

Council members, arise only from political contributions, payments to political parties or payments to third party solicitors made or paid on or after April 18, 2005. The reporting requirements found in this subchapter, as applicable, shall take effect upon April 18, 2005.

SUBCHAPTERS 5. THROUGH 10. (RESERVED)

SUBCHAPTER 11. UNITED STATES TREASURY AND GOVERNMENT AGENCY OBLIGATIONS

17:16-11.1 Definitions

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

“Government Agency Obligations” shall mean debt obligations of any United States governmental agency included on a list of such agencies maintained by the Director.

“United States Treasury Obligations” shall mean debt obligations of the United States Treasury.

New Rule, R.2006 d.317, effective September 5, 2006.  
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Former N.J.A.C. 17:16-11.1, United States Treasury and Government Agency Obligations, recodified to N.J.A.C. 17:16-11.2.

17:16-11.2 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys of any eligible fund in United States Treasury Obligations and Government Agency Obligations, as well as Treasury receipts, certificates of accrual, collateralized mortgage obligations or similar securities which evidence ownership of interest and/or principal of United States Treasury Obligations or Government Agency Obligations, provided that the Director and a member of his staff certify that the security being considered for purchase is qualitatively substantially identical to the United States Treasury Obligations or Government Agency Obligations which secure or otherwise support it.

(b) Prior to any commitment to purchase a Government Agency Obligation, it shall be ascertained that the issuer is included on a list of government agencies maintained by the Director. The Director shall maintain a memorandum on file in support of the inclusion of any new government agencies on such list, and shall notify the Council of the inclusion at the next regularly scheduled meeting of the Council.

As amended, R.1972 d.75, eff. April 19, 1972.

See: 4 N.J.R. 109(a).

As amended, R.1974 d.323, eff. November 20, 1974.

See: 6 N.J.R. 496(a).

As amended, R.1975 d.97, eff. April 8, 1975.

See: 7 N.J.R. 241(a).

Amended by R.1985 d.552, effective November 4, 1985.

See: 17 N.J.R. 2093(a), 17 N.J.R. 2674(b).

Amended (a): added (a)1.-(a)3.

Recodified by R.1991 d.274, effective June 3, 1991.

See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Title changed.

Amended by R.2001 d.119, effective April 2, 2001.

See: 33 N.J.R. 372(b), 33 N.J.R. 1115(a).

Recodified from N.J.A.C. 17:16-11.1 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was “United States Treasury and Government Agency Obligations”. Rewrote the section.

17:16-11.3 Eligible funds

(a) For purposes of this subchapter, eligible funds shall include funds classified as:

1. Pension and Annuity Funds;
2. Static Funds;
3. Demand Funds;
4. Temporary Reserve Funds;
5. Trust Funds;
6. The State of New Jersey Cash Management Fund; and
7. Common Pension Funds.

New Rule, R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

SUBCHAPTER 12. CORPORATE OBLIGATIONS

17:16-12.1 Definitions

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

“Corporate obligations” shall mean debt obligations of any corporation deemed by the Director to be based in the United States. In determining whether a corporation is based in the United States, the Director shall consider factors including, but not limited to, the corporation’s country of incorporation, its main equity trading market, its shareholder base, the geographical distribution of its operations, the location of its headquarters, and the country in which investors consider the corporation to be most appropriately classified.

New Rule, R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Former N.J.A.C. 17:16-12.1, Permissible investments, recodified to N.J.A.C. 17:16-12.2.

17:16-12.2 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys of any eligible fund in corporate obligations provided that:

1. The issue has been registered with the Securities and Exchange Commission, or has been issued pursuant to Rule 144A of the Securities and Exchange Commission;

2. The obligor is not in default as to the payment of principal or interest upon any of its outstanding obligations;

3. The obligor has a market capitalization of at least \$50 million. Subsequent to purchase, if capitalization falls below \$50 million, the investment does not have to be sold; and

4. The obligations have a credit rating of Baa3 or higher by Moody's Investors Service, Inc., BBB- or higher by Standard & Poor's Corporation, and BBB- or higher by Fitch Ratings, except that two of the three ratings is sufficient and one of the three ratings is sufficient if only one rating is available. If a rating for the obligations has not been obtained from the above services, the obligations may be purchased if the issuer rating meets the minimum rating criteria. Subsequent to purchase, if the ratings fall below the minimum rating for such obligations, they do not have to be sold, and they may be exchanged with obligations with credit ratings lower than the minimum rating if the obligations received in exchange are, on balance, similarly rated.

(b) Notwithstanding (a) above, the Director may only invest and reinvest the moneys of the State of New Jersey Cash Management Fund in corporate obligations with maturities of 25 months or less.

(c) Notwithstanding the restrictions in (a) above, the Director may invest and reinvest the moneys of Common Pension Fund B in corporate obligations, finance company debt, bank debentures, international corporate obligations, collateralized notes and mortgages, and mortgage backed passthrough securities that do not meet the minimum credit ratings set forth in this section and N.J.A.C. 17:16-14.2, 15.2, 16.2, 19.2 and 58.2, respectively; provided, however, the market value of such investments shall not exceed five percent of the combined assets of all of the Pension and Annuity Funds.

(d) Notwithstanding the restrictions in this subchapter, the Council may approve the purchase of corporate obligations on a case-by-case basis.

As amended, R.1972 d.75, eff. April 19, 1972.

See: 4 N.J.R. 109(a).

As amended, R.1976 d.152, eff. May 19, 1976.

See: 8 N.J.R. 313(a).

Amended by R.1985 d.553, effective November 4, 1985.

See: 17 N.J.R. 2093(a), 17 N.J.R. 2675(b).

Substantially amended.

Recodified by R.1991 d.274, effective June 3, 1991.

See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Standards deleted and reference to 12.2 added.

Amended by R.2001 d.119, effective April 2, 2001.

See: 33 N.J.R. 372(b), 33 N.J.R. 1115(a).

Substituted "Director" for "director"; deleted "below" from end of sentence.

Recodified from N.J.A.C. 17:16-12.1 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote the section. Former N.J.A.C. 17:16-12.2, Pension and annuity group; static group; trust group, recodified to N.J.A.C. 17:16-12.3.

Amended by R.2007 d.250, effective August 20, 2007.

See: 39 N.J.R. 1459(a), 39 N.J.R. 3546(b).

In (c), deleted "up to five percent of" following "reinvest" and inserted "; provided, however, the market value of such investments shall not exceed five percent of the combined assets of all of the Pension and Annuity Funds".

### 17:16-12.3 Eligible funds

(a) For purposes of this subchapter, eligible funds shall include:

1. Any fund classified as a Pension and Annuity Fund;
2. Any fund classified as a Static Fund;
3. Any fund classified as a Trust Fund;
4. Common Pension Fund B; and
5. The State of New Jersey Cash Management Fund.

Recodified from N.J.A.C. 17:16-12.2 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Pension and annuity group; static group; trust group". Rewrote the section. Former N.J.A.C. 17:16-12.3, Legal papers, repealed.

### 17:16-12.4 Limitations

(a) At the time of initial purchase, the following conditions shall be met:

1. The total amount of debt issues purchased or acquired under this subchapter of any one corporation shall not exceed 10 percent of the outstanding long term debt of the company, and not more than 25 percent of the issue at the time of issue.
2. Not more than five percent of the market value of the assets of any fund (other than the New Jersey State Employees Deferred Compensation Fixed Income Fund) shall be invested in the debt of any one corporation.
3. Not more than 10 percent of the market value of the assets of the New Jersey State Employees Deferred Compensation Fixed Income Fund shall be invested in the debt of any one corporation.

