

## RULES OF THE STATE INVESTMENT COUNCIL

Subchapter 42, Covered Call Options, was recodified from N.J.A.C. 17:16-43 and Subchapter 42, Common Stocks and Convertible Securities, was recodified from N.J.A.C. 17:16-22 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 43, Mortgage-Backed Securities; Private Pass-Through, was recodified to N.J.A.C. 17:16-58 and Subchapter 43, Covered Call Options, was recodified from N.J.A.C. 17:16-42 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 44, Deferred Compensation Plan, was recodified to N.J.A.C. 17:16-65 and Subchapter 44, Common and Preferred Stocks and Issues Convertible into Common Stock of International Corporations, was recodified from N.J.A.C. 17:16-48 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 45, Real Estate Equity, was recodified to N.J.A.C. 17:16-71 and Subchapter 45, Covered Put Options, was recodified from N.J.A.C. 17:16-52 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 46, Common Pension Fund D, was recodified to N.J.A.C. 17:16-67 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 47, International Government and Agency Obligations, was recodified to N.J.A.C. 17:16-20 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 48, Common and Preferred Stock and Issues Convertible into Common Stock of International Corporations, was recodified to N.J.A.C. 17:16-44 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 49, Purchase and Sale of International Currency, was recodified to N.J.A.C. 17:16-81 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 50, U.S. Treasury Futures Contracts, was recodified to N.J.A.C. 17:16-21 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 52, Covered Put Options, was recodified to N.J.A.C. 17:16-45 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 53, Title II Federal Housing Administration—Insured Mortgages; Multi-family, was recodified from N.J.A.C. 17:16-28 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 54, Title II Federal Housing Administration Insured Construction Mortgages; Multifamily, was recodified from N.J.A.C. 17:16-29 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 55, Title II Federal Housing Administration Mortgages, was recodified from N.J.A.C. 17:16-10 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 58, Mortgage-Backed Securities; Private Pass-Through, was recodified from N.J.A.C. 17:16-43 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 61, State of New Jersey Cash Management Fund, was recodified from N.J.A.C. 17:16-31 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 62, Common Pension Fund A, was recodified from N.J.A.C. 17:16-32 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 63, Common Pension Fund B, was recodified from N.J.A.C. 17:16-36 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 65, Deferred Compensation Plan, was recodified from N.J.A.C. 17:16-44 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 67, Common Pension Fund D, was recodified from N.J.A.C. 17:16-46 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 71, Real Estate Equity, was recodified from N.J.A.C. 17:16-45 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 81, Purchase and Sale of International Currency, was recodified from N.J.A.C. 17:16-49 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Pursuant to Executive Order No. 66(1978), Chapter 16, Rules of the State Investment Council, was readopted as R.1991 d.274, effective May 2, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 36, Guaranteed Income Contracts, was adopted as R.1991 d.387, effective August 5, 1991. See: 23 N.J.R. 1776(a), 23 N.J.R. 2344(b).

Pursuant to Executive Order No. 66(1978), Chapter 16, Rules of the State Investment Council, was readopted as R.1996 d.222, effective April 15, 1996. See: 28 N.J.R. 1366(a), 28 N.J.R. 2397(a).

Subchapter 68, New Jersey Better Educational Savings Trust (NJBEST) Fund, was adopted as R.1998 d.552, effective November 16, 1998. See: 30 N.J.R. 3167(a), 30 N.J.R. 4064(a).

Subchapter 46, Common and Preferred Stocks and Issues Convertible Into Common Stock of International Corporations in Emerging Markets, was adopted as R.2000 d.373, effective September 18, 2000. See: 32 N.J.R. 2584(b), 32 N.J.R. 3455(b).

Pursuant to Executive Order No. 66(1978), Chapter 16, Rules of the State Investment Council, was readopted as R.2001 d.119, effective March 9, 2001, and Subchapter 35, Loan Participation Notes, was repealed by R.2001 d.119, effective April 2, 2001. See: Source and Effective Date. See, also, section annotations.

Subchapter 22, Fixed Income Exchange-Traded Funds, was adopted as R.2003 d.330, effective August 4, 2003. See: 35 N.J.R. 1869(a), 35 N.J.R. 3605(b).

Subchapter 37, Money Market Funds, was adopted as R.2003 d.331, effective August 4, 2003. See: 35 N.J.R. 1870(a), 35 N.J.R. 3606(a).

Subchapter 47, Equity Futures Contracts, was adopted as R.2003 d.334, effective August 4, 2003. See: 35 N.J.R. 1872(b), 35 N.J.R. 3607(a).

Subchapter 71, Real Estate Equity, was repealed and Subchapter 71, Real Assets, was adopted as new rules by R.2005 d.202, effective June 20, 2005. See: 37 N.J.R. 577(a), 37 N.J.R. 2220(a).

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**SUBCHAPTER 3. CLASSIFICATION OF FUNDS**

**17:16-3.1 General provisions**

(a) Funds having similar investment characteristics and objectives under their respective enabling acts shall be grouped together in any of the following classifications:

1. Pension and Annuity Group;
2. Static Group;
3. Demand Group;
4. Temporary Reserve Group; and
5. Trust Group.

As amended, R.1982 d.397, effective November 1, 1982.  
See: 14 N.J.R. 329(a), 14 N.J.R. 1220(d).  
List of classification groups added.  
Recodified by R.1991 d.274, effective June 3, 1991.  
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).  
Stylistic changes.

**17:16-3.2 Approved list**

A "list of funds under the supervision of the Council" shall be maintained by the Director.

