

**MEETING OF THE STATE BOARD OF ADMINISTRATION**

**GOVERNOR SCOTT AS CHAIRMAN  
CHIEF FINANCIAL OFFICER ATWATER  
ATTORNEY GENERAL BONDI**

**AUGUST 6, 2013**

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**AGENDA**

**ITEM 1. REQUEST APPROVAL OF THE MINUTES OF THE MAY 8, 2013 AND JUNE 25, 2013 MEETINGS.**

**(See Attachments 1A and 1B)**

**ACTION REQUIRED**

**ITEM 2. A. REQUEST APPROVAL TO FILE FOR NOTICE, AMENDMENTS TO RULE CHAPTER 19-3 (RULES AND REGULATIONS GOVERNING THE ORGANIZATION, MEETINGS, AND PROCEDURES OF THE STATE BOARD OF ADMINISTRATION) AND FURTHER TO FILE THE RULES FOR ADOPTION OR REPEAL, AS APPLICABLE, IF NO MEMBER OF THE PUBLIC TIMELY REQUESTS A RULE HEARING RELATED TO THESE RULES.**

**(See Attachments 2A, 2B and 2C)**

**ACTION REQUIRED**

**ITEM 3. REQUEST APPROVAL TO FILE FOR NOTICE, AMENDMENTS TO RULE CHAPTER 19-5 (RULES AND REGULATIONS GOVERNING THE PROCEDURES FOR ISSUANCE OF BONDS AT AN INTEREST RATE IN EXCESS OF LEGAL LIMITATION), AND TO FILE THE RULES FOR ADOPTION OR REPEAL, AS APPLICABLE, IF NO MEMBER OF THE PUBLIC TIMELY REQUESTS A RULE HEARING RELATED TO THESE RULES.**

**(See Attachments 3A, 3B and 3C)**

**ACTION REQUIRED**

**ITEM 4. REQUEST APPROVAL TO FILE FOR NOTICE, AMENDMENTS TO RULES 19-11.002 (BENEFICIARY DESIGNATIONS AND DISTRIBUTIONS FOR FRS INVESTMENT PLAN) AND 19-11.012 (ACCEPTANCE OF ROLLOVERS BY THE FRS INVESTMENT PLAN) IN RULE CHAPTER 19-11, AND TO FILE THE RULES FOR ADOPTION IF NO MEMBER OF THE PUBLIC TIMELY REQUESTS A RULE HEARING RELATED TO THESE RULES.**

**(See Attachments 4A, 4B and 4C)**

**ACTION REQUIRED**

T H E   C A B I N E T  
S T A T E   O F   F L O R I D A

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Representing:

HIGHWAY SAFETY AND MOTOR VEHICLES  
DEPARTMENT OF VETERANS AFFAIRS  
STATE BOARD OF ADMINISTRATION

The above agencies came to be heard before THE FLORIDA CABINET, the Honorable Governor Scott presiding, at Nemours Children's Hospital, in the Auditorium, Orlando, Florida, on Wednesday, May 8, 2013, commencing at approximately 9:14 a.m.

Reported by:

KAREN S. RHINE  
Florida Professional Reporter  
Notary Public

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APPEARANCES:

Representing the Florida Cabinet:

RICK SCOTT  
Governor

PAM BONDI  
Attorney General

JEFF ATWATER  
Chief Financial Officer

ADAM PUTNAM  
Commissioner of Agriculture

\* \* \*

I N D E X

HIGHWAY SAFETY AND MOTOR VEHICLES  
(Presented by JULIE JONES)

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DEPARTMENT OF VETERANS AFFAIRS  
(Presented by MIKE PRENDERGAST)

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STATE BOARD OF ADMINISTRATION  
(Presented by ASH WILLIAMS)

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GOVERNOR SCOTT: Now I'd like to recognize Teacher of the Year for Orange County, Dorina Sackman with Westridge Middle School. If you'll stand so we can recognize you. Thank you very much and thanks for all you do for these kids. You change people's lives and you inspire them. So thank you for what you're doing.

Now I'd like to recognize Executive Director Ash Williams with the State Board of Administration. Good morning, Ash. The portfolio is up.

MR. WILLIAMS: Yes, it is up and we can just open with that since you've got it. I think it's a segway. As of the close on the 6th we are up 15.6 percent year-to-day. That's 63 basis points ahead of target and leaves a balance of \$136.2 billion.

GOVERNOR SCOTT: That's great.

MR. WILLIAMS: All right.

Item 1 I would like to request approval of the appointment of Mary Ellen Elia to the Investment Advisory Council. She was nominated by Attorney General Bondi.

MS. BONDI: And if I could say a few words, Governor. As we all know, teachers comprise such a huge portion of our Pension Fund and Mary Ellen Elia, if approved by the Governor and Cabinet, will be the first superintendent on the Investment Advisory Council.

1 Under her leadership Hillsborough Schools have  
2 invested over half a billion in the Florida PRIME Fund,  
3 which is our local government fund, and Mary Ellen Elia  
4 previously was Chair of the Participant Local Government  
5 Advisory Council.

6 I know her personally. I know her work ethic and I'm  
7 just so proud that she's willing to take this on. And I  
8 think it would be incredible to have a superintendent of  
9 the schools on our Investment Advisory Council.

10 GOVERNOR SCOTT: Is there a motion? Are you making a  
11 motion?

12 ATTORNEY GENERAL BONDI: So moved that we appoint  
13 Mary Ellen Elia.

14 GOVERNOR SCOTT: Is there a second?

15 CFO ATWATER: Second.

16 GOVERNOR SCOTT: Any comments or objections? Showing  
17 none, approved unanimously. She'll be very good. She's  
18 very good. You did a great job.

19 ATTORNEY GENERAL BONDI: Thank you.

20 MR. WILLIAMS: Thank you. And I would say too, as  
21 one of the founding members of the Participant Local  
22 Government Advisory Council, in her chairmanship of that  
23 group, she did a terrific job.

24 And if one looks back to the most recent sales of  
25 securities we've done on the Pool B, which is a securities

1 that became liquid back in 2007, we are now in a position  
2 to distribute or have already distributed a little over 92  
3 percent of the original value of those securities.

4 I'd like to move forward with a little update on the  
5 Florida Growth Fund as it relates to the State Board of  
6 Administration. For those of you who are in the local  
7 area and don't know who the State Board is, we're  
8 essentially the State's investment organization. We  
9 service folks as fiduciaries providing investment services  
10 to over 30 different entities as directed by Florida  
11 Statute.

12 The aggregate clients we manage are north of \$167  
13 billion. We operate in an extraordinarily transparent  
14 environment obviously with the leadership of our trustees,  
15 but also with very intensive oversight and reporting both  
16 internally and externally.

17 We just discussed two of our advisory bodies, the  
18 Participant Local Government Advisory Council and our  
19 Investment Advisory Council. We also have an Independent  
20 Audit Committee and use a number of independent  
21 consultants who serve as fiduciaries to us to help us make  
22 good investment decisions.

23 This just gives you a sense of how our investment  
24 duties break down across the Pension Plan which is the  
25 defined benefit part of our pension system, the Investment

1 Plan which is defined contribution, the Hurricane  
2 Catastrophe Fund and Florida PRIME which is a local  
3 government investment pool that Ms. Elia has been very  
4 involved with in recent years.

5 We also have a very interesting entity called the  
6 Florida Growth Fund. The legislature in 2008 passed the  
7 Florida Technology and Growth Act which allowed investment  
8 of up to one and a half percent of the pension's assets in  
9 entities with significant ties to Florida that relate to  
10 technology, engineering, aviation, computer tech,  
11 renewable energy, medical and life sciences.

12 When looking at the business model of how to  
13 undertake an investment program of that sort, we looked  
14 all over the country and concluded that the best model was  
15 to hire a third-party entity with investment expertise who  
16 would have discretion in selecting investments and would  
17 serve as a fiduciary to us.

18 To fill that role we selected a firm called Hamilton  
19 Lane. They're one of the world's leading private equity  
20 investment advisory firms and are based in Bala Cynwyd,  
21 Pennsylvania. We have a long and deep relationship with  
22 them and other private equity investing and we have been  
23 fortunate to have Mr. Greg Baty come to Florida full-time  
24 and open an office for Hamilton Lane in Florida because we  
25 knew the Governor wanted to otherwise, so we did.



1           We have invested two successive tranches of \$250  
2 million each in this program. The Legislative Office of  
3 Program Policy Analysis and Government Accountability did  
4 a review of the program recently and published findings  
5 showing that through June 30 of 2012 the internal rate of  
6 return on this set of investments is north of 21 percent.  
7 It further had an ancillary benefit of creating close to  
8 4,200 jobs in Florida with an average income of  
9 approximately \$58,000.

10           I'm going to turn this over to Greg Baty, but by way  
11 of background I want to share with you that in addition to  
12 working with Hamilton Lane, Greg has previously worked in  
13 the private equity and venture capital area with Sandhill  
14 Capital and Garage.com in both areas where he's created  
15 portfolio opportunities.

16           He has owned and operated a retail franchise and has  
17 had operational roles in tech startups. He has  
18 undergraduate and graduate degrees from Stanford and has a  
19 very distinct Florida connection in his past.

20           Before he got a really difficult job as a  
21 professional investor he played professional football in  
22 the NFL and the last team he played with was the Miami  
23 Dolphins. So with that, Greg.

24           MR. BATY: Thank you, Ash, and thank you, Governor  
25 Scott and Cabinet. I appreciate the opportunity to be

1 here. Thank you Nemours Hospital as well. This whole  
2 Medical City is just an amazing tribute to what's going on  
3 here in Florida.

4 I can tell you now it's a lot easier waking up on  
5 Mondays doing my job now than it was for nine years  
6 playing football. I felt like I had a car accident every  
7 Sunday afternoon for about nine years.

8 I'm the last speaker between you and lunch so I know  
9 I need to be brief and I will be. No offense to anybody  
10 in the room, but I think I have the best job in the entire  
11 state.

12 I get to invest in the best and the brightest of what  
13 Florida has to offer. In case anybody doesn't know what  
14 private equity is, and that's what we do, essentially we  
15 invest into private companies. So we buy a piece of a  
16 private company or we buy a majority of a private company.  
17 We then help that company grow and we hope to sell that  
18 company for more than we brought it for. It's pretty  
19 simple, but that's what private equity does.

20 And, you know, I'm sorry to see that a lot of the  
21 teachers are probably back in their schools teaching,  
22 which is what they, I guess, should be doing, but I want  
23 you to know -- I see one teacher there and other civil  
24 servants that are here that we are investing on behalf of  
25 that every time we make an investment we're looking at it

1 through your eyes.

2 So, you know, that's the prism we put on things.  
3 When we make an investment we say would a teacher, would a  
4 retired teacher, would a civil servant be proud of the  
5 investment that we're making. We're not always going to  
6 be right, but we look at it through that prism. So I want  
7 you to know that.

8 If we could go to the first slide here. I just  
9 wanted to point out one thing, Governor. I don't know if  
10 you noticed, but Fast Company Magazine which studies and  
11 goes over technology and that's all they're about, they  
12 just ranked Florida as the number one state in the country  
13 for innovation. It's the first time that's happened.

14 So I'm going to explain a little bit about venture  
15 capital too. Venture capital is a subset of private  
16 equity. Same thing, investing in private companies, but  
17 venture capital is primarily technology and primarily  
18 earlier-stage businesses.

19 Since we're here in Orlando I just want to point out  
20 a few things that are happening here in Orlando. A couple  
21 of companies, Koni and Pentaho, have attracted a lot of  
22 venture capital from top-tier venture capital firms.  
23 That's one of the things that we're trying to do with the  
24 Florida Growth Fund is have top-tier, nationally-known and  
25 internationally-known venture capital firms come and

1 invest in Florida companies.

2 There are two examples right here in Orlando where  
3 significant venture capitals come in from really good  
4 groups; Insight Venture Partners and Benchmark are  
5 probably one of the top five venture firms in the world.

6 There are other firms here, PlanSource, Row Sham Bow,  
7 Engineering Support Personnel, Treehouse; these are all  
8 companies that have raised money in the last year or year  
9 and a half in Orlando.

10 The Florida Growth Fund, we've been very active in  
11 this market. We've made investments in Lanzar which is a  
12 medical device company here. They've raised over \$31  
13 million. Part of that is our investment.

14 And a company Voxeo that I'd like -- it was our first  
15 investment that we made and I'd like to talk about it a  
16 little bit. Voxeo was founded here in Orlando, but the  
17 founder couldn't raise capital here. This was back in the  
18 late '90s. So he moved to Silicon Valley because he  
19 couldn't find capital here.

20 He raised \$30 million in venture capital, built his  
21 company and the dot com crash. His venture capital firm,  
22 the one that invested the majority of the money, he wasn't  
23 one of their bright, shining students so he was allowed to  
24 buy back his company from the venture capital firm.

25 He moved back here to Orlando where he wanted to be.

1 He's built this great company north of \$50 million in  
2 revenue creating lots of jobs here in Florida. We were  
3 the first outside private equity firm to invest in the  
4 company after he bought it back.

5 What's really good here, I've heard a constant theme  
6 that's this kind of trickle down or the payback. And so  
7 what's happened with Voxeo is he's already spun off  
8 another company that is now growing here outside of Voxeo,  
9 which we own part of as well, which is kind of nice, but  
10 he's also stepped into a chairman role. He's now founded  
11 another company.

12 Row Sham Bow here, which is a company that raised \$3  
13 million this past year, Row Sham Bow is co-located in his  
14 office. He's the chairman of their Board.

15 So that's kind of the grand circle, kind of like what  
16 happens when you're teaching a student and then she goes  
17 on to win a service award. I mean that's what this is in  
18 the technology thing. I want to acknowledge that that's  
19 just an amazing -- I don't know if it's coincidence, but  
20 it was a really neat story.

21 So we've also invested in a municipal services  
22 company here in the Orlando region and we've also invested  
23 in a fund that is a venture capital fund that's located  
24 here in Winter Park.

25 I'll try to speed things up because I know we're in a

1           hurry. So I also wanted to talk just a little bit about,  
2           since we're at Lake Nona and Medical City, about the life  
3           sciences activity here in the state.

4           One of the interesting trends is that life sciences  
5           investing in the entire nation has gone down significantly  
6           over the past couple of years. Florida, thank goodness,  
7           is bucking that trend and we're actually up in venture  
8           capital investing. So that's a very good sign for our  
9           economy here.

10          We've had a number of successful life sciences exits  
11          that have happened here in Florida and that's what it's  
12          about. It's about investing, but also being able to exit  
13          because that's where you make the return for teachers and  
14          other people that need to have their pension secured.

15          Envoy. I mentioned Takeda earlier. Takeda bought  
16          this company, Envoy, for \$140 million. Pastoria, Sid  
17          Martin, Biotechncology, Spin-Out and they were acquired  
18          for \$113 million.

19          That's what it's all about. It's about building  
20          companies that are going to stay here in Florida that are  
21          going to have successful exits. You can see on the charts  
22          that the investing in life sciences is continuing to trend  
23          upwards which is a good sign.

24          Real quickly. Here is the Florida Eco System. It  
25          doesn't just take a venture capital firm. It takes lots

1 of different entities coming together and working together  
2 to -- there's a life cycle of a company and there has to  
3 be capital at the early stage. There has to be people  
4 helping those companies get from an idea to a product.

5 This is what the venture capital or the Florida  
6 Venture Eco System looked like and I'm being kind because  
7 I think in universities -- this is four years ago before  
8 the Florida Growth Fund was around. Some of these  
9 universities I don't think were really focused and this is  
10 only a subset of universities. I apologize. I could only  
11 fit so much.

12 They weren't really focused on entrepreneurial  
13 studies. And the shift that I've seen to this slide is  
14 dramatic over the last four years where all the  
15 universities are now really focused on entrepreneurial  
16 studies, on combining technology and people that are  
17 interested in running companies and the shift is just very  
18 dramatic.

19 Also, at the top of this, the accelerators and  
20 incubators. There's just a number, and I couldn't fit  
21 them all on this page, that are required to get companies  
22 from an idea standpoint to a product being able to sell.

23 Conferences. The number of conferences people here,  
24 it's just a huge gain in the last four years. Okay. I'm  
25 going to go quickly.

1 Florida Growth Fund. This is just -- it's all about  
2 the outreach. What we've done with the Florida Growth  
3 Fund is just tried to get out there in the community so  
4 that every university knows about us, all the  
5 entrepreneurs know about us and we are successful in that  
6 endeavor.

7 The pipeline. The pipeline is huge. We see over 200  
8 deals a year. We hope to see every deal that is  
9 significant that happens in Florida and we'd like to try  
10 to be a part of it. If we can't invest in it because of  
11 risk return profile, we still try to be helpful.

12 That's the number one -- we help more early-stage  
13 venture type companies that might be too risky for us to  
14 invest in, but we make introductions. We introduce them  
15 to accelerators; we introduce them to early-stage angels;  
16 whatever we can do to help those companies so they're  
17 around three years from now for us to invest in.

18 We also make investments in funds and so we invest  
19 directly into companies, but we also invest into private  
20 equity -- other private equity funds that are investing  
21 here successfully in Florida.

22 One of the ones I'd like to highlight is MPM's  
23 Sunstate Fund. They're an internationally-known life  
24 sciences investor. They came to us. We worked with them.  
25 The University of Florida worked with them, David Day, and



1 we attracted them here by showing them the number of  
2 opportunities that exist here in Florida.

3 So not only did they open an office here, they opened  
4 a separate fund focused on Florida which is really  
5 dramatic to have that kind of venture capital aimed at  
6 life sciences here resident in the State of Florida. And  
7 we continue to try to do those types of things.

8 On the direct investments we've made 20 direct  
9 investments. We had our first major liquidity event in  
10 December of last year. We invested in a company that was  
11 a Tampa company, a venture capital company, and it turned  
12 out to be a good one for us. It was a 5X return. So we  
13 made 5X our money in two years, which is nice. If we  
14 could do that repetitively we'd be very -- everybody would  
15 be very happy.

