTED: 624.418, 624.4211, 624.424(6), 626.9541, 626.9541(1)(b),(g)2.,(x)3., 627.401, 627.410, 627.410(7), 627.4106, 627.4106(3),(4),(7),(8), 627.411, 627.6699, 627.6699(3)(g),(v), (4)(a),(5)(a),(g)1., (i)3.a.,4.a., (6),(7),(10),(11),(12)(c),(e),(13),(b),(i) FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 9:30 a.m., April 16, 2002

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting the person listed above.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Frank Dino, Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0328, (850)413-5014

THE FULL TEXT OF THE PROPOSED RULES IS:

4-149.009 Small Group Health Rating Requirements.

Specific Authority 624.308(1), 627.4106(3),(5),(8), as amended in Section 118, Chapter 92-33, Laws of Florida. Law Implemented 627.410(7), 627.4106, 627.4106(3),(4),(7),(8) FS. History--New 6-10-92, Amended 3-1-93, Repealed

### PART III SMALL EMPLOYER HEALTH CARE ACCESS

4-149.030 Purpose.

The purpose of these rules is to implement Section 627.6699, Florida Statutes ~~section 65 of Chapter 93-129, Laws of Florida,~~ pertaining to requirements of small employer group insurance, to promote the public interest, to promote the availability of small employer group insurance policies, to protect applicants for small employer group insurance from unfair or deceptive