(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

New Rule, R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

SUBCHAPTER 43. COVERED CALL OPTIONS

**17:16-43.1 Definitions**

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

“Covered call options” shall mean call options, including index-base call options sold on common stocks held in the pertinent portfolio, except that index-based call options may be sold and subsequently repurchased if substantially all of the underlying securities contained in the index correspond to securities eligible for investment by, and are actually held in the portfolio of, an eligible fund.

Amended by R.2001 d.119, effective April 2, 2001.  
See: 33 N.J.R. 372(b), 33 N.J.R. 1115(a).

In section name, deleted “; covered call options”.  
Amended by R.2006 d.317, effective September 5, 2006.  
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was “Definition”. Rewrote the section.

**17:16-43.2 Permissible transactions**

(a) Subject to the limitations contained in this subchapter, the Director may sell and repurchase covered call options on behalf of any eligible fund, provided that any covered call option purchased or sold shall be listed on a securities exchange in the United States or the over-the-counter market.

As amended, R.1982 d.193, eff. June 21, 1982.  
See: 13 N.J.R. 750(b), 14 N.J.R. 663(d).

(b): Added “the Philadelphia ... Pacific Stock Exchange.”  
(c) deleted.

Amended by R.2006 d.317, effective September 5, 2006.  
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote the section.

**17:16-43.3 Eligible funds**

(a) For purposes of this subchapter, eligible funds shall include:

1. New Jersey Better Educational Savings Trust;
2. Supplemental Annuity Collective Trust;
3. New Jersey State Employees Deferred Compensation Equity Fund;
4. New Jersey State Employees Deferred Compensation Small Capitalization Equity Fund;
5. Common Pension Fund A; and
6. Common Pension Fund D.

As amended, R.1982 d.192, eff. June 4, 1982.  
See: 13 N.J.R. 526(b), 14 N.J.R. 663(b).

(a)2 added.

Amended by R.1996 d.222, effective May 6, 1996.  
See: 28 N.J.R. 1366(a), 28 N.J.R. 2397(a).

Added Deferred Compensation Plan-Equity Fund.

Amended by R.1998 d.30, effective January 5, 1998.  
See: 29 N.J.R. 4410(a), 30 N.J.R. 106(b).

Added (a)4.

Amended by R.2006 d.317, effective September 5, 2006.  
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was “Applicable funds”. Rewrote (a), (a)1, (a)3 and (a)4; and added (a)5 and (a)6.

**17:16-43.4 (Reserved)**

As amended, R.1982 d.193, eff. June 21, 1982.  
See: 13 N.J.R. 750(b), 14 N.J.R. 663(d).

“10” percent was “5”.

Amended by R.1986 d.30, effective February 18, 1986.  
See: 17 N.J.R. 2968(a), 18 N.J.R. 428(a).

Added text “, except in the ... P.L. 1985, c.308.”

Amended by R.1996 d.222, effective May 6, 1996.  
See: 28 N.J.R. 1366(a), 28 N.J.R. 2397(a).

Deleted exception for holdings subject to divestment under P.L. 1985, c.308.

Repealed by R.2006 d.317, effective September 5, 2006.  
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was “Limitations”.

SUBCHAPTER 44. COMMON AND PREFERRED STOCKS AND ISSUES CONVERTIBLE INTO COMMON STOCK OF INTERNATIONAL CORPORATIONS AND INTERNATIONAL EXCHANGE-TRADED FUNDS

**17:16-44.1 Definitions**

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

“Common stocks” shall mean shares of stock, other than preferred stocks, representing ownership in a corporation.

“Developed market country” shall mean a country, other than the United States, included in the Morgan Stanley Capital International (MSCI) Equity Index Series for developed markets or another similar index selected by the Director and approved by the Council.

“Exchange-traded funds” shall mean mutual funds that track a predetermined index and can be traded like shares of common stock.

“International corporation” shall mean a corporation deemed by the Director to be based in a country other than the United States. In determining where a corporation is based, the Director shall consider factors including, but not limited to, the corporation’s country of incorporation, its main equity trading market, its shareholder base, the geographical distribution of its operations, the location of its headquarters, and the country in which investors consider the corporation to be most appropriately classified.

“Preferred stocks” shall mean shares of stock which provide a specific dividend that is paid before any dividends are paid to holders of common stock and additional rights above and beyond those conferred by common stock.

New Rule, R.2006 d.317, effective September 5, 2006.  
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Former N.J.A.C. 17:16-44.1, Permissible investments, recodified to N.J.A.C. 17:16-44.2.

**17:16-44.2 Permissible investments**

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys of any eligible fund in:

1. Stock issued by a company deemed by the Director to be based in a developed market country and whose stock trades on a securities exchange or over-the-counter market. If the Director determines that a company that is not incorporated in a developed market country is based in a developed market country, he or she shall prepare a memorandum explaining such determination, and shall inform the Council of his or her determination at its next regularly scheduled meeting; and

2. International exchange-traded funds or closed-end global, regional or country funds that are traded on a securities exchange or over-the-counter market, and have a minimum market capitalization of \$US 100 million. For the purposes of this subchapter, exchange-traded funds or closed-end global, regional or country funds shall be considered as common stock in determining all applicable limitations contained within this subchapter. Subsequent to purchase, if capitalization falls below \$US 100 million, the investment does not have to be sold.

(b) Notwithstanding the restrictions contained in (a) above, the Council may approve the purchase of common and preferred stock and issues convertible into common stock of international corporations or international equity exchange-traded funds or closed-end global, regional or country funds on a case-by-case basis.

(c) Notwithstanding the restrictions in (a) above, the Director may:

1. Exercise the conversion privileges in the common stock of any security acquired under this subchapter;

2. Purchase the preferred stock, whether convertible or not, of a company, the stock of which qualifies for investment under this subchapter;

3. Purchase the convertible issue of a company, the common stock of which qualifies for investment under this subchapter;

4. Purchase stock in new public offerings of companies without prior approval of the Council provided, however, approval will be sought at the next regularly scheduled Council meeting in the event the security does not subsequently meet the requirements of this subchapter. If approval is not granted, the securities will be sold within three months of the Council's disapproval; and

5. Retain any distribution received as a result of a corporate action, even if the security does not meet the requirements of this subchapter.

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.1996 d.222, effective May 6, 1996.

See: 28 N.J.R. 1366(a), 28 N.J.R. 2397(a).

Deleted requirements relating to regular dividends, long term debt, and current assets and liabilities.

Amended by R.2000 d.180, effective May 1, 2000.

See: 32 N.J.R. 744(b), 32 N.J.R. 1526(c).

Added (d)4.

Amended by R.2001 d.119, effective April 2, 2001.

See: 33 N.J.R. 372(b), 33 N.J.R. 1115(a).

Administrative correction.

See: 33 N.J.R. 2280(a).

Amended by R.2003 d.20, effective January 6, 2003.

See: 34 N.J.R. 3071(a), 35 N.J.R. 230(b).

Rewrote (a).

Amended by R.2003 d.333, effective August 4, 2003.

See: 35 N.J.R. 1872(a), 35 N.J.R. 3607(a).

Added new (c); recodified former (c) and (d) as new (d) and (e); in new (d), inserted "or international equity exchange-traded funds from the "Approved List of International Equity Exchange-traded Funds" preceding "to be purchased".

Amended by R.2004 d.256, effective July 6, 2004.

See: 36 N.J.R. 1745(a), 36 N.J.R. 3272(a).

Rewrote the section.

Amended by R.2005 d.323, effective September 19, 2005.

See: 37 N.J.R. 2149(b), 37 N.J.R. 3720(b).

Rewrote (a).

Amended by R.2006 d.258, effective July 17, 2006.

See: 38 N.J.R. 1409(a), 38 N.J.R. 3064(a).

Rewrote the section.

Recodified from N.J.A.C. 17:16-44.1 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote (a)1 and (a)2. Former N.J.A.C. 17:16-44.2, Eligible funds, recodified to N.J.A.C. 17:16-44.3.