16 And we continue to look at life sciences companies.  
17 I had a lot more to say, but I wanted to be brief. So  
18 thank you for having me and thank you for the support.

19 GOVERNOR SCOTT: Thank you very much. And is that  
20 all for you, Ash?

21 MR. WILLIAMS: Yes.

22 GOVERNOR SCOTT: Thank you very much. And I want to  
23 thank Nemours and everybody who put this together. I want  
24 to thank CFO Atwater for organizing this and getting us  
25 here. And this concludes our Cabinet meeting. Our next

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meeting will be Tuesday, June 4, at 9:00 a.m. in  
Tallahassee. We are adjourned.

(Proceedings concluded at 11:53 a.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA            ]  
COUNTY OF SEMINOLE        ]

I, Karen S. Rhine, FPR, do hereby certify that I was authorized to and did report stenographically and electronically the foregoing proceedings at the time and place therein designated and that the foregoing pages transcribed by me constitute a true and correct transcription of the aforesaid proceedings.

DATED THIS 18th day of May, 2013.

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T H E   C A B I N E T  
S T A T E   O F   F L O R I D A

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Representing:

ELECTIONS CANVASSING COMMISSION  
DIVISION OF BOND FINANCE  
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND  
DEPARTMENT OF REVENUE  
FINANCIAL SERVICES COMMISSION, INSURANCE REGULATION  
STATE BOARD OF ADMINISTRATION

The above agencies came to be heard before  
THE FLORIDA CABINET, the Honorable Governor Scott  
presiding, in the Cabinet Meeting Room, LL-03, The  
Capitol, Tallahassee, Florida, on Tuesday, June 25,  
2013, commencing at approximately 9:06 a.m.

Reported by:

MARY ALLEN NEEL  
Registered Professional Reporter  
Florida Professional Reporter  
Notary Public

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## APPEARANCES:

Representing the Florida Cabinet:

RICK SCOTT  
Governor

PAM BONDI  
Attorney General

JEFF ATWATER  
Chief Financial Officer

ADAM PUTNAM  
Commissioner of Agriculture

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I N D E X

ELECTIONS CANVASSING COMMISSION  
(Presented by KEN DETZNER)

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DIVISION OF BOND FINANCE  
(Presented by BEN WATKINS)

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(Presented by HERSCHEL VINYARD)

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DEPARTMENT OF REVENUE  
(Presented by MARSHALL STRANBURG)

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OFFICE OF INSURANCE REGULATION  
(Presented by BELINDA MILLER)

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STATE BOARD OF ADMINISTRATION  
(Presented by ASH WILLIAMS)

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1                   GOVERNOR SCOTT: Now I would like to recognize  
2                   Executive Director Ash Williams with the State  
3                   Board of Administration.

4                   Good morning, Ash.

5                   MR. WILLIAMS: Good morning, Governor and  
6                   Trustees. How is everyone today?

7                   I would like to open as usual, if I may, with  
8                   an update on where the Fund is, or was as of last  
9                   night's close. With a balance standing at  
10                  \$130.7 billion, the Fund fiscal year to date is up  
11                  11.26 percent. That's 122 basis points ahead of  
12                  target.

13                  If I may, I would like to move on with our  
14                  agenda at this point. Item 1, I would request  
15                  approval of the minutes of the April 23, 2013  
16                  meeting.

17                  GOVERNOR SCOTT: Is there a motion to approve?

18                  ATTORNEY GENERAL BONDI: So moved.

19                  GOVERNOR SCOTT: Is there a second?

20                  CFO ATWATER: Second.

21                  GOVERNOR SCOTT: Comments or objections?

22                  (No audible response.)

23                  GOVERNOR SCOTT: Hearing none, the motion  
24                  carries.

25                  MR. WILLIAMS: Thank you. Item 2, request

1 approval of a fiscal sufficiency of an amount not  
2 exceeding \$245 million State of Florida Department  
3 of Transportation Turnpike revenue bonds, Series  
4 2013.

5 GOVERNOR SCOTT: Is there a motion to approve?

6 CFO ATWATER: So moved.

7 GOVERNOR SCOTT: Is there a second?

8 ATTORNEY GENERAL BONDI: Second.

9 GOVERNOR SCOTT: Any comments or objections?

10 (No audible response.)

11 GOVERNOR SCOTT: Hearing none, the motion  
12 carries.

13 MR. WILLIAMS: Thank you. The next couple of  
14 items are related to a meeting we had yesterday.  
15 Each year in June we have a joint meeting of our  
16 two investment-oriented advisory councils, the  
17 Participant Local Government Advisory Council,  
18 which advises us on Florida PRIME, and the  
19 Investment Advisory Council, which provides more  
20 broad investment guidance on all our mandates.

21 The statutory responsibilities that are  
22 required to be executed annually by these two  
23 groups include a review of legal compliance,  
24 compliance with best practices, and also the  
25 propriety of the investment policy statement.



1           That meeting took place yesterday. We have  
2           Mark Peterson, who is the chairman of the  
3           Participant Local Government Advisory Council, and  
4           also Martin Garcia, chairman of the IAC, with us  
5           today. Both are available to talk to you. And the  
6           next couple of items relate to that.

7           So item 3 is the independent statutory  
8           compliance review that was presented yesterday by  
9           Lewis, Longman & Walker. And what we need to do  
10          with item 3, I request approval of a draft letter  
11          to the Joint Legislative Auditing Committee for the  
12          annual certification of legal compliance and best  
13          investment practices for the Local Government  
14          Surplus Funds Trust Fund. And Hewitt EnnisKnupp  
15          did the best practices certification, and they're  
16          here this morning.

17          GOVERNOR SCOTT: Is there a motion to approve?

18          CFO ATWATER: So moved.

19          GOVERNOR SCOTT: Is there a second?

20          ATTORNEY GENERAL BONDI: Second.

21          GOVERNOR SCOTT: Any comments or objections?

22          (No audible response.)

23          GOVERNOR SCOTT: Hearing none, the motion  
24          carries.

25          MR. WILLIAMS: Thank you. Item 4 also relates

1 to this. We request approval of investment policy  
2 statements for the Local Government Surplus Funds  
3 Trust Fund, now known as Florida PRIME, as required  
4 under Florida Statutes, and also for the Fund B  
5 Surplus Funds Trust Fund.

6 The only change we made in the investment  
7 policy statement was to codify a previously  
8 implemented improvement in operations that tightens  
9 compliance between the SBA, our external master  
10 custody provider, and the external investment  
11 manager for Florida PRIME.

12 Request approval.

13 GOVERNOR SCOTT: Is there a motion to approve?

14 CFO ATWATER: So moved.

15 GOVERNOR SCOTT: Is there a second?

16 ATTORNEY GENERAL BONDI: Second.

17 GOVERNOR SCOTT: Any comments or objections?

18 (No audible response.)

19 GOVERNOR SCOTT: Hearing none, the motion  
20 carries.

21 MR. WILLIAMS: Thank you. Before I jump into  
22 the other reports that we have, we have the  
23 chairman of the IAC with us, and -- where is  
24 Mr. Peterson? There he is. And the chairman of  
25 the PLGAC.

1           Martin, would you like to come up?

2           GOVERNOR SCOTT: Good morning.

3           MR. GARCIA: Good morning, Trustees, Governor  
4           Scott, General Bondi, and CFO Atwater. This is the  
5           first opportunity as chairman that I have had an  
6           opportunity to address you. And I would like to  
7           tell you a little bit about the good work of the  
8           nine members that the three of you have appointed  
9           to the IAC, and I think you're going to be pleased  
10          to learn about the work that we're doing.

11          I'm honored to serve with the other eight  
12          members that you appointed to the IAC. And I've  
13          been in the investment business for a long time and  
14          have served on a number of investment advisory  
15          councils, but I have to tell you, these  
16          appointments of the other eight that you have made  
17          to the IAC are incredibly impressive and well  
18          qualified to do all of the things that you have  
19          charged us with.

20          And specifically, you've charged us with  
21          making sure that we're making good investment  
22          decisions, evaluating the investment performance,  
23          and making sure that there's good governance in  
24          place. And as you've instructed us, we're doing  
25          this on your behalf and advising you for the

1 benefit of state workers, police officers,  
2 firefighters, and every one of the participants in  
3 the plan. So the work that we're doing is serving  
4 the masses in Florida.

5 And fundamentally what we do in advising you  
6 is evaluate two of the main decisions that drive  
7 investment performance for the Florida Retirement  
8 System, and those two decisions are, one, how  
9 assets get allocated between the asset classes,  
10 which drives 90 percent of the performance. And  
11 then the second decision is how assets get  
12 allocated within the asset classes that drive about  
13 10 percent of the performance. And I wanted to  
14 report to you what the IAC is doing in advising you  
15 on the 90 percent function.

16 The policy of the SBA is to review the  
17 investment plan every three to five years, in other  
18 words, review the decisions on how assets are being  
19 allocated between asset classes. And we're on the  
20 third year anniversary right now. The current --  
21 and evaluating how you allocate between asset  
22 classes is a long-term decision. It's something  
23 that you do periodically and not on a short-term  
24 basis. So we are at the third year anniversary,  
25 because the current plan was constituted in June of

1           2010.

2           And what we are doing, which I'm told is  
3           unparalleled for an IAC in terms of the time that  
4           we're spending on it, we had a workshop in June  
5           dedicated just to the subject. We spent almost the  
6           entire meeting in June on the subject. Yesterday  
7           virtually the entire meeting was dedicated to  
8           evaluating the current plan. And our work is not  
9           yet done. We're scheduled to meet another six  
10          hours in September and dedicating all that time to  
11          this.

12          So you all have not only appointed a very  
13          well-qualified IAC, but one who is deeply engaged  
14          in the important decisions that you've charged us  
15          with.

16          And so that concludes my report. I do look  
17          forward to reporting to you the comprehensive plan  
18          in September. And unless you have any questions,  
19          I'm done.

20          GOVERNOR SCOTT: Attorney General Bondi.

21          ATTORNEY GENERAL BONDI: You know, this is the  
22          first time -- of course, I tapped my predecessor's  
23          appointments, who were wonderful appointments to  
24          the IAC, as well as my fellow members. However,  
25          this is the first time we have an IAC that is

1           entirely recruited and appointed by the three of  
2           us. And I've seen the work that these nine people  
3           are doing, and thank you, Chairman Garcia. They're  
4           working countless, countless hours. I mean, on  
5           Sunday, I was briefed for hours and hours. Like I  
6           said, they are just -- we have, I think, an amazing  
7           group, as we did in the past, a very, very engaged  
8           group. And I cannot thank all nine of you enough  
9           for your dedication and service to our state.

10                   This is what? \$155 billion?

11           MR. GARCIA: Correct.

12           ATTORNEY GENERAL BONDI: Thank you.

13           MR. GARCIA: Well, thank you for honoring me  
14           with the service.

15           GOVERNOR SCOTT: Well, thank you for all that  
16           you're doing, thank all nine members. Y'all do a  
17           great job. It's a lot of hours, and the pay is not  
18           very high.

19           MR. GARCIA: It's worth it, though.

20           GOVERNOR SCOTT: You're right. I mean, you're  
21           doing it for the benefit of everybody that's  
22           relying on that plan, for all those investments for  
23           their retirement.

24           MR. GARCIA: Well, thank you.

25           GOVERNOR SCOTT: All right. Thank you.

1           MR. WILLIAMS: Thank you. And I might add, we  
2           also have Will Harrell with us today, who is also  
3           on the IAC.

4           And Mark Peterson, did you want to say  
5           anything regarding the PLGAC?

6           MR. PETERSON: No, not unless there are any  
7           questions.

8           MR. WILLIAMS: Questions for Mr. Peterson?

9           We also have Gary Price with us, who is a new  
10          member of the PLGAC.

11          GOVERNOR SCOTT: From a great city. Where are  
12          you from, Gary?

13          MR. PRICE: Naples, Florida.

14          GOVERNOR SCOTT: Oh, Naples. We don't get a  
15          lot of people up here from Naples.

16          MR. WILLIAMS: Thank you.

17          Moving on, in item 5, if we could approve a  
18          draft letter to the Joint Legislative Audit  
19          Committee affirming that the SBA Trustees have  
20          reviewed and approved the monthly Florida PRIME and  
21          Fund B summary reports and actions taken, if any,  
22          to address material impacts. As usual, there were  
23          no material impacts.

24          GOVERNOR SCOTT: Is there a motion to approve?

25          ATTORNEY GENERAL BONDI: So moved.

1 GOVERNOR SCOTT: Is there a second?

2 CFO ATWATER: Second.

3 GOVERNOR SCOTT: Any comments or objections?

4 (No audible response.)

5 GOVERNOR SCOTT: Hearing none, the motion  
6 carries.

7 MR. WILLIAMS: Thank you. Item 6, request  
8 approval of the SBA quarterly report required by  
9 the Protecting Florida's Investments Act. This is  
10 the act relating to avoiding investment exposure to  
11 Iran and Sudan. There were no changes relating to  
12 Iran in this period. And those relating to Sudan  
13 were confined to deleting two companies from the  
14 "scrutinized" list and deleting a net of two  
15 companies from the from the "continued examination"  
16 list.

17 Request approval of the report.

18 GOVERNOR SCOTT: Is there a motion to approve?

19 ATTORNEY GENERAL BONDI: So moved.

20 GOVERNOR SCOTT: Is there a second?

21 CFO ATWATER: Second.

22 GOVERNOR SCOTT: Any comments or objections?

23 (No audible response.)

24 GOVERNOR SCOTT: Hearing none, the motion  
25 carries.



1           MR. WILLIAMS: Thank you. Item 7, we get into  
2           the quarterly reports for the quarter we're dealing  
3           with here today. And in addition to the IAC and  
4           PLGAC reports, we have a report from the Audit  
5           Committee. Kimberly Ferrell, who chaired the  
6           committee, is here. Kim, did you want to share  
7           anything with the group?

8           MS. FERRELL: Yes.

9           MR. WILLIAMS: Thank you.

10          GOVERNOR SCOTT: Good morning.

11          MS. FERRELL: Good morning, Governor and  
12          Trustees. Thank you for your time this morning. I  
13          realize you are extremely busy, so I will be very  
14          brief.

15                 There is a detailed report that's found in  
16          your packet that's found in Tab 7 behind the third  
17          green divider. If there's anything presented there  
18          that you would like more information on, please  
19          don't hesitate to contact me. I'm available to you  
20          at any time. But for this morning, I really just  
21          prepared a very high-level overview for you.

22                 There are currently 74 engagements that are in  
23          progress at the SBA. And while that sounds like a  
24          very large number, these include both projects that  
25          are being conducted by the internal audit staff,

1           also engagements by external auditors in addition  
2           to consultants.

3           These engagements range from -- anything from  
4           compliance audits, financial statement audits,  
5           agreed-upon procedures, debt compliance, reports on  
6           internal controls. They also range in a multitude  
7           of different focuses and scopes.

8           But really, the most important thing for you  
9           to know about these is that for the last quarter,  
10          all of the financial statement audits that were  
11          completed received an unqualified opinion. And  
12          that's what most people refer to as a clean  
13          opinion, and that, of course, is exactly what we're  
14          looking for.

15          Now, in addition, all of the agreed-up  
16          procedures that were completed, none of those  
17          resulted in any major findings. In addition,  
18          there's no indication that these results won't  
19          continue in the current quarter.

20          There were no -- in the internal audit area,  
21          there were no significant deviations from the SBA's  
22          audit plan. And that's if you evaluate it both in  
23          terms of audit hours applied and completion dates  
24          of the assignments.

25          Now, overall, there are only 32 open

1           recommendations. Those include recommendations  
2           from both auditors and consultants. Again, only 32  
3           that remain open, that is a very significant drop  
4           from the prior quarter. That's actual a decrease  
5           of 37 from prior.

6           And last but not least, in the enterprise risk  
7           management area, for the quarter there were no  
8           material compliance exceptions reported.

9           And that's all I have for you unless you have  
10          some questions for me.

11          GOVERNOR SCOTT: Are there any questions?

12          (No audible reponse.)

13          GOVERNOR SCOTT: Thank you very much.

14          MS. FERRELL: Thank you.

15          MR. WILLIAMS: I think it goes without saying  
16          our Audit Committee, like our other advisory  
17          groups, the Audit Committee is more than an  
18          advisory group. It is a very integral part of our  
19          operation. They're doing a terrific job, and we're  
20          grateful for their service.

21          Other key reports that I won't go over, but I  
22          will draw your attention to, that are in your  
23          background materials include our general counsel's  
24          report, our corporate governance report. To give  
25          you an idea of the scale of that operation, in the

1 proxy season ended, we voted roughly 9,500 proxies,  
2 85,000-plus different issues in 75 countries around  
3 the world. And every one of those is done in  
4 accordance with some sort of policy, but is also  
5 looked at individually and appropriate logic and  
6 judgment used on it so that we don't blindly follow  
7 policies or models or outside advisors.

8 We also have two other key oversight reports  
9 in here, our inspector general's report and our  
10 chief risk and compliance officer's report. And  
11 I'm pleased to say that in both of those, you'll  
12 find no evidence of any problems. And I would  
13 particularly draw your attention to the compliance  
14 and risk officer's report from the standpoint that  
15 you have risk charts on every asset class and the  
16 aggregate fund, and what you'll see is that we  
17 pulled in risk pretty significantly across the  
18 board on a range of fronts.

19 We also have -- let's see what else do we have  
20 in here. We have -- why don't we go directly to  
21 the performance, which is what really matters. We  
22 have Kristin Doyle with us from Hewitt EnnisKnupp,  
23 who is here to report on her residency status and  
24 also on the performance of the pension fund.

25 GOVERNOR SCOTT: Yesterday Deutsche Bank added

1           -- announced they were adding 300 jobs in  
2           investment banking, trading floor, all sorts of  
3           operations. So we have all these jobs in Florida.  
4           So where are you living?

