

CHAPTER 519

EQUITY EXCHANGES

519.101 Florida equity exchange feasibility study; structure, operation, and regulation.

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(1) There may be created one or more Florida equity exchanges, with one or more offices each, upon a determination by the Comptroller that each such exchange has a reasonable promise of successful operation, will promote economic development, will produce net economic benefits in the state, and will not expose the public to undue risk of financial loss. This determination shall be based on the results of a feasibility study concerning the possible structure, operation, and regulation of each such exchange, to be carried out under the supervision of the Comptroller. The Secretary of Commerce shall provide the Comptroller any needed advice on economic development aspects of the feasibility study. Said feasibility study shall evaluate to what extent securities laws may limit the transferability of investments in which any exchange would deal; to what extent companies financed through securities in which the exchange would deal would prefer a stable group of investors; to what extent the particular investment objectives of potential participants in any exchange might be inconsistent with an exchange operation; and the possibility that the frequency of investment opportunities of the type in which an exchange would deal would be too low to economically operate any exchange. The determination of the Comptroller shall constitute an "order" as defined in s. 120.52(11) and shall be subject to the provisions of chapter 120. Nothing in this section, however, shall be construed to require the expenditure of state funds for the purpose of conducting any such feasibility study. For the purposes of this section, the term "exchange" shall apply to any such Florida equity exchange proposed or created under this section.

(2) The purpose of the exchange shall be to provide a marketplace for the negotiation, arrangement, exchange, sale, purchase, brokerage, syndication, and underwriting, and all activities incidental thereto, of investment opportunities, in an institutionalized and, to the maximum extent possible, self-regulated fashion.

(3) Within 30 days following such determination, a committee shall be appointed to write the constitution and bylaws of the exchange. The Comptroller may provide technical assistance to the committee on the development of the constitution and bylaws of the exchange. The committee shall consist of 15 members, 11 members to be appointed by the Governor, 2 members to be appointed by the Speaker of the House of Representatives, and 2 members to be appointed by the President of the Senate. The chairman shall be elected by a majority of the committee. The committee shall transmit such proposed constitution, bylaws, and other recommendations for the approval of the Comptroller no later than 90 days following the first meeting of the committee. In reviewing the constitution and the bylaws of the exchange, as well as any other recommendations made

to the Comptroller by the committee, the Comptroller shall consider whether such constitution, bylaws, and recommendations are reasonably consistent with the public interest and the efficient functioning of the exchange. The Comptroller shall approve the constitution and bylaws of the exchange if he finds that they specifically describe the types of business that the exchange will conduct, that such business activities are not inconsistent with state or federal law, that the form of business organization of the exchange complies with statutory requirements, and that the interest of owners or members of the exchange would be adequately protected. The submission of the proposed constitution and bylaws to the Comptroller shall be deemed an application for a license and shall be subject to the provisions of s. 120.60(4).

(4) The exchange shall have full authority to function 60 days after its constitution and bylaws are approved by the Comptroller. The initial Board of Governors of the exchange shall consist of the members of the committee who shall serve until the first election pursuant to the constitution and bylaws. If the constitution and bylaws are disapproved by the Comptroller, the committee, in consultation with the Comptroller, shall have 60 days from the date of such disapproval within which to submit an acceptable constitution and bylaws.

(5) The constitution and bylaws of the exchange shall include provision that:

(a) There shall be no less than 9 nor more than 15 governors of the exchange, at least one-third of whom shall not be members of the exchange.

(b) The principal offices of each exchange and the principal offices of its members shall be located within this state for the purpose of conducting the type of business described in subsection (2). Any exchange may have such other offices around the state as it deems necessary from time to time, subject to a determination by the Comptroller that such additional offices will be necessary for the efficient operation of the exchange and will be in the public interest.

(c) All members and applicants for membership on the exchange shall submit all financial information reasonably required by the Comptroller.

(d) The exchange shall establish or participate in a security fund which shall be capitalized or underwritten in such form and amount as will reasonably protect persons transacting business through the exchange from any harm or loss occasioned by the insolvency of any member of the exchange. The formation of such security fund and the adequacy of the financial security provided thereby shall be subject to the approval of the Department of Banking and Finance based upon the types and amounts of transactions effected through the facilities of the exchange.

(e) Rules shall be adopted prescribing eligibility for membership and the voting power, duties, and rights to participate in the conduct and management of the affairs of the exchange by the members thereof, such rights and duties to include, without limitation, the man-

ner and form of conducting business, financial stability requirements, dues, membership fees, resolution of dispute mechanisms, and all other matters necessary or appropriate to conduct any business permitted herein; however, such rules shall not impose any limit on the number of members of any such exchange. Any amendments to the constitution and bylaws shall be subject to the approval of the Comptroller.

(f) Elections to the Board of Governors of the exchange shall be held once every 2 years, with those persons receiving the greatest number of votes cast being elected thereto.

(6) If the exchange contemplated by this section is established, the Comptroller shall furnish the chairmen of the finance and taxation committees of the Legislature with copies of its constitution and bylaws. Upon receipt of the constitution and bylaws, the Legislature shall consider what tax policy and tax exemptions are needed to facilitate successful operation of the exchange.

(7) If the exchange contemplated by this section is

finally established, the Comptroller shall forthwith adopt rules providing for the reimbursement by the exchange or any member thereof of the actual costs incurred by the Comptroller in connection with the regulation and supervision of the exchange. As used in this section, "actual costs" means all direct and indirect costs and expenses incurred by the Comptroller in connection with the exchange including, without limitation, general administrative costs, travel expenses, salaries, and other benefits given to persons involved in the regulation and supervision of the exchange. The Comptroller shall have the power to make any allocations that are deemed reasonable and necessary and may require the exchange or any members to pay interim assessments related to estimated final assessments.

(8) The Florida securities laws and rules shall apply to the exchange and to its members.

(9) The Comptroller may establish limitations on investments in members of the exchange by any person or company, consistent with the public interest and the efficient functioning of the exchange.

History.—s. 2, ch. 86-152; s. 2, ch. 86-180; s. 2, ch. 86-218; s. 38, ch. 91-220.