Amended by R.2007 d.258, effective August 20, 2007.

See: 39 N.J.R. 1464(b), 39 N.J.R. 3548(d).

In (a)2, substituted "100 million" for "50 million" two times.

Administrative correction.

See: 39 N.J.R. 3780(a).

**17:16-44.3 Eligible funds**

(a) For purposes of this subchapter, eligible funds shall include:

1. Police and Firemen's Retirement System;
2. Public Employees' Retirement System;
3. State Police Retirement System;
4. Teachers' Pension and Annuity Fund;
5. Judicial Retirement System of New Jersey; and
6. Common Pension Fund D.

Recodified by R.1991 d.274, effective June 3, 1991.

See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Common Pension Fund D added.

Amended by R.2006 d.258, effective July 17, 2006.

See: 38 N.J.R. 1409(a), 38 N.J.R. 3064(a).

Section was "Applicable funds". In (a), rewrote introductory paragraph.

Recodified from N.J.A.C. 17:16-44.2 by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Changes previously implemented at 38 N.J.R. 3064(a). Former N.J.A.C. 17:16-44.3, Limitations, recodified to N.J.A.C. 17:16-44.4.

**17:16-44.4 Limitations**

(a) At time of initial purchase, the following conditions shall be met:

1. Not more than 1.5 percent of the market value of the assets of any eligible fund, either directly or through Common Pension Fund D, shall be invested in the common and preferred stock of any one corporation. This 1.5 percent limitation shall not apply to Common Pension Fund D.

2. The total amount of stock purchased or acquired of any one corporation shall not exceed five percent of the common stock, or of any other class of stock which entitles the holder thereof to vote at all elections of directors, of such corporation.

3. The combined market value of common and preferred stock and issues convertible into common stock, both domestic, as permitted in N.J.A.C. 17:16-41, and international, as permitted in this subchapter and in N.J.A.C. 17:16-46, held by an eligible fund (other than Common Pension Fund D), directly or through Common Pension Funds A and D, cannot exceed 70 percent of the market value of the assets of the fund, subject to such further provisos as are contained in N.J.A.C. 17:16-67. When the combined market value of the common and preferred stock and issues convertible into common stock held by a fund, directly or through Common Pension Funds A and D, reaches or exceeds 68 percent of the market value of the assets of the fund as of the end of a period used for evaluating unit values of participation, then the Council shall be notified at the next regularly scheduled meeting of the Council. When the combined market value of the common and preferred stock and issues convertible into common stock held by the fund, directly or through Common Pension Funds A and D, exceeds 70 percent of the market value of the assets of the fund, then the Division may have a six-month period of grace to reduce the level of participation of the fund below the 70 percent level, except that the period of grace may be extended for additional four month periods with the approval of the Council.

4. The market value of international common and preferred stock and issues convertible into common stock held by an eligible fund (other than Common Pension Fund D), either directly or through Common Pension Fund D, when combined with the market value of international government and agency obligations permitted under N.J.A.C. 17:16-20 and international corporate obligations permitted under N.J.A.C. 17:16-16, cannot exceed 30 percent of the market value of the assets of such fund, subject to such further provisos as are contained in N.J.A.C. 17:16-67.

5. Not more than seven percent of the market value of the assets of any eligible fund shall be invested in international exchange-traded funds that invest in commodities or assets other than corporate equity securities.

(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation of the fund below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

Amended by R.1991 d.389, effective August 5, 1991.  
See: 23 N.J.R. 1777(a), 23 N.J.R. 2345(a).

Deleted prior (a); recodified (b) to (c) as (a) to (b); added (c) and (d).  
Amended by R.1995 d.484, effective September 5, 1995.  
See: 27 N.J.R. 2544(a), 27 N.J.R. 3378(c).  
Amended by R.1996 d.222, effective May 6, 1996.  
See: 28 N.J.R. 1366(a), 28 N.J.R. 2397(a).

In (a) substituted market value for book value.  
Amended by R.2000 d.251, effective June 19, 2000.  
See: 32 N.J.R. 1325(a), 32 N.J.R. 2258(a).

In (a), added a second sentence; and in (c), substituted a reference to 70 percent for a reference to 60 percent, and inserted "with the exception of Common Pension Funds A and D," following "fund."  
Amended by R.2000 d.372, effective September 18, 2000.  
See: 32 N.J.R. 2584(a), 32 N.J.R. 3455(a).

In (d), substituted a reference to 22 percent for a reference to 20 percent.  
Amended by R.2006 d.258, effective July 17, 2006.  
See: 38 N.J.R. 1409(a), 38 N.J.R. 3064(a).

Rewrote the section.  
Recodified from N.J.A.C. 17:16-44.3 and amended by R.2006 d.317, effective September 5, 2006.  
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

In (a)4, substituted "international corporate" for "Canadian"; and added (a)5.  
Amended by R.2007 d.258, effective August 20, 2007.  
See: 39 N.J.R. 1464(b), 39 N.J.R. 3548(d).

In (a)4, substituted "30 percent" for "22 percent"; and in (b), deleted "1 or 2" following "(a)".  
Amended by R.2007 d.385, effective December 17, 2007.  
See: 39 N.J.R. 3727(a), 39 N.J.R. 5367(b).  
In (a)2, substituted "five" for "10".

SUBCHAPTER 45. COVERED PUT OPTIONS

17:16-45.1 Definitions

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

"Covered put options" shall mean put options, including index-based put options purchased for common stocks held in the pertinent portfolio, except that index-based put options may be purchased and subsequently resold if substantially all of the underlying securities contained in the index correspond to securities eligible for investment by, and are actually held in the portfolio of, an eligible fund.

Amended by R.2001 d.119, effective April 2, 2001.  
See: 33 N.J.R. 372(b), 33 N.J.R. 1115(a).  
In section name, deleted "; covered call options".  
Amended by R.2006 d.317, effective September 5, 2006.  
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).  
Section was "Definition". Rewrote the section.

17:16-45.2 Permissible transactions

(a) Subject to the limitations contained in this subchapter, the Director may purchase and subsequently sell put options, including index-based put options, on behalf of any eligible fund, provided that any covered put option purchased or sold shall be listed on a securities exchange in the United States or the over-the-counter market.

Amended by R.2006 d.317, effective September 5, 2006.  
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote the section.

### 17:16-45.3 Eligible funds

(a) For purposes of this subchapter, eligible funds shall include:

1. New Jersey Better Educational Savings Trust;
2. Supplemental Annuity Collective Trust;
3. New Jersey State Employees Deferred Compensation Equity Fund;
4. New Jersey State Employees Deferred Compensation Small Capitalization Equity Fund;
5. Common Pension Fund A; and
6. Common Pension Fund D.

Amended by R.1996 d.222, effective May 6, 1996.

See: 28 N.J.R. 1366(a), 28 N.J.R. 2397(a).

Added Deferred Compensation Plan-Equity Fund.

Amended by R.1998 d.31, effective January 5, 1998.

See: 29 N.J.R. 4410(b), 30 N.J.R. 106(c).

Added (a)4.

Amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Applicable funds". Rewrote the section.

### 17:16-45.4 (Reserved)

Amended by R.1996 d.222, effective May 6, 1996.

See: 28 N.J.R. 1366(a), 28 N.J.R. 2397(a).

Deleted exception for holdings subject to divestment under P.L. 1985, c.308.

Repealed by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Limitations".

## SUBCHAPTER 46. COMMON AND PREFERRED STOCKS AND ISSUES CONVERTIBLE INTO COMMON STOCK OF INTERNATIONAL CORPORATIONS AND EXCHANGE-TRADED, GLOBAL, REGIONAL OR COUNTRY FUNDS IN EMERGING MARKETS

### 17:16-46.1 Definitions

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

"Emerging markets" shall mean countries that are not included in the Morgan Stanley Capital International (MSCI) Equity Index Series for developed markets or another similar index selected by the Director and approved by the Council.