5           MS. DOYLE: I live in Chicago.

6           GOVERNOR SCOTT: You know, they increased  
7           their income tax rate to 70 percent in 2011.

8           MS. DOYLE: Well, I anticipated you might ask  
9           me this, so the current answer is still no.  
10          However, if I was living vicariously through one of  
11          my best friends, I would have just moved to Palm  
12          Harbor about a year ago, and I would be telling all  
13          my Chicago friends that I'm probably never going to  
14          move back to Chicago, I love my house, my pool, and  
15          no personal income tax. So --

16          GOVERNOR SCOTT: You're still young. You  
17          still have a shot.

18          MS. DOYLE: You're right. They are actively  
19          recruiting all of us to move down here, so you have  
20          someone helping out in that area.

21          So I'm just going to spend a couple of minutes  
22          on performance of the major mandates for the  
23          Florida State Board through March. So if you flip  
24          a couple of pages, looking at the performance of  
25          the FRS -- woops. Did I move too fast?

1 Well, I'll just -- hopefully it will come back  
2 up. If you'll look at the performance of the FRS  
3 Pension Plan, so this is the slide titled, "FRS  
4 Pension Plan Investment Results, Periods Ending  
5 3/31/2013," you'll see that the beige bar is the  
6 FRS Pension Plan performance and the blue bar is  
7 the performance benchmark, which is the passive  
8 representation of the policy allocation. Over all  
9 time periods show, one, three, five, ten, and  
10 fifteen, you'll see that that performance has been  
11 above that of the benchmark.

12 GOVERNOR SCOTT: Great.

13 MS. DOYLE: The second benchmark we show is  
14 the absolute nominal target rate of return, which  
15 is the inflation plus 5 percent return objective.  
16 And you'll see that over most time periods,  
17 performance has been strong as well relative to  
18 that secondary benchmark.

19 And as we've talked in the past, that  
20 benchmark is most relevant for the longer term time  
21 periods, so if you look at the slide just following  
22 that one, you'll see that over the last 20, 25, and  
23 30 years, performance of the FRS has been extremely  
24 strong relative to that real return objective, so  
25 very good news for the performance of the pension.

1           We also look at performance relative to peers.  
2           If you skip a couple of pages to the results  
3           relative to the TUCS top ten defined benefit plans,  
4           this is where we illustrate the performance of the  
5           FRS Pension. This is on a gross basis,  
6           gross-of-fee basis, because the TUCS universe  
7           comparison survey data is on a gross-of-fee basis.  
8           We want to compare apples to apples. And you'll  
9           see that relative to the top ten median defined  
10          benefit plans, performance has either been very  
11          similar to your top ten peers or above that of your  
12          peers, so again, very strong performance on a peer  
13          basis.

14          I'll flip, if there aren't any questions, to  
15          the investment plan, so if you could skip a couple  
16          of pages to the total investment plan returns and  
17          costs page on the investment plan, so this is the  
18          defined contribution plan.

19          Performance through March has been very strong  
20          as well relative to what we call the total plan  
21          aggregate benchmark, which is again a passive  
22          representation of the benchmarks of each of the  
23          underlying fund options. So what this is  
24          representing is that each of the underlying fund  
25          options on an aggregate basis are outperforming

1           their benchmarks, which is what we would want to  
2           see.

3           And then at the bottom, there is some peer  
4           data. I'll just draw your attention to the second  
5           column titled "Five-Year Net Value Added." And  
6           there you'll see that the FRS Pension Plan over a  
7           five-year period on an average basis has added 70  
8           basis points over the aggregate benchmark, whereas  
9           your peers have only added 10. So not only are you  
10          outperforming your own benchmarks, but you're doing  
11          it in a better -- you're doing better than your  
12          peers.

13          Any questions on the investment plan? Okay.  
14          The next one is the --

15          ATTORNEY GENERAL BONDI: Governor, could I ask  
16          a quick question?

17          GOVERNOR SCOTT: Yes.

18          ATTORNEY GENERAL BONDI: Which peers?

19          MS. DOYLE: This is a survey from CEM, which  
20          is -- it's a custom peer universe, and it's made up  
21          of 19 DC plans, both corporate and public plans  
22          between 2 and \$12 billion in size. So these are  
23          very, very large corporate and public defined  
24          contribution plans.

25          Okay. I think we have the wrong slide in



1           here. I apologize. But the Cat Fund investment  
2           results are also similar to both the pension and  
3           the investment plan returns in terms of  
4           outperformance over all trailing periods relative  
5           to the benchmark. Absolute returns have been a  
6           little bit lower because of your short-term bond  
7           funds, but their performance on a relative basis  
8           has been strong.

9           And then the Lawton Chiles Endowment Fund,  
10          here we show asset allocation relative to the  
11          target, so you'll see the blue dot is actually the  
12          -- is the actual allocation. You'll see an  
13          underweight to global equity and an overweight to  
14          cash. That's represented by the fact that there's  
15          a special appropriation out of this fund, so the  
16          SBA made the decision to move it to cash.

17          Regardless, performance has been very strong  
18          over all trailing periods, again outperforming the  
19          performance benchmark, the passive representation  
20          of the policy over all the trailing periods.

21          And then lastly, the Florida PRIME. The  
22          investment results have also been very strong for  
23          the Florida PRIME. Again, this is a shorter term  
24          bond fund, so managed very low risk. The  
25          performance has been on an absolute basis low given

1           the low yielding environment that we're in, but on  
2           an absolute basis has again outperformed its  
3           performance benchmark, which is actually another  
4           large peer universe of other local government  
5           investment plans, and has outperformed that over  
6           all trailing periods.

7           I guess I don't have the slide in here, but  
8           one thing I wanted to point out, we do have a slide  
9           where we compare the performance of the Florida  
10          PRIME relative to other SEC-registered money market  
11          funds. And what you'll notice is that on a  
12          risk-return basis, the Florida PRIME fund is  
13          actually being managed at a higher level of return  
14          with a lower level of risk relative to other  
15          SEC-registered money market funds.

16          And then lastly, in terms of Fund B, the  
17          materials that you have note that through March,  
18          88 percent of Fund B has been returned back to  
19          participants. A more recent number through the end  
20          of May or even through the first part of June is  
21          about 93 percent, so we have about 7 percent left  
22          to go. And there was a very comprehensive report  
23          at the IAC/PLGAC meeting yesterday on the  
24          management of Fund B.

25                 Any questions on the performance?

1           MR. GARCIA: Kristen, you gave the performance  
2           for the 20-, 25-, and 30-year for target nominal  
3           rate of return for the FRS. I didn't hear the  
4           15-year.

5           MS. DOYLE: The 15-year is slightly -- the FRS  
6           Pension is slightly below that of the absolute  
7           nominal target rate of return. The 15-year period  
8           includes both the 2001-2002 tech bubble as well as  
9           the 2008 time period, and so -- the global equity  
10          markets obviously struggled over both of those time  
11          periods, and so we see a little bit of a lower  
12          return with the 15-year period relative to that  
13          benchmark.

14          Thank you.

15          GOVERNOR SCOTT: Thank you.

16          MR. WILLIAMS: Thank you. So that covers  
17          really all of our major mandates, and unless there  
18          are any questions on any of those, I'll move ahead.

19          GOVERNOR SCOTT: All right. Thank you.

20          MR. WILLIAMS: Thank you. Item 8, on the  
21          asset-liability and asset allocation review,  
22          Chairman Garcia touched on that a bit already. And  
23          yesterday, with extensive discussion, we concluded  
24          to moving ahead with a couple of actions sooner  
25          rather than later. We'll be coming back to you at

1 a subsequent meeting with some revisions to the  
2 investment policy statement for the Florida  
3 Retirement System Trust Fund.

4 We will draft those in accordance with the  
5 discussion yesterday at the staff level, run them  
6 back through the IAC, and then come to you at a  
7 subsequent meeting after we have that done. My  
8 guess is that we will do that on an interim basis  
9 rather than wait for the September IAC meeting.  
10 But essentially, I think that will put us in the  
11 right place tactically in the short and  
12 intermediate term. And as Martin pointed out,  
13 we'll work on the bigger picture further in  
14 September.

15 The high-level summary in the near term is  
16 that our feeling that our current allocation is  
17 about right. We have Roland Davis with us from  
18 Hewitt EnnisKnupp if you would like to hear  
19 anything further on that point from him.

20 GOVERNOR SCOTT: I'm fine. Do you all need  
21 anything?

22 ATTORNEY GENERAL BONDI: No.

23 MR. WILLIAMS: All right. Very good. Then  
24 the last item, item 9, is a request of approval for  
25 the Florida State Board of Administration's

1           proposed budgets for fiscal 2013 and '14, which --  
2           and these budgets cover the State Board of  
3           Administration, the FRS Investment Plan, the  
4           Florida Hurricane Catastrophe Fund, the Division of  
5           Bond Finance, and the Florida Prepaid College  
6           Board.

7           GOVERNOR SCOTT: Is there a motion to approve?

8           ATTORNEY GENERAL BONDI: So moved.

9           GOVERNOR SCOTT: Is there a second?

10          CFO ATWATER: Second.

11          GOVERNOR SCOTT: Any comments or objections?

12          (No audible response.)

13          GOVERNOR SCOTT: Hearing none, the motion  
14          carries.

15          MR. WILLIAMS: Thank you very much.

16          GOVERNOR SCOTT: Thank you, Ash.

17                 This concludes our Cabinet meeting. Our next  
18          meeting will be Tuesday, August 6th, at 9:00 a.m.  
19          We are adjourned.

20                 (Proceedings concluded at 11:23 a.m.)

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22

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24

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CERTIFICATE OF REPORTER

STATE OF FLORIDA:

COUNTY OF LEON:

I, MARY ALLEN NEEL, Registered Professional Reporter, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages numbered 1 through 50 are a true and correct record of the aforesaid proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor relative or employee of such attorney or counsel, or financially interested in the foregoing action.

DATED THIS 9th day of July, 2013.

---

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AS CHAIRMAN  
JEFF ATWATER  
CHIEF FINANCIAL OFFICER  
PAM BONDI  
ATTORNEY GENERAL  
ASH WILLIAMS  
EXECUTIVE DIRECTOR & CIO

**MEMORANDUM**

To: Ashbel C. Williams, Executive Director & CIO  
From: Ruth A. Smith, Assistant General Counsel  
Subject: Agenda Item for the August 6, 2013 Cabinet Meeting: Proposed  
Amendments to Rule Chapter 19-3, F.A.C.

Request Approval to File the Rules for Notice and For Adoption/Repeal if  
No Member of the Public Timely Requests a Rule Hearing

Date: July 24, 2013

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**ACTION REQUESTED:**

**REQUEST APPROVAL TO FILE FOR NOTICE, AMENDMENTS TO RULE CHAPTER 19-3, F.A.C. (RULES AND REGULATIONS GOVERNING THE ORGANIZATION, MEETINGS, AND PROCEDURES OF THE STATE BOARD OF ADMINISTRATION) AND FURTHER TO FILE THE RULES FOR ADOPTION OR REPEAL, AS APPLICABLE, IF NO MEMBER OF THE PUBLIC TIMELY REQUESTS A RULE HEARING RELATED TO THESE RULES.**

Amendments are being proposed to Rule Chapter 19-3, F.A.C., which are designed to update current provisions for clarification purposes, to delete unnecessary rules and consolidate information as reported to the Legislature in the SBA's 2012-2013 Annual Regulatory Plan. Rule 19-3.016 is being amended to provide that the Executive Director may make final decisions on personnel matters; may issue declaratory statements; may execute, or delegate the authority to execute, final orders issued pursuant to Chapter 120, Florida Statutes; may initiate rule development; and may adopt, implement, modify and terminate internal procedures, policies and guidelines.

Amendments are being made to Rule 19-3.0161 to make it clear, as required by law, that Investment Policy Statements must be submitted both to the Investment Advisory Council and the Board of Trustees of the SBA. Amendments are being made to Rule 19-3.099 to clarify that

Final Orders are to be obtained from the Agency Clerk of the State Board of Administration, and that the charge for such orders is no more than cost.

Two rules in Rule Chapter 19-3, Rule 19-3.097 (Designation of Official Reporter) and 19-3.100 (Format for Final Order), are being deleted as unnecessary.

The amendments serve as informational updates. The rule amendments do not impose any burdens on businesses; they do not restrict entry into a profession; they have no impact on the availability of services to the public; they have no impact on job retention; they do not impose any restrictions on employment seekers; and they do not impose any costs. No legislative ratification is required. Statutory citations also are being updated.

Attachments: Proposed Amendments to Rule Chapter 19-3- Redline Version  
Proposed Amendments to Rule Chapter 19-3- Final Version



## Proposed Amendments to Rule Chapter 19-3, F.A.C.- Redline Version

### 19-3.016 Executive Director.

The Executive Director, who shall act as the Board's chief administrative and investment officer, shall be selected by and serve at the pleasure of the Board. The Board has hereby delegated authority to act in the following areas to the Executive Director or his or her designee:

(1) To negotiate, enter into, ~~and~~ execute, amend and terminate purchases, contracts, leases, lease-purchases, licenses and agreements relating to real, personal and mixed property, services, commodities and capital outlay items required for the day-to-day operations of the Board.

(2) To negotiate, enter into, ~~and~~ execute, amend and terminate contracts, ~~and~~ agreements, license applications, account opening or maintenance documents, and all related documents as necessary and/or appropriate to carry out the administrative, investment and debt functions of the Board.

(3) To control and disburse funds to carry out the constitutional and statutory duties of the Board.

(4) Make final decisions on ~~Take final agency action in~~ all personnel matters, including discipline, involving Board employees.

(5) To transfer funds between categories of approved funds provided no category is increased or decreased by more than five percent of the total approved budget by all action taken.

(6) To transfer funds between object codes of a category of approved funds without limitation.

(7) To add, delete, reclassify and transfer authorized salaried positions so long as the total approved and budgeted positions are not exceeded.

(8) Authorize and pay travel expenses and per diem under Section 112.061, Florida Statutes. Authorize and pay membership dues under Section 216.345, Florida Statutes, when such membership is essential to the statutory duties and responsibilities of the Board or, with respect to constitutional duties and responsibilities of the Board, when such membership is essential to the constitutional duties and responsibilities of the Board.

(9) To act as custodian of the records and property of the Board.

(10) To act as agent for service of process, as representative to organizations in which the Board is a member or officer and as official liaison with agencies or other bodies of the State, other states, the Federal Government and the public.

(11) To immediately bring to the Board, in writing, and secure the Board's approval of any proposed legal action to be taken by or on behalf of the Board, except in defense of litigation instituted against the Board. However, where the emergent nature of a matter requires immediate action and it is not possible to present the matter to a regular or special meeting of the Board, then the Executive Director may take appropriate legal action subject to ratification at the next regular or special meeting of the Board.

(12)(a) To issue declaratory statements pursuant to Section 120.565, F.S.;

(b) To review and execute, or to delegate the authority to review and execute, all final orders issued pursuant to Section 120.569 and 120.57, Florida Statutes;

(c) To grant variances and waivers from rules pursuant to Section 120.542, F.S.;

(d) To initiate all rule development ~~rulemaking and adopt internal procedures and guidelines.~~

(e) To adopt, implement, modify and terminate internal procedures, policies and guidelines.

(13) To perform or facilitate such other functions as may be necessary or appropriate to supervise, direct, conduct and administer the day-to-day duties of the State Board of Administration, as authorized by law or by rules and policies adopted by the Board.

(14) The Executive Director shall keep each member of the Board advised of controversial or major policy issues arising in the State Board of Administration and shall place such matters upon its agenda when directed by any member of the Board.

(15) The management and the execution of the investment and debt responsibilities of the Board shall be under the direction and supervision of the Executive Director, subject to such limitations and restrictions as may be prescribed by the Board.

(16) To authorize and designate futures and options markets as authorized in Section 215.47, Florida Statutes.

(17) To assess and collect fees for authorized services provided by the Board for certain services performed for any agency, judicial branch or fund ~~one-time or non-recurring activities unattributed to specific Fund beneficiaries~~ and to deposit the fees in and to expend funds from the Administrative Expense Trust Fund. The services for which fees may be assessed and collected include but are not limited to the following:

(a) Processing of interest rate waiver applications.

(b) Collecting of undistributed account balances.

(c) Escrow restructuring.

~~(d) Unattributed investment gains.~~

~~(d)(e)~~ (e) Reproduction fees.

~~(e)(f)~~ (f) Fees paid for the services of General Counsel relating to private non-trust related entities.

~~(f)(g)~~ (g) Equitable surcharges on investment earnings.

~~(g)(h)~~ (h) Administration and legal work fees.

~~(h)(i)~~ (i) These fees may be deposited in the Administrative Expense Trust Fund and expended only for lawful purposes of the Board.

*Rulemaking Specific Authority 215.52, 215.62(5), 215.835, 215.84(5), 216.345(3), 218.412 FS. Law Implemented 112.061, 215.44(2)(b), 215.441, 215.515, 215.69, 215.84, 216.345(2), 218.409(7) FS. History—New 7-13-75, Amended 4-10-84, 12-25-85, Formerly 19-3.16, Amended 12-11-89, 10-21-90, 6-4-91, 6-16-94, \_\_\_\_\_.*

### **19-3.0161 Investment Responsibilities of the Executive Director.**

The Executive Director has the responsibility and authority to organize and manage the ongoing investment activities of the Board Fund, ~~consistent with the Total Fund Investment Plan~~. The Executive Director is responsible for implementing approved investment objectives, policies and strategies. ~~Fund objectives and policies~~ All Investment Policy Statements shall be submitted to the Board for approval. The Executive Director shall periodically review such policy statements ~~policies~~ and ~~shall~~ may submit proposed Investment Policy Statement ~~policy~~ revisions to the Investment Advisory Council for review. The Executive Director's management of funds ~~the Fund~~ may include tactical changes in particular portfolio holdings in accordance with approved policies. The intent is to provide the Executive Director with sufficient authority and operating flexibility to make prudent and professional investment decisions in response to changing market and economic conditions, and otherwise to ensure that the Board fulfills its fiduciary duties.

