17:16–68.8 Guidelines for valuation of securities

(a) An investment purchased and awaiting payment against delivery shall be included for valuation purposes as a security and the cost thereof recorded as an account payable.

(b) An investment sold but not delivered pending receipt of proceeds shall be valued at the net sales price.

(c) For the purposes of valuation of an investment, with the exception of investments sold but not delivered, it shall not be necessary to deduct from the value ascertained by this section, brokers' commission or other expenses which would be incurred on a sale thereof.

(d) In the case of a stock where a dividend has been declared and not as yet paid and the amount of such dividend has been included as income, such amount shall be deducted from the value of the stock, unless such value is based on an ex-dividend valuation.

17:16–68.9 Reinvestment of income earned

The aggregate of monthly income per participating unit on total units attributed to each participant shall be reinvested automatically in additional units of participation. New units shall be credited to the respective accounts of all of the participants in proportion to their holdings of participating units immediately prior to the determination of the monthly net income available for distribution. In the reinvestment of aggregate monthly income as described above, fractional units may be issued representing fractions of one dollar.

17:17–68.10 Admission and withdrawal of units of participation

Admission to or withdrawal from the Fund shall be permitted as of the first business day of each month, subject to the requirements of N.J.A.C. 9:9–8. All admissions and withdrawals will be made in cash.

17:16–68.11 Errors and omissions

(a) In the event of errors or omissions in the calculation of accruals of income, amortization or pricing of securities, the custodian bank shall correct such errors or omissions as is set forth in the custody agreement.

(b) In the event of errors or omissions in the calculation of unit values or participants' accounts, the Administrator of the Plan shall correct such errors or omissions in accordance with its contract with the State of New Jersey.

17:16–68.12 Amendments

This subchapter may be amended from time to time by regulation of the State Investment Council in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B–1 et seq., and N.J.A.C. 1:30. Any amendment adopted by such Council shall be binding upon all participants and beneficiaries thereof.

17:16–68.13 Liquidation

The Director, Division of Investment, upon direction of the New Jersey Higher Education Assistance Authority Board and with the approval of the State Investment Council, shall liquidate the aforementioned common trust fund.

17:16–68.14 Classification of the fund

With respect to the NJBEST Fund, it shall be classified as a trust fund for the purpose of this chapter.

SUBCHAPTERS 69 THROUGH 70. (RESERVED)

SUBCHAPTER 71. REAL ESTATE EQUITY

17:16–71.1 Permissible investment for pension and annuity group

(a) The Director may invest the moneys of any pension and annuity fund, with the exception of the Consolidated Police and Firemen's Pension Fund, in real estate equity in any of the following ways:

1. Participation in pooled equity real estate funds, including pools holding participating mortgages, is permissible provided:

i. The Director shall submit a list of such pools to the Council for its approval under (a)1 above. Such list may be amended or enlarged from time to time subject to the Council's approval and shall be designed as "The Approval List of Real Estate Equity Investment Pools".

ii. The Director may not purchase more than 10 percent of the units of participation in such pool.

iii. The sponsor of the pool has a record of managing real estate pooled investments aggregating at least $500 million in each of the last five years prior to purchase.

2. Participation in special pooled equity real estate investment is permissible, subject to the provision that the Division may not purchase more than 50 percent of the units of participation in such a special pool, and further provided that such special pool shall be established under the following terms and conditions:

i. The plan sponsor has a record of managing at least $500 million of equity real estate in each of the last five years prior to purchase and has a demonstrated capacity for real estate property management.

ii. The fund shall own at least 29 percent of any property owned by the fund.

iii. The properties owned by the fund shall be developed and substantially leased and shall consist of office buildings, shopping centers or hotels and, after the initial two years of the pool's operation the appraised value of such class of property, at the time of any purchase of a property, may not exceed 60 percent of the appraised value of all properties in the pool.

iv. After the initial three years of the operation of the pool, no more than 50 percent of the book value of properties held by the fund can be in any one region of the United States, such regions being defined as (1) New England, New York, New Jersey, Pennsylvania, Ohio and Delaware; (2) Minnesota, Wisconsin, Illinois, Kentucky, Indiana, West Virginia and Michigan; (3) Virginia, Louisiana, and all states south of Kentucky and east of the Mississippi River; (4) California, Arizona, New Mexico, Texas, Oklahoma, Arkansas, Nevada and Hawaii, and (5) all other states.

v. No property in the pool may assume a mortgage in excess of 67 percent of the purchase price, and any mortgage assumed must have a fixed interest rate, provide no recourse to the equity holder and have no equity or escalation features.

vi. The pool shall pay an annual cash return to the plan participants equal to at least six and one-half percent of the aggregate book value of the units of participation in the pool.

vii. No individual real estate investment in the pool can exceed the greater of $75 million or 20 percent of the book value of the fund and no single investment shall be less than $10 million.