"Exchange-traded funds" shall mean mutual funds that track a predetermined index and can be traded like shares of common stock.

"International corporation" shall mean a corporation deemed by the Director to be based in a country other than the United States. In determining where a corporation is based, the Director shall consider factors including, but not limited to, the corporation's country of incorporation, its main equity trading market, its shareholder base, the geographical distribution of its operations, the location of its headquarters, and the country in which investors consider the corporation to be most appropriately classified.

New Rule, R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Former N.J.A.C. 17:16-46.1, Permissible investments, recodified to N.J.A.C. 17:16-46.2.

Amended by R.2007 d.259, effective August 20, 2007.

See: 39 N.J.R. 1465(a), 39 N.J.R. 3549(a).

Added definition "Exchange-traded funds".

### 17:16-46.2 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys of any eligible fund in:

1. Stock of international corporations based in emerging markets and traded on a securities exchange or over-the-counter market; and

2. Exchange-traded funds or closed-end global, regional or country funds which invest in emerging markets and which are traded on a securities exchange or the over-the-counter markets, and which have a minimum market capitalization of \$US 100 million. For purposes of this subchapter, exchange-traded funds or closed-end global, regional or country funds shall be considered as common stock in determining all applicable limitations contained within this subchapter. Subsequent to purchase, if capitalization falls below \$US 100 million, the investment does not have to be sold.

(b) Notwithstanding the restrictions contained in (a) above, the Council may approve the purchase of common and preferred stocks and issues convertible into common stock of international corporations or global, regional or country funds in emerging markets on a case-by-case basis.

(c) Notwithstanding the restrictions contained in (a) above, the Director may:

1. Exercise the conversion privileges in the common stocks of any security acquired under this subchapter;

2. Purchase the preferred stock, whether convertible or not, of a company, the stock of which qualifies for investment and under this Subchapter;

3. Purchase the convertible issue of a company, the common stock of which qualifies for investment under this Subchapter;

4. Purchase stock in new public offerings of companies in emerging markets without prior approval of the Council provided, however, approval will be sought at the next

regularly scheduled Council meeting in the event the investment does not subsequently meet the requirements of this subchapter. If approval is not granted, the securities shall be sold within three months of the Council's disapproval; and

5. Retain any distribution received as a result of a corporate action, even if the security does not meet the requirements of this subchapter.

Amended by R.2004 d.257, effective July 6, 2004.

See: 36 N.J.R. 1747(a), 36 N.J.R. 3272(b).

Rewrote the section.

Recodified from N.J.A.C. 17:16-46.2 and amended by R.2006 d.259, effective July 17, 2006.

See: 38 N.J.R. 1410(a), 38 N.J.R. 3065(a).

Rewrote the section. Former N.J.A.C. 17:16-46.1, Definition of emerging markets, repealed.

Recodified from N.J.A.C. 17:16-46.1 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote (a)1; in (a)2, inserted "a securities exchange"; and deleted (d). Former N.J.A.C. 17:16-46.2, Eligible funds, recodified to N.J.A.C. 17:16-46.3.

Amended by R.2007 d.259, effective August 20, 2007.

See: 39 N.J.R. 1465(a), 39 N.J.R. 3549(a).

In (a)2, substituted "Exchange-traded funds or closed-end global" for "Global", substituted "100 million" for "50 million" two times, and added the second sentence.

**17:16-46.3 Eligible funds**

For purposes of this subchapter, eligible funds shall include Common Pension Fund D.

Recodified from N.J.A.C. 17:16-46.3 and amended by R.2006 d.259, effective July 17, 2006.

See: 38 N.J.R. 1410(a), 38 N.J.R. 3065(a).

Section was "Applicable funds". Rewrote the section. Former N.J.A.C. 17:16-46.2, Permissible investments, recodified to N.J.A.C. 17:16-46.1.

Recodified from N.J.A.C. 17:16-46.2 by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Former N.J.A.C. 17:16-46.3, Limitations, recodified to N.J.A.C. 17:16-46.4.

**17:16-46.4 Limitations**

(a) At the time of initial purchase, the following conditions shall be met:

1. Not more than 10 percent of the market value of the emerging markets stocks in Common Pension Fund D shall be invested in the common and preferred stock of any one corporation;

2. The total amount of stock purchased or acquired under this subchapter of any one corporation shall not exceed five percent of the common stock, or of any other class of stock which entitles the holder thereof to vote at all elections of directors, of such corporation;

3. The total amount of shares or interests in any one emerging market global, regional or country fund shall not exceed 10 percent of the total shares or interests of such fund;

4. The total market value of stock, or securities convertible into stock, of companies in emerging markets, the shares or interests in global, regional or country funds in emerging markets, and international government and agency obligations in emerging markets permitted under N.J.A.C. 17:16-20, held by Common Pension Fund D shall not exceed 1.5 times the percentage derived by dividing the total market capitalization of companies included in the MSCI Emerging Market Index by the total market capitalization of the companies included in the MSCI All-Country World Ex-United States Index of the total market value of the assets held by Common Pension Fund D. In calculating the above percentage, the Director may substitute such other similar indices as may be selected by the Director and approved by the Council;

5. The combined market value of common and preferred stock and issues convertible into common stock, both domestic, as permitted in N.J.A.C. 17:16-41, and international, as permitted in this subchapter and in N.J.A.C. 17:16-44, held by an eligible fund (other than Common Pension Fund D), directly or through Common Pension Funds A and D, cannot exceed 70 percent of the market value of the assets of the fund, subject to such further provisos as are contained in N.J.A.C. 17:16-67. When the combined market value of the common and preferred stock and issues convertible into common stock held by a fund, directly or through Common Pension Funds A and D, reaches or exceeds 68 percent of the market value of the assets of the fund as of the end of a period used for evaluating unit values of participation, then the Council shall be notified at the next regularly scheduled meeting of the Council. When the combined market value of the common and preferred stock and issues convertible into common stock held by the fund, directly or through Common Pension Funds A and D, exceeds 70 percent of the market value of the assets of the fund, then the Division may have a six-month period of grace to reduce the level of participation of the fund below the 70 percent level, except that the period of grace may be extended for additional four month periods with the approval of the Council; and

6. The market value of international common and preferred stock and issues convertible into common stock held by an eligible fund (other than Common Pension Fund D), either directly or through Common Pension Fund D, when combined with the market value of international government and agency obligations permitted under N.J.A.C. 17:16-20 and international corporate obligations permitted under N.J.A.C. 17:16-16, cannot exceed 30 percent of the market value of the assets of such fund, subject to such further provisions as are contained in N.J.A.C. 17:16-67.

(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation below the maximum levels, except that

the period of grace may be extended for additional four-month periods with the approval of the Council.

Amended by R.2001 d.119, effective April 2, 2001.

See: 33 N.J.R. 372(b), 33 N.J.R. 1115(a).

Amended by R.2004 d.257, effective July 6, 2004.

See: 36 N.J.R. 1747(a), 36 N.J.R. 3272(b).

Rewrote the section.

Recodified from N.J.A.C. 17:16-46.4 and amended by R.2006 d.259, effective July 17, 2006.

See: 38 N.J.R. 1410(a), 38 N.J.R. 3065(a).

In introductory paragraph of (a), inserted comma; in (a)1 and (a)2, substituted "10" for "five"; in (a)3, inserted "emerging market" and deleted "and" from the end; rewrote (a)4; added (a)5 and (a)6; and rewrote (b). Former N.J.A.C. 17:16-46.3, Applicable funds, recodified to N.J.A.C. 17:16-46.2.