*Rulemaking Specific Authority 120.53(1), 215.52 FS. Law Implemented 215.44, 215.45, 215.47, 215.475, 215.52 FS. History—New 12-25-85, Formerly 19-3.161, Amended 12-18-88, \_\_\_\_\_.*

### **19-3.097 Designation of Official Reporter.**

(1) ~~The Board shall comply with subsections 1S-6.003(2), (3), (4), and Rule 1S-6.005, F.A.C., by publishing and indexing by subject matter pursuant to Rule number 1S-6.004 each final order that must be indexed and made available to the public as determined and selected by the Board pursuant to the Rule 1S-6.006, F.A.C.~~

(2) ~~The Board shall publish its reporter. Copies of the reporter are available from the Board.~~

*Rulemaking Specific Authority 120.533(1) FS. Law Implemented 120.53(4) FS. History—New 4-23-92. Repealed \_\_\_\_\_.*

### **19-3.099 Plan.**

(1) The Board shall subsequently number final orders as rendered that are required to be indexed or listed. The Board shall make the final orders, subject matter index, and the list available for public inspection and copying, at no more than cost to the public .

(2) The Agency Board Clerk shall assist the public in obtaining information pertaining to final orders.

(3) The Board maintains and stores such final orders, index, and list in the offices of the Board at 1801 Hermitage Boulevard, Tallahassee, Florida 32308, or P. O. Box 13300, Tallahassee, Florida 32317-3300. The office is open to the public between the hours of 8:00 a.m. to 5:00 p.m., excluding holidays and weekends.

*Rulemaking Specific Authority 120.533(1)(j) FS. Law Implemented Ch. 91-30, § 10, Laws of Florida. History—New 4-23-92, Amended 3-24-96, \_\_\_\_\_.*

### **19-3.100 Format for Final Order.**

The following format for a final order shall be used:

STATE BOARD OF ADMINISTRATION \_\_\_\_\_  
Petitioner, \_\_\_\_\_ ) \_\_\_\_\_  
vs. \_\_\_\_\_ ) Case or File No. \_\_\_\_\_  
Respondent, \_\_\_\_\_ ) Final Order No. \_\_\_\_\_  
\_\_\_\_\_

In re: (Brief statement of subject and substantive statute, rule, etc., construed)

Order Category

Statement of the Case and Statement of Recommended Order if Applicable

Findings of Fact

Conclusions of Law

Statement of Order

Done and ordered this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_ in (city), (county), Florida.

By: \_\_\_\_\_ /s/

\_\_\_\_\_ Title

Attest: \_\_\_\_\_ /s/

\_\_\_\_\_ Title

Copies furnished to:

Filed this \_\_\_\_\_ day

of \_\_\_\_\_, 199\_\_.

\_\_\_\_\_ /s/

\_\_\_\_\_ (Agency Clerk)

Rulemaking Specific Authority 120.533(1)(b), (i), (j) FS. Law Implemented 120.53(2) FS.  
History—New 4-23-92. Repealed \_\_\_\_\_.

## **Proposed Amendments to Rule Chapter 19-3, F.A.C. - Final Version**

### **19-3.016 Executive Director.**

The Executive Director, who shall act as the Board's chief administrative and investment officer, shall be selected by and serve at the pleasure of the Board. The Board has hereby delegated authority to act in the following areas to the Executive Director or his or her designee:

(1) To negotiate, enter into, execute, amend and terminate purchases, contracts, leases, lease-purchases, licenses and agreements relating to real, personal and mixed property, services, commodities and capital outlay items required for the day-to-day operations of the Board.

(2) To negotiate, enter into, execute, amend and terminate contracts, agreements, license applications, account opening or maintenance documents, and all related documents as necessary and/or appropriate to carry out the administrative, investment and debt functions of the Board.

(3) To control and disburse funds to carry out the constitutional and statutory duties of the Board.

(4) Make final decisions on all personnel matters, including discipline, involving Board employees.

(5) To transfer funds between categories of approved funds provided no category is increased or decreased by more than five percent of the total approved budget by all action taken.

(6) To transfer funds between object codes of a category of approved funds without limitation.

(7) To add, delete, reclassify and transfer authorized salaried positions so long as the total approved and budgeted positions are not exceeded.

(8) Authorize and pay travel expenses and per diem under Section 112.061, Florida Statutes. Authorize and pay membership dues under Section 216.345, Florida Statutes, when such membership is essential to the statutory duties and responsibilities of the Board or, with respect to constitutional duties and responsibilities of the Board, when such membership is essential to the constitutional duties and responsibilities of the Board.

(9) To act as custodian of the records and property of the Board.

(10) To act as agent for service of process, as representative to organizations in which the Board is a member or officer and as official liaison with agencies or other bodies of the State, other states, the Federal Government and the public.

(11) To immediately bring to the Board, in writing, and secure the Board's approval of any proposed legal action to be taken by or on behalf of the Board, except in defense of litigation instituted against the Board. However, where the emergent nature of a matter requires immediate action and it is not possible to present the matter to a regular or special meeting of the Board, then the Executive Director may take appropriate legal action subject to ratification at the next regular or special meeting of the Board.

(12)(a) To issue declaratory statements pursuant to Section 120.565, F.S.;

(b) To review and execute, or to delegate the authority to review and execute, all final orders issued pursuant to Section 120.569 and 120.57, Florida Statutes;

(c) To grant variances and waivers from rules pursuant to Section 120.542, F.S.;

(d) To initiate all rule development.

(e) To adopt, implement, modify and terminate internal procedures, policies and guidelines.

(13) To perform or facilitate such other functions as may be necessary or appropriate to supervise, direct, conduct and administer the day-to-day duties of the State Board of Administration, as authorized by law or by rules and policies adopted by the Board.

(14) The Executive Director shall keep each member of the Board advised of controversial or major policy issues arising in the State Board of Administration and shall place such matters upon its agenda when directed by any member of the Board.

(15) The management and the execution of the investment and debt responsibilities of the Board shall be under the direction and supervision of the Executive Director, subject to such limitations and restrictions as may be prescribed by the Board.

(16) To authorize and designate futures and options markets as authorized in Section 215.47, Florida Statutes.

(17) To assess and collect fees for authorized services provided by the Board for certain services performed for any agency, judicial branch or fund and to deposit the fees in and to expend funds from the Administrative Expense Trust Fund. The services for which fees may be assessed and collected include but are not limited to the following:

(a) Processing of interest rate waiver applications.

(b) Collecting of undistributed account balances.

(c) Escrow restructuring.

(d) Reproduction fees.

(e) Fees paid for the services of General Counsel relating to private non-trust related entities.

(f) Equitable surcharges on investment earnings.

(g) Administration and legal work fees.

(h) These fees may be deposited in the Administrative Expense Trust Fund and expended only for lawful purposes of the Board.

*Rulemaking Authority 215.52, 215.62(5), 215.835, 215.84(5), 216.345(3), 218.412 FS. Law Implemented 112.061, 215.44(2)(b), 215.441, 215.515, 215.69, 215.84, 216.345(2), 218.409(7)*

*FS. History–New 7-13-75, Amended 4-10-84, 12-25-85, Formerly 19-3.16, Amended 12-11-89, 10-21-90, 6-4-91, 6-16-94,\_\_\_\_\_.*

### **19-3.0161 Investment Responsibilities of the Executive Director.**

The Executive Director has the responsibility and authority to organize and manage the ongoing investment activities of the Board. The Executive Director is responsible for implementing approved investment objectives, policies and strategies. All Investment Policy Statements shall be submitted to the Board for approval. The Executive Director shall periodically review such policy statements and shall submit proposed Investment Policy Statement revisions to the Investment Advisory Council for review. The Executive Director’s management of funds may include tactical changes in particular portfolio holdings in accordance with approved policies. The intent is to provide the Executive Director with sufficient authority and operating flexibility to make prudent and professional investment decisions in response to changing market and economic conditions.

*Rulemaking Authority 120.53(1), 215.52 FS. Law Implemented 215.44, 215.45, 215.47, 215.475, 215.52 FS. History–New 12-25-85, Formerly 19-3.161, Amended 12-18-88,\_\_\_\_\_.*

### **19-3.097 Designation of Official Reporter.**

*Rulemaking Authority 120.533(1) FS. Law Implemented 120.53(4) FS. History–New 4-23-92. Repealed\_\_\_\_\_.*

### **19-3.099 Plan.**

(1) The Board shall subsequently number final orders as rendered that are required to be indexed or listed. The Board shall make the final orders, subject matter index, and the list available for public inspection and copying, at no more than cost.

(2) The Agency Clerk shall assist the public in obtaining information pertaining to final orders.

(3) The Board maintains and stores such final orders, index, and list in the offices of the Board at 1801 Hermitage Boulevard, Tallahassee, Florida 32308, or P. O. Box 13300, Tallahassee, Florida 32317-3300. The office is open to the public between the hours of 8:00 a.m. to 5:00 p.m., excluding holidays and weekends.

*Rulemaking Authority 120.533(1)(j) FS. Law Implemented Ch. 91-30, § 10, Laws of Florida. History–New 4-23-92, Amended 3-24-96,\_\_\_\_\_.*

**19-3.100 Format for Final Order.**

*Rulemaking Authority 120.533(1)(b), (i), (j) FS. Law Implemented 120.53(2) FS. History—  
New 4-23-92. Repealed \_\_\_\_\_.*





**STATE BOARD OF ADMINISTRATION  
OF FLORIDA**

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JEFF ATWATER  
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PAM BONDI  
ATTORNEY GENERAL

ASH WILLIAMS  
EXECUTIVE DIRECTOR & CIO

**MEMORANDUM**

To: Ashbel C. Williams, Executive Director & CIO

From: Ruth A. Smith, Assistant General Counsel

Subject: Agenda Item for the August 6, 2013 Cabinet Meeting: Proposed  
Amendments to Rule Chapter 19-5, F.A.C.

Request Approval to File the Rules for Notice and For Adoption/Repeal if  
No Member of the Public Timely Requests a Rule Hearing

Date: July 24, 2013

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**ACTION REQUESTED:**

**REQUEST APPROVAL TO FILE FOR NOTICE, AMENDMENTS TO RULE CHAPTER 19-5, F.A.C. (RULES AND REGULATIONS GOVERNING THE PROCEDURES FOR ISSUANCE OF BONDS AT AN INTEREST RATE IN EXCESS OF LEGAL LIMITATION), AND TO FILE THE RULES FOR ADOPTION OR REPEAL, AS APPLICABLE, IF NO MEMBER OF THE PUBLIC TIMELY REQUESTS A RULE HEARING RELATED TO THESE RULES.**

The last amendments to this chapter occurred in 1996. During the rule review process, we determined the rules in Chapter 19-5, F.A.C. needed to be consolidated and updated. The six separate rules currently set forth in Chapter 19-5 can be consolidated and incorporated into a single Rule 19-5.001. Consolidating the rules in Chapter 19-5 will eliminate extraneous provisions and should facilitate readability by listing all process steps and documents required to comply with the rule in one place rather than in six separate rules that cross reference each other. As such, the amendments are being proposed to consolidate, through amendment and repeal, all of the relevant provisions in Rule Chapter 19-5 into Rule 19-5.001.

Rule 19-5.001 is also being amended to describe the informal review process conducted by the SBA's Executive Director after receipt of an application from a governmental unit requesting authority to sell bonds at an interest rate in excess of an otherwise statutory maximum

interest rate. Rule 19-5.003 presently describes a slightly different review process for applications to sell bonds in excess of 50 basis points above the otherwise statutory maximum interest rate. That portion of Chapter 19-5 is being deleted. The same process will apply to all applications under this rule. Provisions also are being updated to clarify the types of information that the Executive Director & CIO may consider in conducting the informal review. The rule further clarifies that the authorization to issue bonds at an interest rate in excess of the legal limitation expires 180 days after the authorization has been given.

The amendments serve as informational updates. The rule amendments do not impose any burdens on businesses; they do not restrict entry into a profession; they have no impact on the availability of services to the public; they have no impact on job retention; they do not impose any restrictions on employment seekers; and they do not impose any costs. No legislative ratification is required. Statutory citations also are being updated.

Attachments: Proposed Amendments to Rule Chapter 19-5- Redline Version  
Proposed Amendments to Rule Chapter 19-5- Final Version

## PROPOSED AMENDMENTS TO RULE CHAPTER 19-5- REDLINE VERSION

### 19-5.001 Interest Rate Limitation on Sale of Bonds of Governmental Units.

(1) Bonds of any governmental unit may be sold at an interest rate in excess of the maximum set by law, only if application has been made to the State Board of Administration and authority is granted to the governmental unit by the Board pursuant to Section 215.84, Florida Statutes, in the case of tax exempt bonds, or Section 159.825, Florida Statutes, in the case of taxable bonds. Provided, however, in determining whether or not the governmental unit has complied with the interest rate limitation set forth in Section 215.84(3), Florida Statutes, in the issuance of their bonds, where the purchaser of any such bonds is the U.S. Department of Agriculture, Farmers Home Administration, such obligations shall be deemed sold when Farmers Home Administration gives a binding commitment to purchase the bonds even though such commitment is subject to conditions subsequent such as completion of the project being financed with bond proceeds and the computation of adding 300 basis points to The Bond Buyer “20 Bond Index” published immediately preceding the first day of the calendar month in which the bonds are sold shall be computed on the date of such commitment.

(2) The maximum interest rate limitation specified in Section 215.84, Florida Statutes, in the case of tax exempt bonds, or Section 159.825, Florida Statutes, in the case of taxable bonds, does not apply to bonds within the rating categories of A or better by Moody’s Investors Services, Inc., Standard & Poor’s Corporation, or Fitch Investors Service, Inc., or, in the case of short-term obligations or notes, within the rating categories of MIG2 or VMIG2 or better by Moody’s Investors Services, Inc., SP-2 or better by Standard and Poor’s Corporation, or F-2 or better by Fitch Investors Service, Inc.

(3) Any governmental unit requesting authority to sell its obligations at an interest rate in excess of the maximum set by law shall make application to the State Board of Administration requesting such authority. The application shall be in writing and signed by a responsible official of the governmental unit issuing the bonds or notes. The application shall specify the maximum average net interest cost rate at which the governmental unit is requesting authority to sell its obligations, and shall state the reasons requiring the sale of the bonds at an average net interest rate in excess of the maximum set by law. The following documents or information must be included with the application:

- (a) The official statement or prospectus, if available, or similar information relating to the sale of the bonds;
- (b) The resolution or ordinance authorizing the issuance of the bonds;
- (c) Financial data relating to the anticipated revenue, debt service and coverage;
- (d) The most recent financial statement of the governmental unit;
- (e) A certified copy of Judgment of Validation if the bonds have been validated;
- (f) Information relating to sale of the bonds, including whether they will be sold at public or private sale and the amount of the discount, if any; and
- (g) Any other pertinent document or information specifically requested.

(4) After receipt by the Board of the governmental unit’s application and materials referenced in (3), above,

the Board may authorize the sale of bonds at an average net interest cost rate in excess of the statutory interest limitation after an informal review by the Executive Director.

(a) The Board in making its determination shall consider, but not be limited to considering,

1. comparable sales of bonds or other debt of governmental units, and
2. documented evidence that the objectives and the intent of issuing the bonds will be realized.

(b) The Executive Director in conducting the informal review shall consider the items in a., and may consider other aspects of the bonds, including without limitation,

1. whether the bonds will be privately-placed to accredited investors or publicly-offered, directly or indirectly, such as part of a mutual fund, to individuals,
2. the minimum denomination of the bonds,
3. if the bonds are to finance a project, the principal amount of the bonds relative to other sources of financing of the project,
4. the amortization schedule of the bonds, and
5. the frequency with which the issuer issues bonds.

(c) Information regarding comparable sales of bonds or other debt of governmental units may be provided by a report of staff of the Board or the Division of Bond Finance or by a report of a financial advisor to the Board or the Division of Bond Finance. Documented evidence that the objectives and intent of issuing the bonds will be realized may include, without limitation, statements in the official statement, prospectus or credit underwriting report for the bonds (if applicable) or other evidence, such as construction performance bonds or similar insurance or guarantees, indicating that the project or facility financed by such bonds or debt is reasonably expected to be completed. The Executive Director shall complete the informal review within a reasonable time after receipt of all information required or requested pursuant to these rules but in no event shall the Executive Director be required to complete the informal review sooner than thirty (30) days after receipt of the governmental unit's completed application.

(d) Upon completion of the informal review, the Executive Director shall provide a report to the Board including the Executive Director's recommendation with respect to the governmental unit's request for the sale of bonds at an average net interest rate in excess of the maximum set by law, or shall communicate to the governmental unit that no recommendation can be made and shall provide to the governmental unit a short statement for the reasons therefor. The Board, at a meeting subsequent to the preparation of the report of the Executive Director, may consider this recommendation in determining whether to authorize the issuance of such bonds at an average net interest rate in excess of the maximum set by law.

(e) The Executive Director may utilize the services and staff of the Board, any other state governmental entity, including without limitation, the Division of Bond Finance, or a financial advisor to the Board or the Division of Bond Finance in conducting the informal review.

(f) The informal review provided for herein is an agency investigation preliminary to agency action within the meaning of Section 120.57(5), F.S.

(5) The Board's authorization, with respect to a specific issue or reissue of bonds, of a specified maximum average net interest cost rate in excess of the maximum set by law shall expire one hundred eighty (180) days after

the date of the Board's authorization with respect to such issue or reissue of bonds.

(6) The official statement or prospectus shall contain a statement that the authorization of the State Board of Administration for the issuing agency to sell its obligations at an interest rate in excess of the maximum permitted by law is made pursuant to Section 215.84, Florida Statutes, in the case of tax exempt bonds or Section 159.825, Florida Statutes, in the case of taxable bonds, and is not to be construed as an approval or recommendation of the issue by the State Board of Administration.

Rulemaking Specific Authority 159.825(3), 215.52, 215.84(5) FS. Law Implemented 159.825, 215.84 FS. History—New 10-23-75, Repealed and Readopted 10-14-80, Amended 2-1-83, 12-25-85, Formerly 19-5.01, Amended 12-10-87, 10-6-96,\_\_\_\_\_.