viii. Any investor in the pool may request liquidation after three years of existence of the pool of up to 25 percent of his total investment upon six months' notice and the pool sponsor will use his best efforts to honor the request. Any investor may mandate liquidation of up to 25 percent of his maximum aggregate investment upon 18 months' notice after three years of existence of the pool.

ix. Investors holding at least two-thirds of the units of participation in the fund may liquidate the fund upon five years notice.

x. The fund sponsor shall be engaged initially for five years, after which the holders of two-thirds of the units of participation in the fund may change the investment manager of the fund upon six months notice. Upon an event of default by the sponsor, the holders of one-third of the units of participation in the fund may dismiss the investment manager of the pool at any time.

xi. The fund sponsor shall pay the expenses of counsel for the purchasers, who shall be selected by investors holding a majority of the units of participation.

xii. The Director shall submit a list of such special pools to the Council for an appraisal under this paragraph. Such list may be amended or enlarged from time to time subject to the Council's approval, and shall be designated as "The Approved List of Special Real Estate Equity Pools".

3. Participation in real estate ventures consisting of commercial property, including office buildings, warehouses, and shopping centers, provided:

i. The value of the real estate venture is at least $150 million, and the Director has received an independent appraisal of the venture's value at the time of purchase.

ii. The investment is recommended by the Director and approved by the Council.

iii. Participation may consist of up to 51 percent of the equity in the venture or up to 25 percent of the venture's senior non-subordinated debt, provided that the debt contains equity characteristics consisting of cash and/or equity ownership/participation.

Recodified by R.1991 d.274, effective June 3, 1991.
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
Definition of eligible investment and level of ownership amended.

17:16–71.2 Market appraisals

The sponsor of any real estate pools or buildings purchased under N.J.A.C. 17:16–45.1 shall provide the Division of Investment independent market appraisals for all properties, on an annual basis; and shall provide annual independently audited financial statements for such pools or buildings.

17:16–71.3 Limit on investment

The aggregate book value of real estate investment under this subchapter, for any eligible pension fund, shall not exceed 10 percent of the book value of all assets of such pension fund.

SUBCHAPTERS 72 THROUGH 80. (RESERVED)

SUBCHAPTER 81. PURCHASE AND SALE OF INTERNATIONAL CURRENCY

17:16–81.1 Permissible investments

Subject to the limitations contained in this subchapter, the Director may enter into foreign exchange contracts for the currency of any of the countries listed on the Approved List of International Government and Agency Obligations Bonds or any other currency in which the obligations of those countries on the Approved List are denominated.

17:16–81.2 Objectives

(a) With respect to international bonds, the objective of the hedging program is to improve and protect the inherent returns of the international portfolio.

(b) With respect to international stocks, the portfolio should be unhedged, except in such instances in which the Director believes that unusual circumstances exist in which hedging would serve to improve and protect the inherent returns of the international portfolio.

New Rule, R.1997 d.457, effective November 3, 1997.
See: 29 N.J.R. 3778(a), 29 N.J.R. 4714(a).
Former N.J.A.C. 17:16–81.2 "Limitations", recodified to N.J.A.C. 17:16–81.3.

17:16–81.3 Limitations

(a) The following limitation applies to those investments permitted under N.J.A.C. 17:16–81.1:

1. The foreign exchange contract must be for the purpose of hedging the international portfolio.

Recodified by R.1991 d.274, effective June 3, 1991.
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
Citations corrected.
Amended by R.1991 d.391, effective August 5, 1991.
See: 23 N.J.R. 1778(a), 23 N.J.R. 2345(c).
In (a) deleted 2 requiring 75 percent of portfolio be hedged.
Recodified from N.J.A.C. 17:16–81.2 by R.1997 d.457, effective November 3, 1997.
See: 29 N.J.R. 3778(a), 29 N.J.R. 4714(a).
Former N.J.A.C. 17:16–81.3 "Definitions", recodified to N.J.A.C. 17:16–81.4.

17:16–81.4 Definitions

The following words and terms as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Foreign exchange contracts" means forward contracts, to sell or buy a specified amount of a specified foreign currency at a rate fixed at the time of the transaction but with delivery at a specified future time, entered into with any U.S.-Canadian-chartered commercial bank having total assets of at least $2,000,000,000 or its equivalent in Canadian dollars (qualified bank); any U.S. broker-dealer (or subsidiary or affiliate thereof) having a net capital of at least $100,000,000 (qualified broker); or any other foreign exchange counterparty approved by the State Investment Council.

"Hedging" means combining a long position in an asset with a short position in the hedging instrument in order to offset fluctuations in the value of the underlying asset.

Recodified from N.J.A.C. 17:16–81.3 by R.1997 d.457, effective November 3, 1997.
See: 29 N.J.R. 3778(a), 29 N.J.R. 4714(a).