Recodified from N.J.A.C. 17:16-46.3 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

In the introductory paragraph of (a), inserted "the" preceding "time"; in (a)2, inserted "which entitles the holder thereof to vote at all elections of directors"; in (a)6, substituted "international corporate" for "Canadian"; and rewrote (b).

Amended by R.2007 d.259, effective August 20, 2007.

See: 39 N.J.R. 1465(a), 39 N.J.R. 3549(a).

In (a)6, substituted "30 percent" for "22 percent".

## SUBCHAPTER 47. EQUITY FUTURES CONTRACTS

### 17:16-47.1 Definitions

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

"Equity futures contract" means a legal agreement between a buyer and a seller in which the seller agrees to deliver and the buyer agrees to take delivery of a specified quantity of equity securities constituting a recognized equity index at a specified price (futures price) at a stated time in the future (delivery date). Prices are determined by competitive bids on the applicable exchange. The terms of the contract are standardized and the applicable exchange (for example, the Chicago Board of Trade) is the counterparty to each cleared transaction.

Amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Definition". Rewrote the section.

### 17:16-47.2 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may enter into equity futures contracts with a minimum average daily trading volume of \$US 1 billion and that trade on a securities exchange or the over-the-counter market.

(b) The Director may accept or deliver equity securities to satisfy contractual obligations pursuant to the purchase and sale of an equity futures contract.

(c) Notwithstanding the restrictions contained in this subchapter, the Council may approve the entering into equity futures contracts on a case-by-case basis.

New Rule, R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Former N.J.A.C. 17:16-47.2, Permissible investments, recodified to N.J.A.C. 17:16-47.3.

Amended by R.2007 d.260, effective August 20, 2007.

See: 39 N.J.R. 1466(a), 39 N.J.R. 3549(b).

In (a), deleted "in connection with securities held in an eligible fund".

### 17:16-47.3 Eligible funds

(a) For purposes of this subchapter, eligible funds shall include:

1. Common Pension Fund A; and
2. Common Pension Fund D.

Amended by R.2004 d.258, effective July 6, 2004.

See: 36 N.J.R. 1748(a), 36 N.J.R. 3273(a).

Rewrote the section.

Recodified from N.J.A.C. 17:16-47.2 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Permissible investments". Rewrote the section. Former N.J.A.C. 17:16-47.3, Limitations, recodified to N.J.A.C. 17:16-47.4.

### 17:16-47.4 Limitations

(a) At the time of initial purchase, net transactions of equity futures contracts shall not exceed the amount equal to 10 percent of the market value of the assets of any eligible fund, except that this limit may be increased to an amount not to exceed 50 percent by the Director for a fixed period of time after consultation with the Executive Committee of the Council.

(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

Recodified from N.J.A.C. 17:16-47.3 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote the section.

## SUBCHAPTERS 48. THROUGH 52. (RESERVED)

SUBCHAPTER 53. TITLE II FEDERAL HOUSING  
ADMINISTRATION INSURED MORTGAGES—  
MULTI-FAMILY

Amended by R.2001 d.119, effective April 2, 2001.  
See: 33 N.J.R. 372(b), 33 N.J.R. 1115(a).  
Amended by R.2006 d.317, effective September 5, 2006.  
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).  
Section was "Definition". Rewrote the section.

**17:16-53.1 Definitions**

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

"Federal Housing Administration Insured Multi-Family Mortgage" or "mortgage" shall mean a mortgage on a multi-family dwelling insured or to be insured by the Federal Housing Administration as authorized under Title II of the National Housing Act and more specifically described under sections 207, 220, 221(d)(3), 221(d)(4), and 236 of such Act.

**17:16-53.2 Permissible investments**

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys of any eligible fund in Federal Housing Administration Insured Multi-Family Mortgages provided that:

1. Any investment in any mortgage shall be not less than \$1,000,000 nor more than \$10,000,000;

Repeal and New Rule, R.2006 d.317, effective September 5, 2006.  
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).  
 Section was "Certificates of ownership".

**17:16-69.4 Valuation of investments**

(a) Upon each valuation date, as provided in (b) below, there shall be a valuation for every investment in the common fund in the method provided for in this section.

(b) The valuation shall be determined at the opening of business of the first business day of each month at the discretion of the Director but in any event such valuation shall be determined no less frequently than once per quarter. The valuation shall be based on market prices and accruals as of the close of the previous business day, in every case converted into United States dollars.

(c) The Director shall use the following method of valuation of investments:

1. The valuation established by an outside entity, including the general partner or manager of an investment, may be used; provided that such entity provides supporting information to the Director, and the valuation is reviewed and approved by the Director.

2. 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.

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

4. 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 subsection, brokers' commission or other expenses which would be incurred on a sale thereof.

5. For the purposes of valuing securities, all values determined under this section shall be converted into United States dollars at rates shown in the Wall Street Journal on the valuation date, or those established by a recognized pricing service.

(d) Dividends, distributions and interest earned shall be retained within the common fund, but may be distributed in whole or in part to the participating funds, at the direction of the Council.

Recodified from N.J.A.C. 17:16-69.5 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Valuation". Section combined with former N.J.A.C. 17:16-69.6, Date of valuation, and 17:16-69.7, Method of valuation, and substantially amended. Former N.J.A.C. 17:16-69.4, Units of participation, repealed.

**17:16-69.5 Valuation of units**

(a) The following method shall be used in determining the principal value per unit:

1. To the valuation of investments determined as provided in N.J.A.C. 17:16-69.4, there shall be added:

i. Uninvested cash principal;

ii. The value of any rights, warrants, distributions or other options which may have been declared but not received as of the valuation date, valued in accordance with the method of valuation provided in N.J.A.C. 17:16-69.4;

iii. Such portion as shall constitute principal of any extraordinary or liquidating dividend or distributions which may have been declared but which is unpaid as of the valuation date, valued in accordance with the method of valuation provided in N.J.A.C. 17:16-69.4; and

iv. Temporary investments which shall be valued at cost. The yield on these temporary investments shall not be accrued, but shall be included in income monthly as paid.

2. There shall be deducted from the sum ascertained under (a)1 above all expenses chargeable to principal due or accrued. The net principal value thus determined shall be divided by the number of existing units in order to ascertain the principal value of each unit.

3. All valuations established for items (a)1i through iv above shall be converted into United States dollars at rates shown in the Wall Street Journal on the valuation date, or those established by a recognized pricing service.

Recodified from N.J.A.C. 17:16-69.8 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

In (a)1, (a)1ii and (a)1iii, substituted "69.4" for "69.7"; and recodified existing (b) as (a)3. Former N.J.A.C. 17:16-69.5, Valuation, recodified to N.J.A.C. 17:16-69.4.

**17:16-69.6 Admission and withdrawal**

(a) No admission to or withdrawal from the common fund shall be permitted except on a valuation date or within 15 days thereafter; however, in the event that an admission or withdrawal occurs within the 15-day period aforementioned, it shall be based upon the principal value as of the last valuation date preceding said admission or withdrawal.

(b) All admissions or withdrawals shall be made in cash or in kind.

Recodified from N.J.A.C. 17:16-69.9 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Admission date". Rewrote (a) and (b). Former N.J.A.C. 17:16-69.6, Date of valuation, recodified in part to N.J.A.C. 17:16-69.4.

**17:16-69.7 Amendments**

This subchapter may be amended from time to time by the Council. Any amendment adopted by the Council shall be binding upon all participating funds, trusts and beneficiaries thereof.

Recodified from N.J.A.C. 17:16-69.10 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote the section. Former N.J.A.C. 17:16-69.7, Method of valuation, recodified in part to N.J.A.C. 17:16-69.4.