#### **19-5.0011 Limitations Not Applicable to Certain Bonds.**

~~The maximum interest rate limitation specified in Section 215.84, Florida Statutes, in the case of tax exempt bonds, or Section 159.825, Florida Statutes, in the case of taxable bonds, does not apply to bonds within the rating categories of A or better by Moody's Investors Services, Inc., Standard & Poor's Corporation, or Fitch Investors Service, Inc., or, in the case of short term obligations or notes, within the rating categories of MIG2 or VMIG2 or better by Moody's Investors Services, Inc., SP 2 or better by Standard and Poor's Corporation, or F 2 or better by Fitch Investors Service, Inc.~~

Rulemaking Specific Authority 159.825(3) ~~120.53(1)~~, 215.84(5) FS. Law Implemented 159.825, 215.84 FS. History—New 10-23-75, Repealed and Readopted 10-14-80, Amended 12-25-85, Formerly 19-5.011, Amended 12-10-87, 11-19-92, \_\_, Repealed \_\_\_\_\_.

#### **19-5.002 Application.**

~~Any governmental unit requesting authority to sell its obligations at an interest rate in excess of the maximum set by law shall make application to the State Board of Administration requesting such authority. The application shall be in writing and signed by a responsible official of the governmental unit issuing the bonds or notes. The application shall specify the maximum average net interest cost rate at which the governmental unit is requesting authority to sell its obligations, and shall state the reasons requiring the sale of the bonds at a rate in excess of the maximum set by law. The following documents or information must be included with the application:~~

- ~~(1) The official statement or prospectus, if available, or similar information relating to the sale of the bonds;~~
- ~~(2) The resolution or ordinance authorizing the issuance of the bonds;~~
- ~~(3) Financial data relating to anticipated revenue, debt service and coverage;~~
- ~~(4) The most recent financial statement of the governmental unit;~~
- ~~(5) A certified copy of Judgment of Validation if the bonds have been validated;~~
- ~~(6) Information relating to sale of the bonds, including whether they will be sold at public or private sale and the amount of the discount, if any; and~~
- ~~(7) Any other pertinent document or information specifically requested.~~

Rulemaking Specific Authority 159.825(3) ~~120.53(1)~~, 215.84(5) FS. Law Implemented 215.84 FS. History—New 10-23-75, Amended 9-29-76, Repealed and Readopted 10-14-80, Formerly 19-5.02, \_\_, Repealed \_\_\_\_\_.

#### **19-5.003 Limitations on Authorization of Interest Rate.**

~~(1) The Board may authorize the sale of bonds at an average net interest cost rate of up to fifty (50) basis points in excess of the statutory interest limitation upon written request from the governmental unit in accordance with the~~

provisions of Section 19 5.002, F.A.C., of this rule.

(2) The Board may authorize the sale of bonds at an average net interest cost rate of more than fifty (50) basis points in excess of the statutory interest limitation upon written request of the governmental unit and after an informal review by the Executive Director as herein set forth.

(a) The request for a rate more than fifty (50) basis points in excess of the statutory limitation shall include the information required by Section 19 5.002, F.A.C., and a request for an informal review of the proposed bond issue by the Executive Director.

(b) The governmental unit will be notified, after review of the written request, of such additional data that it will be required to present at the informal review prior to its scheduling. Additional data could include but would not be limited to a detailed analysis of comparable sales of similar bond issues and documented evidence that the objectives and the intent of issuing the bonds will be realized.

(c) The informal review will be held within thirty (30) days after receipt of all information required or requested pursuant to these rules.

(d) The governmental unit may be required to be represented at the informal review by a responsible official of the entity, its underwriter, financial advisor, bond counsel, and any other interested party deemed appropriate by the Executive Director.

(e) The Executive Director may utilize the services of any qualified personnel of the Board or any other state agency in conducting the informal review.

(f) After the conclusion of the informal review, the Executive Director shall make his report and recommendation to the Board at the first meeting of the Board occurring more than fifteen (15) days after the informal review. In instances where the Board determines sufficient evidence exists for good cause, the fifteen (15) day period may be reduced to seven (7).

(g) The informal review provided for herein is an agency investigation preliminary to agency action within the meaning of Section 120.57(4), F.S.

*Rulemaking Specific Authority 159.825(3) 120.53(1), 215.84(5) FS. Law Implemented 215.84 FS. History—New 10-23-75, Repealed and Readopted 10-14-80, Amended 2-10-82, Formerly 19-5.03, Repealed \_\_\_\_\_.*

#### **19-5.004 Term of Authorization.**

The authority granted by the Board to sell at a specified maximum average net interest cost rate in excess of the maximum set by law shall expire one hundred eighty (180) days after the date authorized and shall no longer have any force or effect after one hundred eighty (180) days unless a longer period is specifically requested and authorized by the Board.

*Rulemaking Specific Authority 159.825(3) 120.53(1), 215.84(5) FS. Law Implemented 215.84 FS. History—New 10-23-75, Repealed and Readopted 10-14-80, Formerly 19-5.04, Repealed \_\_\_\_\_.*

#### **19-5.005 Purpose of Authorization.**

The official statement or prospectus shall contain a statement that the authorization of the State Board of Administration for the issuing agency to sell its obligations at an interest rate in excess of the maximum permitted by law is made pursuant to Section 215.84, Florida Statutes, in the case of tax exempt bonds or Section 159.825, Florida Statutes, in the case of taxable bonds, and is not to be construed as an approval or recommendation of the issue by the State Board of Administration.

*Rulemaking Specific Authority 159.825(3) 120.53(1), 215.84(5) FS. Law Implemented 159.825, 215.84 FS. History—New 10-23-75, Repealed and Readopted 10-14-80, Formerly 19-5.05, Amended 12-10-87, Repealed \_\_\_\_\_.*

## PROPOSED AMENDMENTS TO RULE CHAPTER 19-5 - FINAL VERSION

### **19-5.001 Interest Rate Limitation on Sale of Bonds of Governmental Units.**

(1) Bonds of any governmental unit may be sold at an interest rate in excess of the maximum set by law, only if application has been made to the State Board of Administration and authority is granted to the governmental unit by the Board pursuant to Section 215.84, Florida Statutes, in the case of tax exempt bonds, or Section 159.825, Florida Statutes, in the case of taxable bonds. Provided, however, in determining whether or not the governmental unit has complied with the interest rate limitation set forth in Section 215.84(3), Florida Statutes, in the issuance of their bonds, where the purchaser of any such bonds is the U.S. Department of Agriculture, Farmers Home Administration, such obligations shall be deemed sold when Farmers Home Administration gives a binding commitment to purchase the bonds even though such commitment is subject to conditions subsequent such as completion of the project being financed with bond proceeds and the computation of adding 300 basis points to The Bond Buyer "20 Bond Index" published immediately preceding the first day of the calendar month in which the bonds are sold shall be computed on the date of such commitment.

(2) The maximum interest rate limitation specified in Section 215.84, Florida Statutes, in the case of tax exempt bonds, or Section 159.825, Florida Statutes, in the case of taxable bonds, does not apply to bonds within the rating categories of A or better by Moody's Investors Services, Inc., Standard & Poor's Corporation, or Fitch Investors Service, Inc., or, in the case of short-term obligations or notes, within the rating categories of MIG2 or VMIG2 or better by Moody's Investors Services, Inc., SP-2 or better by Standard and Poor's Corporation, or F-2 or better by Fitch Investors Service, Inc.

(3) Any governmental unit requesting authority to sell its obligations at an interest rate in excess of the maximum set by law shall make application to the State Board of Administration requesting such authority. The application shall be in writing and signed by a responsible official of the governmental unit issuing the bonds or notes. The application shall specify the maximum average net interest cost rate at which the governmental unit is requesting authority to sell its obligations, and shall state the reasons requiring the sale of the bonds at an average net interest rate in excess of the maximum set by law. The following documents or information must be included with the application:

- (a) The official statement or prospectus, if available, or similar information relating to the sale of the bonds;
- (b) The resolution or ordinance authorizing the issuance of the bonds;
- (c) Financial data relating to the anticipated revenue, debt service and coverage;
- (d) The most recent financial statement of the governmental unit;
- (e) A certified copy of Judgment of Validation if the bonds have been validated;
- (f) Information relating to sale of the bonds, including whether they will be sold at public or private sale and the amount of the discount, if any; and
- (g) Any other pertinent document or information specifically requested.

(4) After receipt by the Board of the governmental unit's application and materials referenced in (3), above, the Board may authorize the sale of bonds at an average net interest cost rate in excess of the statutory interest

limitation after an informal review by the Executive Director.

(a) The Board in making its determination shall consider, but not be limited to considering,

1. comparable sales of bonds or other debt of governmental units, and
2. documented evidence that the objectives and the intent of issuing the bonds will be realized,

(b) The Executive Director in conducting the informal review shall consider the items in a., and may consider other aspects of the bonds, including without limitation,

1. whether the bonds will be privately-placed to accredited investors or publicly-offered, directly or indirectly, such as part of a mutual fund, to individuals,
2. the minimum denomination of the bonds,
3. if the bonds are to finance a project, the principal amount of the bonds relative to other sources of financing of the project,
4. the amortization schedule of the bonds, and
5. the frequency with which the issuer issues bonds.

(c) Information regarding comparable sales of bonds or other debt of governmental units may be provided by a report of staff of the Board or the Division of Bond Finance or by a report of a financial advisor to the Board or the Division of Bond Finance. Documented evidence that the objectives and intent of issuing the bonds will be realized may include, without limitation, statements in the official statement, prospectus or credit underwriting report for the bonds (if applicable) or other evidence, such as construction performance bonds or similar insurance or guarantees, indicating that the project or facility financed by such bonds or debt is reasonably expected to be completed. The Executive Director shall complete the informal review within a reasonable time after receipt of all information required or requested pursuant to these rules but in no event shall the Executive Director be required to complete the informal review sooner than thirty (30) days after receipt of the governmental unit's completed application.

(d) Upon completion of the informal review, the Executive Director shall provide a report to the Board including the Executive Director's recommendation with respect to the governmental unit's request for the sale of bonds at an average net interest rate in excess of the maximum set by law, or shall communicate to the governmental unit that no recommendation can be made and shall provide to the governmental unit a short statement for the reasons therefor. The Board, at a meeting subsequent to the preparation of the report of the Executive Director, may consider this recommendation in determining whether to authorize the issuance of such bonds at an average net interest rate in excess of the maximum set by law.

(e) The Executive Director may utilize the services and staff of the Board, any other state governmental entity, including without limitation, the Division of Bond Finance, or a financial advisor to the Board or the Division of Bond Finance in conducting the informal review.

(f) The informal review provided for herein is an agency investigation preliminary to agency action within the meaning of Section 120.57(5), F.S.

(5) The Board's authorization, with respect to a specific issue or reissue of bonds, of a specified maximum average net interest cost rate in excess of the maximum set by law shall expire one hundred eighty (180) days after the date of the Board's authorization with respect to such issue or reissue of bonds.



(6) The official statement or prospectus shall contain a statement that the authorization of the State Board of Administration for the issuing agency to sell its obligations at an interest rate in excess of the maximum permitted by law is made pursuant to Section 215.84, Florida Statutes, in the case of tax exempt bonds or Section 159.825, Florida Statutes, in the case of taxable bonds, and is not to be construed as an approval or recommendation of the issue by the State Board of Administration.

*Rulemaking Authority 159.825(3), 215.52, 215.84(5) FS. Law Implemented 159.825, 215.84 FS. History—New 10-23-75, Repealed and Readopted 10-14-80, Amended 2-1-83, 12-25-85, Formerly 19-5.01, Amended 12-10-87, 10-6-96,\_\_\_\_\_.*

**19-5.0011 Limitations Not Applicable to Certain Bonds.**

*Rulemaking Authority 159.825(3), 215.84(5) FS. Law Implemented 159.825, 215.84 FS. History—New 10-23-75, Repealed and Readopted 10-14-80, Amended 12-25-85, Formerly 19-5.011, Amended 12-10-87, 11-19-92-, Repealed\_\_\_\_\_.*

**19-5.002 Application.**

*Rulemaking Authority 159.825(3), 215.84(5) FS. Law Implemented 215.84 FS. History—New 10-23-75, Amended 9-29-76, Repealed and Readopted 10-14-80, Formerly 19-5.02-, Repealed\_\_\_\_\_.*

**19-5.003 Limitations on Authorization of Interest Rate.**

*Rulemaking Authority 159.825(3), 215.84(5) FS. Law Implemented 215.84 FS. History—New 10-23-75, Repealed and Readopted 10-14-80, Amended 2-10-82, Formerly 19-5.03-, Repealed\_\_\_\_\_.*

**19-5.004 Term of Authorization.**

*Rulemaking Authority 159.825(3), 215.84(5) FS. Law Implemented 215.84 FS. History—New 10-23-75, Repealed and Readopted 10-14-80, Formerly 19-5.04-, Repealed\_\_\_\_\_.*

**19-5.005 Purpose of Authorization.**

*Rulemaking Authority 159.825(3), 215.84(5) FS. Law Implemented 159.825, 215.84 FS. History—New 10-23-75, Repealed and Readopted 10-14-80, Formerly 19-5.05, Amended 12-10-87-, Repealed\_\_\_\_\_.*



**STATE BOARD OF ADMINISTRATION  
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ATTORNEY GENERAL

ASH WILLIAMS  
EXECUTIVE DIRECTOR & CIO

**MEMORANDUM**

To: Ashbel C. Williams, Executive Director & CIO

From: Ruth A. Smith, Assistant General Counsel

Subject: Agenda Item for the August 6, 2013 Cabinet Meeting: Proposed  
Amendments to Rules 19-11.002 and 19-11.012, F.A.C

Request Approval to File the Rules for Notice and For Adoption/Repeal if  
No Member of the Public Timely Requests a Rule Hearing

Date: July 24, 2013

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**ACTION REQUESTED:**

**REQUEST APPROVAL TO FILE FOR NOTICE, AMENDMENTS TO RULES 19-11.002, F.A.C. (BENEFICIARY DESIGNATIONS AND DISTRIBUTIONS FOR FRS INVESTMENT PLAN) AND 19-11.012, F.A.C. (ACCEPTANCE OF ROLLOVERS BY THE FRS INVESTMENT PLAN) IN RULE CHAPTER 19-11, F.A.C. AND TO FILE THE RULES FOR ADOPTION IF NO MEMBER OF THE PUBLIC TIMELY REQUESTS A RULE HEARING RELATED TO THESE RULES.**

Rule 19-11.002 is being amended to add information regarding what happens when a beneficiary of an FRS Investment Plan member is "per Florida law" as described in Section 121.4501(2), Florida Statutes, and that beneficiary fails to contact the FRS Investment Plan and/or cannot be identified. This is information that is useful to FRS Investment Plan members and their beneficiaries and also that is useful in the proper administration of the FRS Investment Plan.

Rule 19-11.012 is being expanded to provide information that may be useful to FRS Investment Plan members that are eligible to transfer to the FRS Pension Plan and that will have a balance remaining in their FRS Investment Plan account after making their election and paying all buy-in amounts to the FRS Pension Plan. Rather than

retaining the balance in the FRS Investment Plan account, these members may wish to purchase service credit in the FRS Pension Plan. Up until now, very little information was given to these members by rule regarding how this purchase is to be effectuated. The proposed amendments to Rule 19-11.012 detail the procedures that need to be followed. This additional information is useful to affected members, and also is useful in the administration of the FRS Investment plan.

The proposed rule amendments do not impose any burdens on businesses; they do not restrict entry into a profession; they have no impact on the availability of services to the public; they have no impact on job retention; they do not impose any restrictions on employment seekers; and they do not impose any costs. No legislative ratification is required.

Attachments: Proposed Amendments to Rules 19-11.002 and 19-11.012- Redline Version  
Proposed Amendments to Rules 19-11.002 and 19-11.012- Final Version

### **19-11.002 Beneficiary Designations and Distributions for FRS Investment Plan.**

(1) An FRS Investment Plan member may designate a beneficiary to receive the benefits which may be payable in the event of the member's death. If the member does not designate a beneficiary(ies), or if no designated beneficiary survives the member, then the member's beneficiary(ies) will be those specified by Section 121.4501(20), F.S. which are: the deceased member's spouse; or if there is no surviving spouse, then the deceased member's children, or their legal guardian, on their behalf if under 18 years of age; or if no children survive, the deceased member's father or mother, if living; otherwise the deceased member's estate.

(2) Any such beneficiary designation may be made on Form IPBEN-1, rev. 03-11, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00255>, which is hereby adopted and incorporated by reference. This form is available in paper form and may be obtained by calling the toll-free MyFRS Financial Guidance Line at 1(866)446-9377, Option 4 (TRS 711), Monday through Friday, except holidays, 9:00 a.m. to 8:00 p.m. or by accessing the MyFRS.com website and clicking on "Resources" and then "Forms." The beneficiary designation form must be completed and received by the FRS Investment Plan Administrator before it becomes effective. Alternatively, a beneficiary may be designated electronically by logging on to MyFRS.com, clicking on "manage benefits," then clicking on "manage investments," and then clicking on "personal info", or by calling the Investment Plan Administrator at 1(866) 446-9377, Option 4 (TRS 711).

(3) A beneficiary designation shall only be effective once it is received by the FRS Investment Plan Administrator. The most recent beneficiary designation filed with the FRS Investment Plan Administrator shall replace any previous designation whether made before or after the member's termination of employment or retirement. After submitting the designation, the member is responsible for confirming whether the designation has been received by the FRS Investment Plan Administrator. The beneficiary designation is printed every quarter on the member's quarterly statement.

(4)(a) If the FRS Investment Plan member enrolls in the FRS Investment Plan using the EZ Retirement Plan Enrollment Form for Regular, Special Risk and Special Risk Administrative Support Class Employees, Form ELE-1-EZ, rev. 07/12, the General Retirement Plan Enrollment Form for Regular Special Risk and Special Risk Administrative Support Class Employees, Form ELE-1, rev. 10/12, which are adopted and incorporated by reference in subsection 19-11.006(2), F.A.C., or the 2nd Election EZ Retirement Plan Enrollment Form, Form ELE-2-EZ, rev. 07-12, or the 2nd Election Retirement Plan Enrollment Form, Form ELE-2, rev 10-12, which are adopted and incorporated by reference in subsection 19-11.007(3), F.A.C., the member agrees to the beneficiary designation contained in Section 121.4501(20), F.S., unless the member submits a beneficiary designation as provided in subsection (2) herein.

(b) If the member dies prior to his or her effective date of retirement, the member's spouse at the time of death shall be the member's beneficiary unless the deceased member had designated a different beneficiary after his or her most recent marriage.

(c) If the member marries after designating a beneficiary, the member must file an updated beneficiary designation if the member wishes to name someone else other than the spouse as a beneficiary. If the member does not file an updated beneficiary designation, the member's spouse will be the beneficiary of the member's account. Example: John is married to Betty and has named her as his beneficiary. John divorces Betty and marries Carol. Carol will be John's beneficiary unless he files another beneficiary form and names, for example, his son, Bob.

(d) Once a member is enrolled in the FRS Investment Plan, the member may designate a

beneficiary at any time, as follows:

1. A member may name a beneficiary or beneficiaries to receive the assets of the member's FRS Investment Plan account, either sequentially or jointly.

2. A member may name as beneficiary any person, organization, trust, or the member's estate.

(e) A primary beneficiary is someone who will receive the member's funds from the FRS Investment Plan account, if that person is living at the death of the member. If more than one primary beneficiary is designated with specified percentages of the funds, each will receive their member-specified percentages if they are still living at the death of the member. Example: if the member names his four sons, in equal shares (25% each), but two of the four sons die before their father, the other two living sons split the funds two ways, 50% each. If joint primary beneficiaries are named but the member does not specify any percentages of the funds, the beneficiaries will receive equal portions of the remaining funds.

(f) A contingent beneficiary is one or more persons who are named, in case all primary beneficiaries die before the member. Contingent beneficiaries may receive benefits jointly or sequentially. Naming a contingent beneficiary is optional.

(g) If a member inadvertently uses an incorrect beneficiary designation form, the FRS Investment Plan Administrator will notify the member and request that the member complete and submit the correct form, Beneficiary Designation Form IPBEN-1, rev. 03-11. If the member should die prior to completing and submitting the IPBEN-1 form, the FRS Investment Plan Administrator will consider the beneficiary set forth on the incorrect form as being the member's intended beneficiary for the purpose of paying benefits.

(5)(a) If a member is married and the spouse is designated as a primary beneficiary, regardless of whether the percentage allocated to the spouse on the form is less than 100%, the member is not required to notify the spouse.

(b) If a member is married and names a primary beneficiary(ies) and the person(s) named is not the spouse of the member, then the member is required to notify the spouse that the spouse is not a primary beneficiary of the proceeds of the member's FRS Investment Plan account(s). The spouse must acknowledge that the spouse understands that the spouse is not a primary beneficiary of the member's FRS Investment Plan account(s) by signing the beneficiary designation form, Form IPBEN-1, rev. 03-11, in the appropriate place.

(c) If a married member fails to obtain the spouse's acknowledgment on the beneficiary designation form, then the Investment Plan Administrator will send to the member an Acknowledgement of Beneficiary Designation, reminding the member of the necessity of obtaining spousal acknowledgement. The member can return this Acknowledgement of Beneficiary Designation with the spouse's signature which will provide acknowledgement that the spouse is not the primary beneficiary of the member's FRS Investment Plan account(s). Alternatively, the member may provide the FRS Investment Plan Administrator with a notarized statement reflecting the spouse's understanding that the spouse is not the beneficiary of the member's FRS Investment Plan account(s).

(d) If the member fails to obtain the spouse's acknowledgement that a beneficiary, other than the spouse, has been designated as the primary beneficiary of the member's Investment Plan benefit, the beneficiary designation on file with the FRS Investment Plan Administrator at the time of the member's death will be honored only if the spouse's rights as a beneficiary are not compromised under Florida law.

(6)(a) An Alternate Payee may name a beneficiary to receive the benefits which may be

payable in the event of the Alternate Payee's death at any time, as outlined in paragraphs (2) and (5)(a) through (f) above, once the Alternate Payee's account has been established by the FRS Investment Plan Administrator.

(b) If the Alternate Payee does not name a beneficiary(ies), then the Alternate Payee's beneficiary(ies) will be those as described in subsection (1).

(7) Per Florida Law Beneficiary Designation

(a) If a member fails to designate a beneficiary as outlined in paragraph (2) above, the member's designation of beneficiary will automatically be assigned a designation of "Per Florida Law" as outlined in s. 121.4501(2), F.S.

(b) If, upon the death of a member, a beneficiary(ies) can be identified, in accordance with Florida Statutes, but no social security number or address for the beneficiary(ies) is available, the FRS Investment Plan Administrator will, with the assistance of the SBA, make a reasonable effort to obtain each beneficiary's Social Security Number or Taxpayer Identification Number, using available search tools, including the internet, LexisNexis Accurant, or another third party vendor providing such services. If a beneficiary can be identified and the social security is provided, the transfer of benefits will be executed by the Investment Plan Administrator.

(c) If upon the death of a member a beneficiary cannot be identified, the provisions of paragraph (d) below will be followed.

(d) After one year from the date of the member's death, if the beneficiary cannot be located or if a beneficiary cannot be identified, the account will be transferred to the Suspense Account. By calendar year-end, of each year following the transfer to the Suspense Account, the FRS Investment Plan Administrator will attempt to locate and obtain the Social Security Number or the Taxpayer Identification Number of the beneficiary. The transferred funds shall be invested in the FRS Select U.S. Treasury Inflation-Protected Securities Index Fund. The amount will be held in the FRS Investment Plan Suspense Account until (1) the beneficiary contacts the FRS Investment Plan; or (2) another beneficiary requests consideration as the deceased's proper beneficiary; or, (3) at the end of 10 years in the Suspense Account, the amount is transferred to the FRS Investment Plan Forfeiture Account, where it is held indicating the name of the deceased member and the name of the beneficiary, if known.

(e) Should the beneficiary be located and provides a social security number, a check will be issued to the beneficiary, with actual earnings, from the date of transfer from the member's account to the Suspense Account subject to applicable income tax withholding, which shall be paid to the tax authorities at the time of such payment to the beneficiary.

(87) Distributions to beneficiaries on the death of a member.

(a) If a member dies before his or her effective date of retirement, the member's spouse at the time of his or her death shall be the member's beneficiary, unless the member has designated a different beneficiary after the member's most recent marriage. If the member did name another beneficiary after his or her most recent marriage, the named beneficiary will receive the member's account balance.

(b) Upon notification of the member's death, the FRS Investment Plan Administrator will contact the designated beneficiary or the family of the deceased member and provide instructions on how to claim any benefits.

(98) Distributions to designated or per Florida law spousal beneficiaries.

(a) The member's surviving spouse, must provide a certified copy of the member's death certificate and, if the spouse is not designated by the member, but is the beneficiary according to

Florida law, the surviving spouse must provide a copy of the marriage certificate before benefits will be paid.

(b) Spousal beneficiaries may request the following distributions:

1. Full distribution, in which the entire account balance is paid in one lump sum. If this option is selected, the spouse no longer will be a member of the FRS Investment Plan.

2. Partial Distribution, which provides for a partial lump sum payment of the account balance. The remainder may be paid out through regular periodic payments that the spouse selects, such as monthly, quarterly, semi-annually or annually. The spouse also may defer payment of the remainder of the account balance and take additional partial lump sum payments as needed.

3. Periodic Payments, which allows for the establishment of a regular payment schedule of benefits, such as monthly, quarterly, semi-annually or annually. The amount of each benefit payment will be calculated by dividing the account balance on the date of the benefit payment by the remaining number of payments. As such, the amount of the benefit payment may change with each payment. If the account has multiple funds and sources, the periodic withdrawal amount will be prorated among all funds and sources in the account. The number of years over which the payments are made cannot exceed the spouse's life expectancy, which is determined by an actuarial table prepared by the U.S. Department of the Treasury.

4. Deferrals until a certain age, which allows the spouse to defer the receipt of benefits until a later date. However, the spouse must begin receiving the benefit payout no later than April 1 in the calendar year after the member would have attained age 70 1/2. The spouse may elect a full distribution, partial distribution or periodic payment. However, the total annual benefit payment must equal or exceed the federal Required Minimum Distribution (RMD). An additional benefit payment will be sent to the spouse in December of any year in which the total periodic payments for that year do not equal or exceed the spouse's RMD.

5. Roll over the account assets to another 401(a), 401(k) or a 403(b) plan, or to an Individual Retirement Account or Roth IRA.

(109) Distributions to designated non-spousal individual beneficiaries and look-through trusts or beneficiaries determined by Florida law.

(a) In accordance with Internal Revenue Service (IRS) rules, non-spousal beneficiary accounts cannot be held indefinitely in the FRS Investment Plan. The "required minimum distribution" is required by the Internal Revenue Service and spelled out in IRS Code s. 401(a)(9), requiring that if the beneficiary is not a spouse, the Investment Plan can hold the distribution for no more than 5 years from the date of the member's death.

(b) For a non-spousal beneficiary or a look-through trust beneficiary, there are two possibilities, depending upon whether payments from the account had commenced before the member's death:

1. Where distributions have already begun to the member, but the member dies before the entire account has been distributed, the remaining portion of the account must be distributed at least as rapidly as under the method of distribution being used as of the date of the member's death.

2. If a member dies before the distribution of the member's account has begun, the entire account of the member must be distributed within 5 years after the death of the member, unless:

a. The member's account will be distributed over the life of the designated beneficiary or the beneficiary of the look-through trust (or over a period not extending beyond the life expectancy of such beneficiary), and

b. Such distributions begin no later than 1 year after the member's death.

(c) The non-spousal beneficiary must decide within 1 year of the date of death to take lifetime installment or annuity payouts.

(d) If the whole amount is not paid out during the required 5-year period, the remaining funds in the account will be paid in a lump sum to the non-spousal beneficiary.

(e) Non-spousal individual beneficiaries and look-through trusts may request the following distributions:

1. Full distribution, in which the entire account balance is paid in one lump sum. If this option is selected, the beneficiary no longer will be a member of the FRS Investment Plan.

2. Partial Distribution, which provides for a partial lump sum payment of the account balance. The remainder may be paid out through regular periodic payments that the spouse selects, such as monthly, quarterly, semi-annually or annually. The beneficiary also may defer payment of the remainder of the account balance and take additional partial lump sum payments as needed.

3. Periodic Payments, which allows for the establishment of a regular payment schedule of benefits, such as monthly, quarterly, semi-annually or annually. The amount of each benefit payment will be calculated by dividing the account balance on the date of the benefit payment by the remaining number of payments. As such, the amount of the benefit payment may change with each payment. If the account has multiple funds and sources, the periodic withdrawal amount will be prorated among all funds and sources in the account. The number of years over which the payments are made cannot exceed the life expectancy of the non-spousal beneficiary or of the beneficiary of the look-through trust, which is determined by an actuarial table prepared by the U.S. Department of the Treasury. If the beneficiary stops the payment for any reason, then the payout of the benefits will be governed by the time limitations set forth in paragraph (b).

4. Deferrals of up to 5 years, however the benefit must be distributed within 5 years after the death of the member, if the conditions in subparagraph (b)2. above have not been met.

~~(1140)~~ Distributions to the member's designated estate or to a designated non look-through trust.

(a) A beneficiary which is either the member's estate or a non look-through trust is considered as a non-person. Pursuant to Code s. 401(a)(9), the entire interest of the member must be distributed to such beneficiary within 5 years after the death of the member.

(b) The estate or non look-through trust beneficiary has two options for receiving the benefit payment:

1. Full distribution, in which the entire account balance is paid in one lump sum. If this option is selected, the beneficiary no longer will be a member of FRS Investment Plan.

2. Deferrals of up to 5 years, however the benefit must be distributed within 5 years after the death of the member.

~~(1244)~~ Distributions to beneficiaries who are minors.

(a) A minor is a child under the age of 18.

(b) When a minor child or children are the designated beneficiaries of the member, whether the member is the minor's or minors' parent, grandparent, sibling, other relative or any other person, a copy of the birth certificate of each minor child and the social security number for each minor child must be provided to the FRS Investment Plan Administrator, and must be received prior to any payout, regardless of the amount. The birth certificate provides proof as to identity of the natural guardian(s) of the children, so that appropriate payment arrangements may be made.



(c) Section 744.301, F.S., allows for the natural guardian (surviving parent(s)) to handle benefits to a minor child where that amount does not exceed \$15,000, without court appointment, authority or bond.

(d) In all cases in which a minor is a beneficiary of an account balance which is greater than \$15,000, the surviving parent(s), or other relative or other interested party, must apply for a formal guardianship. A court order or court appointment and Letters of Guardianship will be required prior to payout of any benefits to the minor. The FRS Investment Plan Administrator shall place a hold on any account where the minor beneficiary is to receive an amount in excess of \$15,000 and advise the SBA.

(e) If the individual responding to the correspondence sent by the Administrator and providing instructions for payout is not the surviving parent(s), the Administrator shall request the individual to provide a Court Order wherein a guardian has been appointed for the minor, prior to payout of any benefit and the Administrator shall take directions only from the named guardian.

(f) If no instructions for payout are received, the Administrator shall notify the SBA and the SBA will contact the probate court with jurisdiction over the estate of the member to request direction on the disposition of the minor's interest in the account. Expenses shall be deducted from the member's account.

~~(1342)~~ A beneficiary, whether designated or pursuant to Florida law, of a deceased member who, by a verdict of a jury or by a court trying the case without a jury, is found guilty, or who has entered a plea of guilty or nolo contendere, of unlawfully and intentionally killing or procuring the death of such member shall forfeit all rights to the deceased member's retirement benefits. Any benefits will be paid as if such beneficiary had predeceased the deceased member. No benefits will be paid until there is a final resolution of such charges against the beneficiary.

~~(1413)~~(a) If the deceased member has designated a beneficiary but has not provided the designated beneficiary's social security number or address, or has provided an incorrect social security number, then, after at least three unsuccessful attempts by the SBA or the FRS Investment Plan Administrator to locate the beneficiary, the FRS Investment Plan Administrator will advise the SBA accordingly and the account will not be distributed.

(b) The FRS Investment Plan Administrator will, with the assistance of the SBA, at the time of notification of death, make a reasonable effort to obtain the beneficiary's Social Security Number or Taxpayer Identification Number, using available search tools, including the internet, LexisNexis Accurint, the Social Security Administration, or another third party vendor providing such services.

(c) After one year from the date of the member's death, if the beneficiary cannot be located, the account will be transferred to the Suspense Account. By calendar year-end, of each year following the transfer to the Suspense Account, the FRS Investment Plan Administrator will attempt to locate and obtain the Social Security Number or the Taxpayer Identification Number of the beneficiary. The transferred funds shall be invested in the FRS Select U.S. Treasury Inflation-Protected Securities Index Fund. The amount will be held in the FRS Investment Plan Suspense Account until (1) the beneficiary contacts the FRS Investment Plan; or (2) another beneficiary requests consideration as the deceased's proper beneficiary; or, (3) at the end of 10 years in the Suspense Account, the amount is transferred to the FRS Investment Plan Forfeiture Account, where it is held indicating the name of the deceased member and the name of the beneficiary, if known.

(d) Should the beneficiary be located and provides a social security number, a check will be

issued to the beneficiary, with actual earnings, from the date of transfer from the member's account to the Suspense Account subject to applicable income tax withholding, which shall be paid to the tax authorities at the time of such payment to the beneficiary.

(1514)(a) Pursuant to Federal guidelines, if the deceased member's account is to be paid to the member's estate but no Estate Identification Number is provided, the account will not be paid to the Estate until the Estate Identification Number is received. In the event that no Estate Identification Number is provided within one year from the date of notification to the FRS Investment Plan Administrator of the member's death, the FRS Investment Plan Administrator will transfer the deceased member's account to the Suspense Account indicating the name of the deceased member. If after 10 years after the date of death, the FRS Investment Plan Administrator has not received an Estate Identification Number, the deceased member's account will be transferred to the FRS Investment Plan Forfeiture Account where it will be held indicating the name of the deceased member. The transferred funds shall be invested in the FRS Select U.S. Treasury Inflation-Protected Securities Index Fund.

(b) The FRS Investment Plan Administrator will, at the time of the transfer to the Suspense Account, make a reasonable effort to obtain the Estate Identification Number. Additionally, by calendar year-end of each year following the transfer to the Suspense Account, the FRS Investment Plan Administrator will attempt to locate and obtain the Estate Identification Number.

(c) The amount will be held in the FRS Investment Plan Suspense Account until (1) the member's estate representative contacts the FRS Investment Plan; or (2) a beneficiary requests consideration as the deceased's proper beneficiary; or, (3) at the end of 10 years in the Suspense Account, the amount is transferred to the FRS Investment Plan Forfeiture Account, where it is held indicating the name of the deceased member.

(d) Should the estate's representative subsequently provide an Estate Identification Number, a check will be issued to the estate, with actual earnings while invested in the FRS Select U.S. Treasury Inflation-Protected Securities Index Fund, from the date of transfer from the member's account to the Suspense Account. Any subject to applicable income tax withholding, which shall be paid to the appropriate tax authorities at the time of the benefit payment to the estate.

(1615) If the social security number and date of birth of a beneficiary are known, an account will be established in the beneficiary's name and funds will be transferred thereto. If any other beneficiaries are named, accounts also will be established in their names, provided their social security numbers and dates of birth are made known to the Investment Plan Administrator. However, no distribution will be made to any beneficiary until a certified copy of the member's death certificate has been received. In the meantime, the beneficiary will have control over any investment elections/allocations for the account. The beneficiary will be notified of the establishment of the account and will receive a PIN to access information pertaining to the account.

(1716)(a) A designated beneficiary may disclaim any monetary interest as provided in Chapter 739, F.S., and Internal Revenue Code s. 2518. A beneficiary can make a partial disclaimer or disclaim the entire interest. When a beneficiary makes a disclaimer, the beneficiary is considered to have predeceased the member, and the other beneficiaries designated by the member may then accept or disclaim any interest to which they are entitled.