### 17:16-69.8 Distribution of realized appreciation

(a) Subsequent to the receipt of audited financial statements for the prior fiscal year, the Council may consider the realized appreciation in the common fund per unit. The Council may, in its sole discretion, choose any or all of the following options:

1. Declare as income to the participating funds such percentage of said realized appreciation of principal as it may deem prudent. When such declaration is made, the percentage of such appreciation of principal declared to be income shall be deducted from the total principal in the common fund and added to income in the common fund prior to the next regular monthly valuation. Following such declaration, the amount declared as income shall be treated and distributed as income to the participating funds monthly or quarterly in cash and/or units;

2. Declare as capital gains to the participating funds such percentage of said realized appreciation of principal as it may deem prudent. When such declaration is made, the percentage of such appreciation of principal declared shall be deducted from the total principal in the common fund and distributed monthly or quarterly in cash and/or units; and/or

3. Retain any or all realized appreciation for future investments within the common fund.

Recodified from N.J.A.C. 17:16-69.11 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

In introductory paragraph of (a), deleted "State Investment" preceding "Council". Former N.J.A.C. 17:16-69.8, Valuation of units, recodified to N.J.A.C. 17:16-69.5.

### 17:16-69.9 Limitations

(a) For all investments (other than the State of New Jersey Cash Management Fund, United States Treasury Obligations and commercial paper) made in Common Pension Fund E, the following shall occur:

1. The Director shall provide the Investment Policy Committee of the Council (Investment Committee) with the requested due diligence information for all investments recommended by the Division and a formal written due diligence report for each such investment. Due diligence information shall include but not be limited to, in all cases, information demonstrating that the investment satisfies the limitations and conditions contained in N.J.A.C. 17:16-71, 90 and 100, and a written disclosure submitted by the asset manager summarizing any and all compensation arrangements with consultants and intermediaries, whether direct or indirect, in connection with the proposed investment.

2. On investments of \$50 million or more, prior to any binding commitment, the Investment Committee shall provide a report to the Council, which report shall include a written due diligence report by the Director. On a timely basis after receipt of such report, the Council may adopt or otherwise act upon the report.

3. On investments of less than \$50 million, the Director shall provide an informational due diligence report to the Council of every investment made, which shall be provided on a regular basis subsequent to the date such investment has been made.

4. In any given calendar year, and at any point within such year, at least 80 percent of the number of investments which are approved and 80 percent of the dollar amount of total investment commitments must be eligible for a report by the Investment Committee to the Council. For investments under \$50 million, so long as such investments constitute no more than 20 percent of the number of investments approved and 20 percent of the total investment dollars committed, the Investment Committee will not issue a report to the Council. Once the Division has exceeded its 20 percent "exemption" in any given year, all proposed investments will be subject to the Investment Committee providing a report to the Council until the number and dollar value of "exempt" investment again falls below the 20 percent threshold.

(b) After the Director has made binding commitments aggregating an amount between \$2 billion and \$5 billion, not more than 10 percent of the market value of the assets of Common Pension Fund E, plus outstanding commitments, may be committed to any one partnership or investment, without the prior written approval of the Council. After the Director has made binding commitments aggregating an amount of \$5 billion or more, not more than five percent of the market value of the assets of Common Pension Fund E, plus outstanding commitments, may be committed to any one partnership or investment, without the prior written approval of the Council.

(c) The investments in Common Pension Fund E cannot comprise more than 20 percent of any one investment manager's total assets.

(d) Not more than 18 percent of the market value of the assets of any fund shall be represented by the market value of investments as permitted by N.J.A.C. 17:16-71, 90 and 100, whether held directly by such fund or through Common Pension Fund E. If the market value exceeds 18 percent, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation of the fund below the 18 percent level, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

(e) Unless otherwise specifically provided therein, in the event that any subchapter contains a limitation on the per-

centage of assets of any Pension and Annuity Fund which may be invested in an investment or class of investments, that limitation shall be construed to apply to the percentage of combined assets of all of the Pension and Annuity Funds participating in Common Pension Fund E and shall not restrict the total investment by Common Pension Fund E in such investment or class of investments to the percentage limitations applicable to any individual Pension and Annuity Fund.

(f) Unless otherwise specifically provided therein, in the event that any subchapter contains a limitation on the percentage of an investment or class of investment in which the Director may invest, that limitation shall be construed to exclude investments purchased on behalf of Common Pension Fund E.

Recodified from N.J.A.C. 17:16-69.12 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote the section. Former N.J.A.C. 17:16-69.9, Admission date, recodified to N.J.A.C. 17:16-69.6.

Amended by R.2007 d.264, effective August 20, 2007.

See: 39 N.J.R. 1469(a), 39 N.J.R. 3550(d).

In the introductory paragraph of (a), inserted "(other than the State of New Jersey Cash Management Fund, United States Treasury Obligations and commercial paper)".

**17:16-69.10 Liquidation**

(a) The Director, subject to the approval of the Council and the Treasurer, may, upon two months' notice, liquidate Common Pension Fund E.

(b) In the event of such liquidation, the owners of the units shall share proportionately, according to units owned, in each investment held by the common fund.

(c) When such proportionate distribution is impracticable in the judgment of the Director, he or she may instead distribute on liquidation, cash or temporary investments held by the common fund.

(d) Distribution upon liquidation shall occur within five days after a valuation date and shall be based upon the principal value per unit determined upon such valuation date.

(e) No liquidation will be effectuated without the approval by the Council of a plan of distribution of the assets of the common fund.

Recodified from N.J.A.C. 17:16-69.13 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote (a); and in (e), deleted "State Investment" preceding "Council". Former N.J.A.C. 17:16-69.10, Amendments, recodified to N.J.A.C. 17:16-69.7.

**17:16-69.11 (Reserved)**

Recodified to N.J.A.C. 17:16-69.8 by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Distribution of realized appreciation".

**17:16-69.12 (Reserved)**

Recodified to N.J.A.C. 17:16-69.9 by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Limitations".

**17:16-69.13 (Reserved)**

Recodified to N.J.A.C. 17:16-69.10 by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Liquidation".

SUBCHAPTER 70. (RESERVED)

SUBCHAPTER 71. REAL ASSETS

**17:16-71.1 Definitions**

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

"Co-investment" means two parties (usually the limited partner and the general partner of a fund) invest alongside each other in the same company, portfolio or property. If a limited partner in a fund has co-investment rights, it can invest directly in a company, portfolio or property in which the fund also invests. The institution, therefore, ends up with two separate stakes — one indirectly through the fund; one directly in the company, portfolio or property. Co-investment may also include multiple like-minded institutional investors investing in a specific company, portfolio or property.

"Commingled funds" means all open-end and closed-end pooled investment vehicles designed primarily for institutional tax-exempt investors. A commingled fund may be organized as a group trust, partnership, corporation, insurance company separate account, or other multiple ownership entity.

"Commodity-linked investments" means investments from which all or a portion of the return is linked to the price of a particular commodity or equity security, or to an index of such prices. These include commodity-indexed deposits, loans, debt issues, and derivative products, such as forwards, options, and swaps. In these transactions, the interest, principal, or both, or payment streams in the case of swaps, are linked to the price of a commodity.

"Core real estate" means equity investments in existing, stabilized (meaning at least 80 percent occupied), well-leased assets.

"Direct investment" means the purchase of an interest in a company or venture directly by Common Pension Fund E, rather than through an investment vehicle.

“East” means Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, New York, Pennsylvania, Delaware, Kentucky, Maryland, North Carolina, South Carolina, Virginia, Washington D.C. and West Virginia.

“Joint venture” means a contractual agreement joining two or more parties for the purpose of executing a particular undertaking. All parties agree to share in the profits and losses of the enterprise.

“Midwest” means Illinois, Indiana, Michigan, Ohio, Wisconsin, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota and South Dakota.

“Non-core real estate” means equity investments in value-added or opportunistic strategies, including direct property investment with lease-up, development or redevelopment risk. Non-core real estate includes recapitalizations across capital structures and property types and access to niche markets.

“Real assets” means investments in real estate, oil and gas, timber properties, royalty trusts and commodity-linked investments.

“Real estate” includes core real estate and non-core real estate.

“Royalty trust” means equity investments that generate an income stream for investors; these primarily include natural resource assets, and pharmaceuticals and medical devices.

“Separate account” means ownership is segregated and kept in the investor’s name.

“South” means Alabama, Florida, Georgia, Mississippi, Tennessee, Arkansas, Louisiana, Oklahoma and Texas.

“West” means Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, Wyoming, Alaska, California, Hawaii, Oregon and Washington.

Amended by R.2006 d.219, effective June 19, 2006.  
See: 38 N.J.R. 1176(a), 38 N.J.R. 2731(b).

In definition “Co-investment”, inserted “portfolio or property” at the end of the first and third sentences, substituted “portfolio or property in which the fund also invests” for “that is also backed by a fund” in the second sentence, deleted “in the company” following “stakes” in the third sentence and added new fourth sentence; inserted “primarily” in the first sentence of definition “Commingled funds”; in first sentence in definition “Commodity-linked investments”, substituted “from” for “in” following “investments” and “to” for “in” following “linked”; added definitions “Core real estate” and “Non-core real estate”; substituted “directly by Common Pension Fund E, rather than through an investment vehicle” for “that has enough influence to direct the course of the investment. Direct investment usually avoids intermediaries between the buyer and the seller” in definition “Direct investment”; substituted “Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island” for “New England” in definition “East”; deleted last sentence in definition “Joint venture”; and inserted “Indiana” in definition “Midwest”.

Amended by R.2006 d.317, effective September 5, 2006.  
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

In definition “Real assets” deleted “(excluding publicly traded real estate investment trusts)” following “real estate”; and added definition “Real estate”.

## 17:16-71.2 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys of any eligible fund in real assets in any of the following ways:

1. Investment in real estate assets through direct investments, separate accounts, commingled funds, co-investments and joint ventures.
2. Investments in real assets such as oil and gas, timber, royalty trusts and commodity-linked investment vehicles.

(b) Notwithstanding the restrictions contained in (a) above, the Council may approve the purchase of real assets on a case-by-case basis.

Amended by R.2006 d.219, effective June 19, 2006.

See: 38 N.J.R. 1176(a), 38 N.J.R. 2731(b).

Rewrote (a)1i; and added (b).

Amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote the section.

Amended by R.2007 d.265, effective August 20, 2007.

See: 39 N.J.R. 1469(b), 39 N.J.R. 3551(a).

Added (b).

## 17:16-71.3 Eligible funds

(a) For purposes of this subchapter, eligible funds shall include:

1. Police and Firemen’s Retirement System;
2. Public Employees’ Retirement System;
3. State Police Retirement System;
4. Teachers’ Pension and Annuity Fund;
5. Judicial Retirement System of New Jersey; and
6. Common Pension Fund E.

Amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was “Eligible funds”. Rewrote introductory paragraph of (a); in (a)4, deleted “and” from end; in (a)5, substituted “; and” for a period at the end; and added (a)6.

## 17:16-71.4 Limitations

(a) At the time of initial purchase, the following conditions shall be met:

1. The aggregate market value of the investment in real estate under this subchapter, shall not exceed seven percent of the market value of the assets of any Pension and Annuity Fund investing in Common Fund E;
2. The maximum consolidated principal amount of leverage within the real estate portfolio of Common Pension Fund E shall not exceed 50 percent and 75 percent of Common Pension Fund E’s share of the gross market value of Common Pension Fund E’s investment in core real estate and non-core real estate, respectively;

3. No more than three percent of the market value of the assets of any Pension and Annuity Fund investing in Common Fund E may be invested in direct investments, co-investments and joint ventures investing in real estate located outside the United States;

4. No more than three percent of the market value of the assets of any Pension and Annuity Fund investing in Common Fund E may be invested in a single real estate property type, such types being defined as office, retail, apartment/multi-family, industrial and mixed use;

5. No more than three percent of the market value of the assets of any Pension and Annuity Fund investing in Common Fund E may be invested in direct investments, co-investments and joint ventures investing in real estate in any one region of the United States, such regions being defined as:

- i. East;
- ii. South;
- iii. Midwest; and
- iv. West; and

6. No more than seven percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E may be invested in real assets such as oil and gas, timber, royalty trusts and commodity-linked investment vehicles.

(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

Amended by R.2006 d.317, effective September 5, 2006.  
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).  
Rewrote the section.

**17:16-71.5 (Reserved)**

Repealed by R.2006 d.317, effective September 5, 2006.  
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).  
Section was "Legal papers".

SUBCHAPTERS 72. THROUGH 80. (RESERVED)

SUBCHAPTER 81. FOREIGN EXCHANGE CONTRACTS

**17:16-81.1 Definitions**

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

"Foreign exchange contracts" mean 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 commercial bank chartered in the United States or Canada having total assets of at least \$US 2 billion; any United States broker-dealer (or subsidiary or affiliate thereof) having a net capital of at least \$100 million; or any other foreign exchange counterparty approved by the Council.

"Hedging" means combining a long position in an asset denominated in a currency other than United States dollars with a short position in the international currency in which the asset is denominated in order to offset fluctuations in the value of the underlying asset attributable to international currency fluctuations.

New Rule, R.2006 d.317, effective September 5, 2006.  
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Former N.J.A.C. 17:16-81.1, Permissible investments, recodified to N.J.A.C. 17:16-81.2.

**17:16-81.2 Permissible investments**

(a) Subject to the limitations contained in this subchapter, the Director may enter into foreign exchange contracts for the purpose of hedging a fund's international portfolio. Such foreign exchange contracts may involve the purchase or sale of international currency.

(b) Notwithstanding the restrictions contained in (a) above, the Council may approve the entering into foreign exchange contracts on a case-by-case basis.

Amended by R.2006 d.260, effective July 17, 2006.  
See: 38 N.J.R. 1412(a), 38 N.J.R. 3066(a).

Added designation (a); rewrote (a); and added (b) and (c).  
Recodified from N.J.A.C. 17:16-81.1 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).  
Deleted former (b); and recodified former (c) as present (b).

**17:16-81.3 Limitations**

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.

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.

Amended by R.2006 d.260, effective July 17, 2006.  
See: 38 N.J.R. 1412(a), 38 N.J.R. 3066(a).

Rewrote the section.

**17:16-81.4 (Reserved)**

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).

Repealed by R.2006 d.260, effective July 17, 2006.

See: 38 N.J.R. 1412(a), 38 N.J.R. 3066(a).

Section was "Definitions".

---

**SUBCHAPTERS 82. THROUGH 89. (RESERVED)**


---

**SUBCHAPTER 90. PRIVATE EQUITY****17:16-90.1 Definitions**

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

"Buy-out fund" means a fund that invests in the acquisition of an established company. The transaction may or may not be leveraged.

"Co-investment" means two parties (usually the limited partner and the general partner of a fund) invest alongside each other in the same company. If a limited partner in a fund has co-investment rights, it can invest directly in a company that is also backed by a fund. The institution therefore ends up with two separate stakes in the company—one indirectly through the fund; one directly in the company.

"Direct investment" means the purchase of an interest in a company or venture that has enough influence to direct the course of the investment. Direct investment usually avoids intermediaries between the buyer and the seller.

"Funds-of-funds" means funds set up to distribute investments among a selection of fund managers, who in turn invest the capital directly.

"Joint venture" means a contractual agreement joining two or more parties for the purpose of executing a particular undertaking. All parties agree to share in the profits and losses of the enterprise. Joint ventures are usually private.

"Limited partnership" means the legal entity formed for the purpose of investing in private equity funds. The partnership is generally comprised of one general partner and multiple limited partners. A limited partnership has a fixed life, usually of ten years.