(b) The general requirements for a valid disclaimer are that:

1. The beneficiary must provide an irrevocable and unqualified refusal to accept the assets.
2. The refusal must be in writing.

3. The written disclaimer must be submitted to the FRS Investment Plan Administrator at the later of the following times:

- a. Nine months after the retirement account owner dies.
- b. Nine months after the beneficiary attains age 21, or if the beneficiary is 21 when the retirement account owner dies.
- c. The beneficiary must not have accepted any of the inherited assets prior to the disclaimer.
- d. The assets must pass to the successor beneficiary without any direction on the part of the person making the disclaimer.

(c) There is no special form or document that an individual must complete to disclaim inherited assets. A letter, duly notarized, is sufficient as long as it meets the requirements set forth in paragraph (b).

*Rulemaking Authority 121.4501(8) FS. Law Implemented 121.091(5)(j), (8), 121.4501(20), 121.591(3), 732.802 FS. History—New 10-21-04, Amended 3-9-06, 11-26-07, 12-8-08, 1-7-10, 8-7-11, 7-12-12, 12-16-12, \_\_\_\_\_.*

**19-11.012 ~~Acceptance of Rollovers or Plan to Plan Transfers to or from~~ by the FRS Investment Plan.**

(1) An FRS Investment Plan member may rollover assets from other qualified plans into the Investment Plan. These qualified assets can come from:

- (a) A qualified Traditional IRA at another custodian;
- (b) An eligible retirement plan (Code Section 401 defined contribution plan, Code Section 401 defined benefit plan, Code Section 457 plan, or Code Section 403(b) plan); or
- (c) The Federal Employee's Thrift Savings Plan.

(2) A member may not rollover assets into the Investment Plan from the following:

- (a) Roth IRAs;
- (b) Payments spread out over long periods of time, for example, from an annuity. These would include payments made at least once a year and lasting for the lifetime or life expectancy of the member, or for the lifetime (or life expectancies) of the member and the member's beneficiary, or for a period of 10 years or more;
- (c) Required Minimum Distributions required to be paid to a member who has reached age 70 1/2;
- (d) Emergency withdrawals from a Code Section 457 plan; or
- (e) Hardship withdrawals from a Code Section 401 or 403(b) plan.

(3) Before accepting a rollover to the Plan, the Investment Plan Administrator evaluating the rollover shall first obtain sufficient evidence from the member to support a reasonable conclusion that the rollover is valid under the Code.

(4) The Investment Plan Administrator shall accept that portion of a rollover in a direct trustee-to-trustee transfer which includes both taxable and non-taxable amounts. The amount of any rollover with both taxable and non-taxable amounts shall be accounted for separately by the retirement plan making the distribution rollover to the Investment Plan.

(5) The member must complete the rollover deposit within 60 days of receiving the assets. Otherwise, the member may be subject to federal income tax and early withdrawal penalty.

(6)(a) The Investment Plan Administrator may accept rollovers from:

1. A current or former Investment Plan member. Such member shall use Form IPRO-1, as described in subsection (8), below

2. Participants in the Deferred Retirement Option Program (DROP), after the conclusion of such DROP participation. Such member shall use Form IPDROP-AD-1, as described in subsection (8) below.

3. Former DROP members who had previously rolled over their DROP accumulation:

a. To the Investment Plan and subsequently rolled their DROP account balance out of the Investment Plan. Such member shall use Form IPDROP-RO-1, as described in subsection (8) below.

b. To another qualified retirement account and want to invest the DROP accumulation in the Investment Plan. Such member shall use Form IPDROP-RO-1, as described in subsection (8) below.

4. Members of the Teacher's Retirement System and the State & County Officers & Employees Retirement System with eligible DROP proceeds after their conclusion in the DROP. Such member shall use Form IPDROP-AD-1, as described in subsection (8) below.

(b) All rollovers from into the Investment Plan must be more than \$1,000.00 or such amount that will cause the account balance to be greater than \$1,000.00.

(c) The Investment Plan Administrator may not accept rollovers from:

1. The former spouse of an Investment Plan member who had an account in the Investment Plan, established by terms of a qualified domestic relations order and then removed all of the funds from the account.

2. The former beneficiary of an Investment Plan member who removed all of the funds from the account.

(7) Payment to the Investment Plan must be in the form of a check made payable to the "FRS Investment Plan – FBO (the participant's name)."

(8)(a) Instructions regarding check delivery and other information relating to the processing of rollovers, including all applicable forms, may be obtained by calling the MyFRS Financial Guidance Line, which is a toll free line: 1(866)446-9377, Option 4, or, for members who are deaf, hard of hearing, or speech impaired, TRS 711, or by accessing the website at [www.MyFRS.com](http://www.MyFRS.com).

(b) Current members shall use Form IPRO-1, rev. 12-09, "Employee Rollover Deposit Instructions and Form," <http://www.flrules.org/Gateway/reference.asp?No=Ref-01124>, which is hereby adopted and incorporated by reference, to effect rollovers described in this rule.

(c) Current DROP members planning to roll over their DROP accumulation shall use Form IP-DROP-AD-1, "DROP Accumulation Direct Rollover Form for Current DROP Members," rev. 03-11, <http://www.flrules.org/Gateway/reference.asp?No=Ref-01126>, which hereby is adopted and incorporated by reference, to effect rollovers described in this rule.

(d) Former DROP members shall use Form IP-DROP-RO-1, "DROP Direct Rollover Form for Former DROP Members," rev. 03-11, <http://www.flrules.org/Gateway/reference.asp?No=Ref-01125>, which hereby is adopted and incorporated by reference, to effect rollovers described in this rule.

(9) Rollovers to the Investment Plan shall be accounted for separately on the recordkeeping system of the Investment Plan Administrator.

(10) Member rollover deposits will be reported to the Internal Revenue Service.

(11) Once an active Investment Plan member rolls over monies into the Investment Plan, the member cannot receive a distribution of these monies, or the member's account balance, until the expiration of the three calendar months after terminating all FRS-covered employment. A member who has reached the normal retirement date as provided in Section 121.021(29), F.S., and who has terminated employment from all FRS-covered employment for one calendar month may request a one-time distribution of up to 10 percent (10%) of the vested account balance.

(12) (a) An Investment Plan member electing to transfer to the Pension Plan and that has an excess balance remaining in the Investment Plan account after satisfying any required Pension Plan buy-in amounts, may elect to use all or part of that remaining balance to purchase service credit in the Pension Plan. The member will need to complete Form PRO-2, "Pre-tax Direct Rollover/~~Roll-over~~/Transfer Form," rev. 10-10, <http://www.flrules.org/Gateway/reference.asp?No=Ref-01184>, which hereby is adopted and incorporated by reference, to effect this purchase.

(b) The member must call the Investment Plan Administrator and request that funds be transferred from the Investment Plan to the Pension Plan to effect the purchase of service. The member must confirm that an invoice has been received from the Division of Retirement. The amount to be transferred must be equal to or less than the invoiced amount. If the balance of the member's account is less than the invoice amount, the member may request the total account balance be transferred.

(c) The member must complete the form referenced in (a) above. The completed form is to be sent to the Investment Plan Administrator.

(d) The Plan Administrator will request authorization to liquidated the requested amount from the SBA. The SBA shall provide a letter of direction to effect the member's request. Upon receipt of the letter, the Administrator will liquidated the funds from the member's account. Upon transfer amount will be received from the Custodian in the form of a check payable to the "Florida Retirement System" and reference the member's name. Upon receipt of the check, the Administrator will send the check and the form by regular US mail to the Division of Retirement as soon as administratively possible. A confirmation of the transaction and the date the check and form were mailed to the Division of Retirement will be sent to the member.

(e) It is the responsibility of the member to confirm receipt of the funds by the Division of Retirement.

*Rulemaking Authority 121.4501(8), (5)(e) FS. Law Implemented 121.4501(4)(g)5., (5)(e), (21), 121.591 FS. History—New 7-12-12, Amended \_\_\_\_\_.*

### **19-11.002 Beneficiary Designations and Distributions for FRS Investment Plan.**

(1) An FRS Investment Plan member may designate a beneficiary to receive the benefits which may be payable in the event of the member's death. If the member does not designate a beneficiary(ies), or if no designated beneficiary survives the member, then the member's beneficiary(ies) will be those specified by Section 121.4501(20), F.S. which are: the deceased member's spouse; or if there is no surviving spouse, then the deceased member's children, or their legal guardian, on their behalf if under 18 years of age; or if no children survive, the deceased member's father or mother, if living; otherwise the deceased member's estate.

(2) Any such beneficiary designation may be made on Form IPBEN-1, rev. 03-11, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00255>, which is hereby adopted and incorporated by reference. This form is available in paper form and may be obtained by calling the toll-free MyFRS Financial Guidance Line at 1(866)446-9377, Option 4 (TRS 711), Monday through Friday, except holidays, 9:00 a.m. to 8:00 p.m. or by accessing the MyFRS.com website and clicking on "Resources" and then "Forms." The beneficiary designation form must be completed and received by the FRS Investment Plan Administrator before it becomes effective. Alternatively, a beneficiary may be designated electronically by logging on to MyFRS.com, clicking on "manage benefits," then clicking on "manage investments," and then clicking on "personal info", or by calling the Investment Plan Administrator at 1(866) 446-9377, Option 4 (TRS 711).

(3) A beneficiary designation shall only be effective once it is received by the FRS Investment Plan Administrator. The most recent beneficiary designation filed with the FRS Investment Plan Administrator shall replace any previous designation whether made before or after the member's termination of employment or retirement. After submitting the designation, the member is responsible for confirming whether the designation has been received by the FRS Investment Plan Administrator. The beneficiary designation is printed every quarter on the member's quarterly statement.

(4)(a) If the FRS Investment Plan member enrolls in the FRS Investment Plan using the EZ Retirement Plan Enrollment Form for Regular, Special Risk and Special Risk Administrative Support Class Employees, Form ELE-1-EZ, rev. 07/12, the General Retirement Plan Enrollment Form for Regular Special Risk and Special Risk Administrative Support Class Employees, Form ELE-1, rev. 10/12, which are adopted and incorporated by reference in subsection 19-11.006(2), F.A.C., or the 2nd Election EZ Retirement Plan Enrollment Form, Form ELE-2-EZ, rev. 07-12, or the 2nd Election Retirement Plan Enrollment Form, Form ELE-2, rev 10-12, which are adopted and incorporated by reference in subsection 19-11.007(3), F.A.C., the member agrees to the beneficiary designation contained in Section 121.4501(20), F.S., unless the member submits a beneficiary designation as provided in subsection (2) herein.

(b) If the member dies prior to his or her effective date of retirement, the member's spouse at the time of death shall be the member's beneficiary unless the deceased member had designated a different beneficiary after his or her most recent marriage.

(c) If the member marries after designating a beneficiary, the member must file an updated beneficiary designation if the member wishes to name someone else other than the spouse as a beneficiary. If the member does not file an updated beneficiary designation, the member's

spouse will be the beneficiary of the member's account. Example: John is married to Betty and has named her as his beneficiary. John divorces Betty and marries Carol. Carol will be John's beneficiary unless he files another beneficiary form and names, for example, his son, Bob.

(d) Once a member is enrolled in the FRS Investment Plan, the member may designate a beneficiary at any time, as follows:

1. A member may name a beneficiary or beneficiaries to receive the assets of the member's FRS Investment Plan account, either sequentially or jointly.

2. A member may name as beneficiary any person, organization, trust, or the member's estate.

(e) A primary beneficiary is someone who will receive the member's funds from the FRS Investment Plan account, if that person is living at the death of the member. If more than one primary beneficiary is designated with specified percentages of the funds, each will receive their member-specified percentages if they are still living at the death of the member. Example: if the member names his four sons, in equal shares (25% each), but two of the four sons die before their father, the other two living sons split the funds two ways, 50% each. If joint primary beneficiaries are named but the member does not specify any percentages of the funds, the beneficiaries will receive equal portions of the remaining funds.

(f) A contingent beneficiary is one or more persons who are named, in case all primary beneficiaries die before the member. Contingent beneficiaries may receive benefits jointly or sequentially. Naming a contingent beneficiary is optional.

(g) If a member inadvertently uses an incorrect beneficiary designation form, the FRS Investment Plan Administrator will notify the member and request that the member complete and submit the correct form, Beneficiary Designation Form IPBEN-1, rev. 03-11. If the member should die prior to completing and submitting the IPBEN-1 form, the FRS Investment Plan Administrator will consider the beneficiary set forth on the incorrect form as being the member's intended beneficiary for the purpose of paying benefits.

(5)(a) If a member is married and the spouse is designated as a primary beneficiary, regardless of whether the percentage allocated to the spouse on the form is less than 100%, the member is not required to notify the spouse.

(b) If a member is married and names a primary beneficiary(ies) and the person(s) named is not the spouse of the member, then the member is required to notify the spouse that the spouse is not a primary beneficiary of the proceeds of the member's FRS Investment Plan account(s). The spouse must acknowledge that the spouse understands that the spouse is not a primary beneficiary of the member's FRS Investment Plan account(s) by signing the beneficiary designation form, Form IPBEN-1, rev. 03-11, in the appropriate place.

(c) If a married member fails to obtain the spouse's acknowledgment on the beneficiary designation form, then the Investment Plan Administrator will send to the member an Acknowledgement of Beneficiary Designation, reminding the member of the necessity of obtaining spousal acknowledgment. The member can return this Acknowledgement of Beneficiary Designation with the spouse's signature which will provide acknowledgment that

the spouse is not the primary beneficiary of the member's FRS Investment Plan account(s). Alternatively, the member may provide the FRS Investment Plan Administrator with a notarized statement reflecting the spouse's understanding that the spouse is not the beneficiary of the member's FRS Investment Plan account(s).

(d) If the member fails to obtain the spouse's acknowledgement that a beneficiary, other than the spouse, has been designated as the primary beneficiary of the member's Investment Plan benefit, the beneficiary designation on file with the FRS Investment Plan Administrator at the time of the member's death will be honored only if the spouse's rights as a beneficiary are not compromised under Florida law.

(6)(a) An Alternate Payee may name a beneficiary to receive the benefits which may be payable in the event of the Alternate Payee's death at any time, as outlined in paragraphs (2) and (5)(a) through (f) above, once the Alternate Payee's account has been established by the FRS Investment Plan Administrator.

(b) If the Alternate Payee does not name a beneficiary(ies), then the Alternate Payee's beneficiary(ies) will be those as described in subsection (1).

#### (7) Per Florida Law Beneficiary Designation

(a) If a member fails to designate a beneficiary as outlined in paragraph (2) above, the member's designation of beneficiary will automatically be assigned a designation of "Per Florida Law" as outlined in s. 121.4501(2), F.S.

(b) If, upon the death of a member, a beneficiary(ies) can be identified, in accordance with Florida Statutes, but no social security number or address for the beneficiary(ies) is available, the FRS Investment Plan Administrator will, with the assistance of the SBA, make a reasonable effort to obtain each beneficiary's Social Security Number or Taxpayer Identification Number, using available search tools, including the internet, LexisNexis Accurant, or another third party vendor providing such services. If a beneficiary can be identified and the social security is provided, the transfer of benefits will be executed by the Investment Plan Administrator.

(c) If upon the death of a member a beneficiary cannot be identified, the provisions of paragraph (d) below will be followed.

(d) After one year from the date of the member's death, if the beneficiary cannot be located or if a beneficiary cannot be identified, the account will be transferred to the Suspense Account. By calendar year-end, of each year following the transfer to the Suspense Account, the FRS Investment Plan Administrator will attempt to locate and obtain the Social Security Number or the Taxpayer Identification Number of the beneficiary. The transferred funds shall be invested in the FRS Select U.S. Treasury Inflation-Protected Securities Index Fund. The amount will be held in the FRS Investment Plan Suspense Account until (1) the beneficiary contacts the FRS Investment Plan; or (2) another beneficiary requests consideration as the deceased's proper beneficiary; or, (3) at the end of 10 years in the Suspense Account, the amount is transferred to the FRS Investment Plan Forfeiture Account, where it is held indicating the name of the deceased member and the name of the beneficiary, if known.

(e) Should the beneficiary be located and provides a social security number, a check will be



issued to the beneficiary, with actual earnings, from the date of transfer from the member's account to the Suspense Account subject to applicable income tax withholding, which shall be paid to the tax authorities at the time of such payment to the beneficiary.

(8) Distributions to beneficiaries on the death of a member.

(a) If a member dies before his or her effective date of retirement, the member's spouse at the time of his or her death shall be the member's beneficiary, unless the member has designated a different beneficiary after the member's most recent marriage. If the member did name another beneficiary after his or her most recent marriage, the named beneficiary will receive the member's account balance.

(b) Upon notification of the member's death, the FRS Investment Plan Administrator will contact the designated beneficiary or the family of the deceased member and provide instructions on how to claim any benefits.

(9) Distributions to designated or per Florida law spousal beneficiaries.

(a) The member's surviving spouse, must provide a certified copy of the member's death certificate and, if the spouse is not designated by the member, but is the beneficiary according to Florida law, the surviving spouse must provide a copy of the marriage certificate before benefits will be paid.

(b) Spousal beneficiaries may request the following distributions:

1. Full distribution, in which the entire account balance is paid in one lump sum. If this option is selected, the spouse no longer will be a member of the FRS Investment Plan.

2. Partial Distribution, which provides for a partial lump sum payment of the account balance. The remainder may be paid out through regular periodic payments that the spouse selects, such as monthly, quarterly, semi-annually or annually. The spouse also may defer payment of the remainder of the account balance and take additional partial lump sum payments as needed.

3. Periodic Payments, which allows for the establishment of a regular payment schedule of benefits, such as monthly, quarterly, semi-annually or annually. The amount of each benefit payment will be calculated by dividing the account balance on the date of the benefit payment by the remaining number of payments. As such, the amount of the benefit payment may change with each payment. If the account has multiple funds and sources, the periodic withdrawal amount will be prorated among all funds and sources in the account. The number of years over which the payments are made cannot exceed the spouse's life expectancy, which is determined by an actuarial table prepared by the U.S. Department of the Treasury.