"Private equity" means investments in businesses made through means other than through publicly traded securities. Private equity may consist of buyout funds, venture capital funds and debt-related investments.

"Separate account" means ownership is segregated and kept in the investor's name.

"Venture capital fund" means a fund that invests in the equity of a small, privately-owned, high-growth company during its early or expansion stages.

**17:16-90.2 Permissible investments**

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys of any eligible fund in private equity through separate accounts, funds-of-funds, limited partnerships, direct investments, co-investments and joint ventures in any of the following ways:

1. Buyout Investments: Purchase of a control position (primarily majority positions, with some minority positions) in established companies, with or without leverage.
2. Venture Capital Investments: Purchase of an equity position in small, privately-owned, high-growth companies.
3. Debt-related Investments: Purchase of investments which combine a debt instrument with equity participation.

(b) Notwithstanding the restrictions contained in (a) above, the Council may approve the purchase of private equity on a case-by-case basis.

Amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

In the introductory paragraph of (a), inserted "and reinvest the moneys of any eligible fund"; and rewrote (a)1 through (a)3.

Amended by R.2007 d.266, effective August 20, 2007.

See: 39 N.J.R. 1470(a), 39 N.J.R. 3551(b).

Added (b).

**17:16-90.3 Eligible funds**

(a) For purposes of this subchapter, eligible funds shall include:

1. Police and Firemen's Retirement System;
2. Public Employees' Retirement System;
3. State Police Retirement System;
4. Teachers' Pension and Annuity Fund;
5. Judicial Retirement System of New Jersey; and
6. Common Pension Fund E.

Amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Applicable funds". Rewrote introductory paragraph of (a); in (a)4, deleted "and" from the end; in (a)5, substituted "; and" for a period at the end; and added (a)6.

**17:16-90.4 Limitations**

(a) At the time of initial purchase, the following conditions shall be met:

1. The aggregate market value of private equity investments under this subchapter, for any eligible fund, shall not exceed seven percent of the market value of the assets of

any Pension and Annuity Fund investing in Common Fund E;

2. No more than five percent of the market value of the assets of any Pension and Annuity Fund investing in Common Fund E may be invested in buyout investments, and no more than three percent of the market value of the assets of any Pension and Annuity Fund investing in Common Fund E may be invested in buyout investments outside of the United States;

3. No more than three percent of the market value of the assets of any Pension and Annuity Fund investing in Common Fund E may be invested in venture capital investments, and no more than two percent of the market value of the assets of any Pension and Annuity Fund investing in Common Fund E may be invested in venture capital investments outside of the United States; and

4. No more than three percent of the market value of the assets of any Pension and Annuity Fund investing in Common Fund E may be invested in debt-related investments, and no more than two percent of the market value of the assets of any Pension and Annuity Fund investing in Common Fund E may be invested in debt-related investments outside of the United States.

(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

Amended by R.2006 d.317, effective September 5, 2006.  
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).  
Rewrote the section.

**17:16-90.5 (Reserved)**

Repealed by R.2006 d.317, effective September 5, 2006.  
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).  
Section was "Legal papers".

SUBCHAPTERS 91. THROUGH 99. (RESERVED)

SUBCHAPTER 100. ABSOLUTE RETURN STRATEGY INVESTMENTS

**17:16-100.1 Definitions**

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

"Absolute return strategy" means an investment strategy with the goal of achieving positive returns with less correla-

tion than long-only strategies to traditional performance benchmarks.

"Equity long/short fund" means a fund primarily holding a combination of long and short positions in publicly traded equities, with a net market exposure less than that of the overall equity market.

"Fund-of-funds" means a fund set up to distribute investments among a selection of fund managers, who in turn invest the capital directly.

"Low volatility fund" means a fund investing in arbitrage opportunities with low overall net market exposure, equity market neutral, fixed income arbitrage, convertible bond arbitrage, risk arbitrage, merger arbitrage, distressed debt and other event-driven strategies.

"Multi-strategy fund" means a fund that employs a combination of strategies used by equity long/short funds, opportunistic funds and low volatility funds.

"Opportunistic fund" means a fund investing in speculative opportunities with high net market exposure across varied markets.

"Separate accounts" means ownership is segregated and kept in the investor's name.

Amended by R.2006 d.317, effective September 5, 2006.  
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote definition "Absolute return strategy"; in definition "Equity long/short fund" substituted "fund" for "funds" and inserted "primarily"; in definition "Fund-of-funds" substituted "Fund" for "Funds"; in definition "Low volatility funds" substituted "fund" for "funds" two times and inserted "a" following "means"; added definition "Multi-strategy fund"; in definition "Opportunistic fund", substituted "fund" for "funds" two times and inserted "a" preceding "fund".

**17:16-100.2 Permissible investments**

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys of any eligible fund in absolute return strategy investments through funds-of-funds, separate accounts and direct investments in individual funds (all generally through limited partnerships) in any of the following ways:

1. Participation in low volatility funds.
2. Participation in equity long/short funds.
3. Participation in opportunistic funds.

(b) Notwithstanding the restrictions contained in (a) above, the Council may approve the purchase of absolute return strategy investments on a case-by-case basis.

Amended by R.2006 d.317, effective September 5, 2006.  
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

In the introductory paragraph of (a), inserted "and reinvest the moneys of any eligible fund"; and rewrote (a)1 through (a)3.

Amended by R.2007 d.267, effective August 20, 2007.  
See: 39 N.J.R. 1470(b), 39 N.J.R. 3551(c).

Added (b).

**17:16-100.3 Eligible funds**

(a) For purposes of this subchapter, eligible funds shall include:

1. Police and Firemen's Retirement System;
2. Public Employees' Retirement System;
3. State Police Retirement System;
4. Teachers' Pension and Annuity Fund;
5. Judicial Retirement System of New Jersey; and
6. Common Pension Fund E.

Amended by R.2006 d.317, effective September 5, 2006.  
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Applicable funds". Rewrote (a); in (a)4, deleted "and" from the end; in (a)5, added "; and" to the end; and added (a)6.

**17:16-100.4 Limitations**

(a) At the time of initial purchase, the following conditions shall be met:

1. The aggregate market value of absolute return strategy investments under this subchapter, for any eligible fund, shall not exceed seven percent of the market value of the assets of any Pension and Annuity Fund investing in Common Fund E;

2. No more than 3.5 percent of the market value of the assets of any Pension and Annuity Fund investing in Common Fund E may be invested in low volatility funds, and no more than 0.5 percent of the market value of the assets of any Pension and Annuity Fund investing in Common Fund E may be invested directly in any individual low volatility fund;

3. No more than 4.5 percent of the market value of the assets of any Pension and Annuity Fund investing in Common Fund E may be invested in equity long/short

funds, and no more than 0.5 percent of the market value of the assets of any Pension and Annuity Fund investing in Common Fund E may be invested directly in any individual equity long/short fund;

4. No more than 3.5 percent of the market value of the assets of any Pension and Annuity Fund investing in Common Fund E may be invested in opportunistic funds, and no more than 0.5 percent of the market value of the assets of any Pension and Annuity Fund investing in Common Fund E may be invested directly in any individual opportunistic fund; and

5. No more than seven percent of the market value of the assets of any Pension and Annuity Fund investing in Common Fund E may be invested in multi-strategy funds, and no more than 0.7 percent of the market value of the assets of any Pension and Annuity Fund investing in Common Fund E may be invested directly in any individual multi-strategy fund.

(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

(c) For investments in funds-of-funds, the limitations in (a) above shall apply to the underlying investments, and not to the funds-of-funds themselves.

Amended by R.2006 d.317, effective September 5, 2006.  
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote the section.

**17:16-100.5 (Reserved)**

Repealed by R.2006 d.317, effective September 5, 2006.  
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Legal papers".