4. Deferrals until a certain age, which allows the spouse to defer the receipt of benefits until a later date. However, the spouse must begin receiving the benefit payout no later than April 1 in the calendar year after the member would have attained age 70 1/2. The spouse may elect a full distribution, partial distribution or periodic payment. However, the total annual benefit payment must equal or exceed the federal Required Minimum Distribution (RMD). An additional benefit

payment will be sent to the spouse in December of any year in which the total periodic payments for that year do not equal or exceed the spouse's RMD.

5. Roll over the account assets to another 401(a), 401(k) or a 403(b) plan, or to an Individual Retirement Account or Roth IRA.

(10) Distributions to designated non-spousal individual beneficiaries and look-through trusts or beneficiaries determined by Florida law.

(a) In accordance with Internal Revenue Service (IRS) rules, non-spousal beneficiary accounts cannot be held indefinitely in the FRS Investment Plan. The "required minimum distribution" is required by the Internal Revenue Service and spelled out in IRS Code s. 401(a)(9), requiring that if the beneficiary is not a spouse, the Investment Plan can hold the distribution for no more than 5 years from the date of the member's death.

(b) For a non-spousal beneficiary or a look-through trust beneficiary, there are two possibilities, depending upon whether payments from the account had commenced before the member's death:

1. Where distributions have already begun to the member, but the member dies before the entire account has been distributed, the remaining portion of the account must be distributed at least as rapidly as under the method of distribution being used as of the date of the member's death.

2. If a member dies before the distribution of the member's account has begun, the entire account of the member must be distributed within 5 years after the death of the member, unless:

a. The member's account will be distributed over the life of the designated beneficiary or the beneficiary of the look-through trust (or over a period not extending beyond the life expectancy of such beneficiary), and

b. Such distributions begin no later than 1 year after the member's death.

(c) The non-spousal beneficiary must decide within 1 year of the date of death to take lifetime installment or annuity payouts.

(d) If the whole amount is not paid out during the required 5-year period, the remaining funds in the account will be paid in a lump sum to the non-spousal beneficiary.

(e) Non-spousal individual beneficiaries and look-through trusts may request the following distributions:

1. Full distribution, in which the entire account balance is paid in one lump sum. If this option is selected, the beneficiary no longer will be a member of the FRS Investment Plan.

2. Partial Distribution, which provides for a partial lump sum payment of the account balance. The remainder may be paid out through regular periodic payments that the spouse selects, such as monthly, quarterly, semi-annually or annually. The beneficiary also may defer payment of the remainder of the account balance and take additional partial lump sum payments as needed.

3. Periodic Payments, which allows for the establishment of a regular payment schedule of benefits, such as monthly, quarterly, semi-annually or annually. The amount of each benefit payment will be calculated by dividing the account balance on the date of the benefit payment by the remaining number of payments. As such, the amount of the benefit payment may change with each payment. If the account has multiple funds and sources, the periodic withdrawal amount will be prorated among all funds and sources in the account. The number of years over which the payments are made cannot exceed the life expectancy of the non-spousal beneficiary or of the beneficiary of the look-through trust, which is determined by an actuarial table prepared by the U.S. Department of the Treasury. If the beneficiary stops the payment for any reason, then the payout of the benefits will be governed by the time limitations set forth in paragraph (b).

4. Deferrals of up to 5 years, however the benefit must be distributed within 5 years after the death of the member, if the conditions in subparagraph (b)2. above have not been met.

(11) Distributions to the member's designated estate or to a designated non look-through trust.

(a) A beneficiary which is either the member's estate or a non look-through trust is considered as a non-person. Pursuant to Code s. 401(a)(9), the entire interest of the member must be distributed to such beneficiary within 5 years after the death of the member.

(b) The estate or non look-through trust beneficiary has two options for receiving the benefit payment:

1. Full distribution, in which the entire account balance is paid in one lump sum. If this option is selected, the beneficiary no longer will be a member of FRS Investment Plan.

2. Deferrals of up to 5 years, however the benefit must be distributed within 5 years after the death of the member.

(12) Distributions to beneficiaries who are minors.

(a) A minor is a child under the age of 18.

(b) When a minor child or children are the designated beneficiaries of the member, whether the member is the minor's or minors' parent, grandparent, sibling, other relative or any other person, a copy of the birth certificate of each minor child and the social security number for each minor child must be provided to the FRS Investment Plan Administrator, and must be received prior to any payout, regardless of the amount. The birth certificate provides proof as to identity of the natural guardian(s) of the children, so that appropriate payment arrangements may be made.

(c) Section 744.301, F.S., allows for the natural guardian (surviving parent(s)) to handle benefits to a minor child where that amount does not exceed \$15,000, without court appointment, authority or bond.

(d) In all cases in which a minor is a beneficiary of an account balance which is greater than \$15,000, the surviving parent(s), or other relative or other interested party, must apply for a formal guardianship. A court order or court appointment and Letters of Guardianship will be

required prior to payout of any benefits to the minor. The FRS Investment Plan Administrator shall place a hold on any account where the minor beneficiary is to receive an amount in excess of \$15,000 and advise the SBA.

(e) If the individual responding to the correspondence sent by the Administrator and providing instructions for payout is not the surviving parent(s), the Administrator shall request the individual to provide a Court Order wherein a guardian has been appointed for the minor, prior to payout of any benefit and the Administrator shall take directions only from the named guardian.

(f) If no instructions for payout are received, the Administrator shall notify the SBA and the SBA will contact the probate court with jurisdiction over the estate of the member to request direction on the disposition of the minor's interest in the account. Expenses shall be deducted from the member's account.

(13) A beneficiary, whether designated or pursuant to Florida law, of a deceased member who, by a verdict of a jury or by a court trying the case without a jury, is found guilty, or who has entered a plea of guilty or nolo contendere, of unlawfully and intentionally killing or procuring the death of such member shall forfeit all rights to the deceased member's retirement benefits. Any benefits will be paid as if such beneficiary had predeceased the deceased member. No benefits will be paid until there is a final resolution of such charges against the beneficiary.

(14)(a) If the deceased member has designated a beneficiary but has not provided the designated beneficiary's social security number or address, or has provided an incorrect social security number, then, after at least three unsuccessful attempts by the SBA or the FRS Investment Plan Administrator to locate the beneficiary, the FRS Investment Plan Administrator will advise the SBA accordingly and the account will not be distributed.

(b) The FRS Investment Plan Administrator will, with the assistance of the SBA, at the time of notification of death, make a reasonable effort to obtain the beneficiary's Social Security Number or Taxpayer Identification Number, using available search tools, including the internet, LexisNexis Accurint, the Social Security Administration, or another third party vendor providing such services.

(c) After one year from the date of the member's death, if the beneficiary cannot be located, the account will be transferred to the Suspense Account. By calendar year-end, of each year following the transfer to the Suspense Account, the FRS Investment Plan Administrator will attempt to locate and obtain the Social Security Number or the Taxpayer Identification Number of the beneficiary. The transferred funds shall be invested in the FRS Select U.S. Treasury Inflation-Protected Securities Index Fund. The amount will be held in the FRS Investment Plan Suspense Account until (1) the beneficiary contacts the FRS Investment Plan; or (2) another beneficiary requests consideration as the deceased's proper beneficiary; or, (3) at the end of 10 years in the Suspense Account, the amount is transferred to the FRS Investment Plan Forfeiture Account, where it is held indicating the name of the deceased member and the name of the beneficiary, if known.

(d) Should the beneficiary be located and provides a social security number, a check will be issued to the beneficiary, with actual earnings, from the date of transfer from the member's

account to the Suspense Account subject to applicable income tax withholding, which shall be paid to the tax authorities at the time of such payment to the beneficiary.

(15)(a) Pursuant to Federal guidelines, if the deceased member's account is to be paid to the member's estate but no Estate Identification Number is provided, the account will not be paid to the Estate until the Estate Identification Number is received. In the event that no Estate Identification Number is provided within one year from the date of notification to the FRS Investment Plan Administrator of the member's death, the FRS Investment Plan Administrator will transfer the deceased member's account to the Suspense Account indicating the name of the deceased member. If after 10 years after the date of death, the FRS Investment Plan Administrator has not received an Estate Identification Number, the deceased member's account will be transferred to the FRS Investment Plan Forfeiture Account where it will be held indicating the name of the deceased member. The transferred funds shall be invested in the FRS Select U.S. Treasury Inflation-Protected Securities Index Fund.

(b) The FRS Investment Plan Administrator will, at the time of the transfer to the Suspense Account, make a reasonable effort to obtain the Estate Identification Number. Additionally, by calendar year-end of each year following the transfer to the Suspense Account, the FRS Investment Plan Administrator will attempt to locate and obtain the Estate Identification Number.

(c) The amount will be held in the FRS Investment Plan Suspense Account until (1) the member's estate representative contacts the FRS Investment Plan; or (2) a beneficiary requests consideration as the deceased's proper beneficiary; or, (3) at the end of 10 years in the Suspense Account, the amount is transferred to the FRS Investment Plan Forfeiture Account, where it is held indicating the name of the deceased member.

(d) Should the estate's representative subsequently provide an Estate Identification Number, a check will be issued to the estate, with actual earnings while invested in the FRS Select U.S. Treasury Inflation-Protected Securities Index Fund, from the date of transfer from the member's account to the Suspense Account. Any subject to applicable income tax withholding, which shall be paid to the appropriate tax authorities at the time of the benefit payment to the estate.

(16) If the social security number and date of birth of a beneficiary are known, an account will be established in the beneficiary's name and funds will be transferred thereto. If any other beneficiaries are named, accounts also will be established in their names, provided their social security numbers and dates of birth are made known to the Investment Plan Administrator. However, no distribution will be made to any beneficiary until a certified copy of the member's death certificate has been received. In the meantime, the beneficiary will have control over any investment elections/allocations for the account. The beneficiary will be notified of the establishment of the account and will receive a PIN to access information pertaining to the account.

(17)(a) A designated beneficiary may disclaim any monetary interest as provided in Chapter 739, F.S., and Internal Revenue Code s. 2518. A beneficiary can make a partial disclaimer or disclaim the entire interest. When a beneficiary makes a disclaimer, the beneficiary is considered to have predeceased the member, and the other beneficiaries designated by the member may then accept or disclaim any interest to which they are entitled.

(b) The general requirements for a valid disclaimer are that:

1. The beneficiary must provide an irrevocable and unqualified refusal to accept the assets.
2. The refusal must be in writing.
3. The written disclaimer must be submitted to the FRS Investment Plan Administrator at the later of the following times:
  - a. Nine months after the retirement account owner dies.
  - b. Nine months after the beneficiary attains age 21, or if the beneficiary is 21 when the retirement account owner dies.
  - c. The beneficiary must not have accepted any of the inherited assets prior to the disclaimer.
  - d. The assets must pass to the successor beneficiary without any direction on the part of the person making the disclaimer.

(c) There is no special form or document that an individual must complete to disclaim inherited assets. A letter, duly notarized, is sufficient as long as it meets the requirements set forth in paragraph (b).

*Rulemaking Authority 121.4501(8) FS. Law Implemented 121.091(5)(j), (8), 121.4501(20), 121.591(3), 732.802 FS. History—New 10-21-04, Amended 3-9-06, 11-26-07, 12-8-08, 1-7-10, 8-7-11, 7-12-12, 12-16-12, \_\_\_\_\_.*

#### **19-11.012 Rollovers or Plan to Plan Transfers to or from the FRS Investment Plan.**

(1) An FRS Investment Plan member may rollover assets from other qualified plans into the Investment Plan. These qualified assets can come from:

- (a) A qualified Traditional IRA at another custodian;
- (b) An eligible retirement plan (Code Section 401 defined contribution plan, Code Section 401 defined benefit plan, Code Section 457 plan, or Code Section 403(b) plan); or
- (c) The Federal Employee's Thrift Savings Plan.

(2) A member may not rollover assets into the Investment Plan from the following:

- (a) Roth IRAs;
- (b) Payments spread out over long periods of time, for example, from an annuity. These would include payments made at least once a year and lasting for the lifetime or life expectancy of the member, or for the lifetime (or life expectancies) of the member and the member's beneficiary, or for a period of 10 years or more;

(c) Required Minimum Distributions required to be paid to a member who has reached age 70 1/2;

(d) Emergency withdrawals from a Code Section 457 plan; or

(e) Hardship withdrawals from a Code Section 401 or 403(b) plan.

(3) Before accepting a rollover to the Plan, the Investment Plan Administrator evaluating the rollover shall first obtain sufficient evidence from the member to support a reasonable conclusion that the rollover is valid under the Code.

(4) The Investment Plan Administrator shall accept that portion of a rollover in a direct trustee-to-trustee transfer which includes both taxable and non-taxable amounts. The amount of any rollover with both taxable and non-taxable amounts shall be accounted for separately by the retirement plan making the distribution rollover to the Investment Plan.

(5) The member must complete the rollover deposit within 60 days of receiving the assets. Otherwise, the member may be subject to federal income tax and early withdrawal penalty.

(6)(a) The Investment Plan Administrator may accept rollovers from:

1. A current or former Investment Plan member. Such member shall use Form IPRO-1, as described in subsection (8), below

2. Participants in the Deferred Retirement Option Program (DROP), after the conclusion of such DROP participation. Such member shall use Form IPDROP-AD-1, as described in subsection (8) below.

3. Former DROP members who had previously rolled over their DROP accumulation:

a. To the Investment Plan and subsequently rolled their DROP account balance out of the Investment Plan. Such member shall use Form IPDROP-RO-1, as described in subsection (8) below.

b. To another qualified retirement account and want to invest the DROP accumulation in the Investment Plan. Such member shall use Form IPDROP-RO-1, as described in subsection (8) below.

4. Members of the Teacher's Retirement System and the State & County Officers & Employees Retirement System with eligible DROP proceeds after their conclusion in the DROP. Such member shall use Form IPDROP-AD-1, as described in subsection (8) below.

(b) All rollovers from into the Investment Plan must be more than \$1,000.00 or such amount that will cause the account balance to be greater than \$1,000.00.

(c) The Investment Plan Administrator may not accept rollovers from:

1. The former spouse of an Investment Plan member who had an account in the Investment Plan, established by terms of a qualified domestic relations order and then removed all of the funds from the account.

2. The former beneficiary of an Investment Plan member who removed all of the funds from the account.

(7) Payment to the Investment Plan must be in the form of a check made payable to the “FRS Investment Plan – FBO (the participant’s name).”

(8)(a) Instructions regarding check delivery and other information relating to the processing of rollovers, including all applicable forms, may be obtained by calling the MyFRS Financial Guidance Line, which is a toll free line: 1(866)446-9377, Option 4, or, for members who are deaf, hard of hearing, or speech impaired, TRS 711, or by accessing the website at [www.MyFRS.com](http://www.MyFRS.com).

(b) Current members shall use Form IPRO-1, rev. 12-09, “Employee Rollover Deposit Instructions and Form,” <http://www.flrules.org/Gateway/reference.asp?No=Ref-01124>, which is hereby adopted and incorporated by reference, to effect rollovers described in this rule.

(c) Current DROP members planning to roll over their DROP accumulation shall use Form IP-DROP-AD-1, “DROP Accumulation Direct Rollover Form for Current DROP Members,” rev. 03-11, <http://www.flrules.org/Gateway/reference.asp?No=Ref-01126>, which hereby is adopted and incorporated by reference, to effect rollovers described in this rule.

(d) Former DROP members shall use Form IP-DROP-RO-1, “DROP Direct Rollover Form for Former DROP Members,” rev. 03-11, <http://www.flrules.org/Gateway/reference.asp?No=Ref-01125>, which hereby is adopted and incorporated by reference, to effect rollovers described in this rule.

(9) Rollovers to the Investment Plan shall be accounted for separately on the recordkeeping system of the Investment Plan Administrator.

(10) Member rollover deposits will be reported to the Internal Revenue Service.

(11) Once an active Investment Plan member rolls over monies into the Investment Plan, the member cannot receive a distribution of these monies, or the member’s account balance, until the expiration of the three calendar months after terminating all FRS-covered employment. A member who has reached the normal retirement date as provided in Section 121.021(29), F.S., and who has terminated employment from all FRS-covered employment for one calendar month may request a one-time distribution of up to 10 percent (10%) of the vested account balance.

(12) (a) An Investment Plan member electing to transfer to the Pension Plan and that has an excess balance remaining in the Investment Plan account after satisfying any required Pension Plan buy-in amounts, may elect to use all or part of that remaining balance to purchase service credit in the Pension Plan. The member will need to complete Form PRO-2, “Pre-tax Direct Rollover/Transfer Form,” rev. 10-10, <http://www.flrules.org/Gateway/reference.asp?No=Ref-01184>, which hereby is adopted and incorporated by reference, to effect this purchase.

(b) The member must call the Investment Plan Administrator and request that funds be transferred from the Investment Plan to the Pension Plan to effect the purchase of service. The member must confirm that an invoice has been received from the Division of Retirement. The amount to be transferred must be equal to or less than the invoiced amount. If the balance of the



member's account is less than the invoice amount, the member may request the total account balance be transferred.

(c) The member must complete the form referenced in (a) above. The completed form is to be sent to the Investment Plan Administrator.

(d) The Plan Administrator will request authorization to liquidated the requested amount from the SBA. The SBA shall provide a letter of direction to effect the member's request. Upon receipt of the letter, the Administrator will liquidated the funds from the member's account. Upon transfer amount will be received from the Custodian in the form of a check payable to the "Florida Retirement System" and reference the member's name. Upon receipt of the check, the Administrator will send the check and the form by regular US mail to the Division of Retirement as soon as administratively possible. A confirmation of the transaction and the date the check and form were mailed to the Division of Retirement will be sent to the member.

(e) It is the responsibility of the member to confirm receipt of the funds by the Division of Retirement.

*Rulemaking Authority 121.4501(8), (5)(e) FS. Law Implemented 121.4501(4)(g)5., (5)(e), (21), 121.591 FS. History—New 7-12-12, Amended \_\_\_\_\_.*