Amended by R.1982 d.397, effective November 1, 1982.  
See: 14 N.J.R. 329(b), 14 N.J.R. 1220(d).  
Pension and annuity groups changed to an approved list.  
Recodified by R.1991 d.274, effective June 3, 1991.  
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).  
Reference to Council approval deleted.

**17:16-3.3 through 17:16-3.6 (Reserved)**

**SUBCHAPTER 4. STATE INVESTMENT COUNCIL'S POLICY CONCERNING POLITICAL CONTRIBUTIONS AND PROHIBITIONS ON INVESTMENT MANAGEMENT BUSINESS**

**Authority**  
N.J.S.A. 52:18A-91.

Eligible funds broadened; tax-exempt bond purchase specified; minimum quality standard and maximum level of purchases set. Amended by R.2001 d.119, effective April 2, 2001. See: 33 N.J.R. 372(b), 33 N.J.R. 1115(a).

**17:16-18.3 Limitations**

Not more than two percent of the assets of any eligible fund described in N.J.A.C. 17:16-18.2 shall be invested in the obligations of any one public authority.

Amended by R.1982 d.192, effective June 4, 1982. See: 13 N.J.R. 526(b), 14 N.J.R. 663(b). Added "pension and annuity group". 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 funds broadened.

**17:16-18.4 Legal papers**

(a) Prior to any commitment to purchase obligations of the type described in this subchapter, the Director shall have received:

1. A written opinion from Moody's Investors Service to the effect that such obligations qualify as legal investments for savings banks of this State; and
2. A written opinion from the Attorney General that the purchase of such obligations is authorized by the provisions of Chapter 270, P.L. 1950, as amended and supplemented.

(b) Subsequent to the purchase, the Director shall obtain:

1. An unqualified approving opinion of recognized bond counsel to the effect that the obligations have been duly authorized and issued and are the legal, valid and binding obligations of the issuer;
2. Such other documents or opinions which the Attorney General may require; and
3. A written approving opinion from the Attorney General to the effect that all such documents and opinions received by the Director are satisfactory as to form and substance.

Amended by R.1972 d.75, effective April 19, 1972. See: 4 N.J.R. 109(a).

**SUBCHAPTER 19. COLLATERALIZED NOTES AND MORTGAGES**

**17:16-19.1 Permissible investments**

(a) Subject to the limitations contained in this subchapter, the Director may invest or reinvest the moneys of any pension and annuity group, and the Cash Management Fund, in securities which are fully collateralized by high quality mortgage-backed securities; credit card receivables; bank loans; automobile loans; home equity loans; and other forms of collateral provided:

1. The obligor is not in default as to the payment of principal or interest upon any of its outstanding obligations;
2. The collateral:
  - i. Must be mortgage-backed securities, credit card receivables, automobile loans, home equity loans, bank loans or other forms of receivables originated in the United States;
  - ii. Must be fully maintained and not under the direct control of the originator of the collateral underlying the obligation, but under the control of a trustee, special purpose vehicle or other independent entity incorporated in the United States;
3. No amount in excess of one-third of any one issue may be purchased. For the purpose of this limitation, the issue size shall be considered as the principal amount issued pursuant to all classes of securities payable from the returns generated by the underlying collateral;
4. Not more than two percent of the assets of any one fund at the time of purchase shall be invested in the obligations of any one issue;
5. Not more than 10 percent of the assets of any one fund at the time of purchase shall consist of collateralized notes and mortgages purchased pursuant to this rule; and
6. The issue must be rated BBB or better by Standard & Poor's Corporation and Moody's Investors Service, Inc., excepting that one rating is sufficient if only one rating is available.

As amended, R.1982 d.191, eff. June 21, 1982. See: 13 N.J.R. 528(a), 14 N.J.R. 663(c). (a) "debt" added; (a)2i: deleted "be of ... regulations" and replaced with "consist outstanding". Amended by R.2001 d.119, effective April 2, 2001. See: 33 N.J.R. 372(b), 33 N.J.R. 1115(a). In (a)4, substituted "of" for "or". Amended by R.2003 d.329, effective August 4, 2003. See: 35 N.J.R. 1869(a), 35 N.J.R. 3605(a). Rewrote the section. Amended by R.2004 d.32, effective January 20, 2004. See: 35 N.J.R. 4832(a), 36 N.J.R. 441(a). In (a), inserted "and the Cash Management Fund" in the introductory paragraph.

**17:16-19.2 Legal papers**

(a) Prior to any commitment to purchase obligations of the type described in this subchapter, the Director shall have obtained:

1. A prospectus or offering circular describing the issue;
2. A certification signed by two members of the Division's staff and endorsed by the Director stating that each proviso enumerated under N.J.A.C. 17:16-19.1 had been checked by them and that in their opinion the security under consideration qualified as a satisfactory investment as outlined by N.J.A.C. 17:16-19.1; and
3. In the case of an issue not registered with the Securities and Exchange Commission, the Director shall obtain, in addition to the above, such other documents or opinions which the Attorney General may require.

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.2003 d.329, effective August 4, 2003.  
 See: 35 N.J.R. 1869(a), 35 N.J.R. 3605(a).  
 In (a)3, undesignated i and deleted ii.

## SUBCHAPTER 20. INTERNATIONAL GOVERNMENT AND AGENCY OBLIGATIONS

### 17:16-20.1 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys of any pension and annuity group fund except the Consolidated Police and Firemen's Pension Fund and Common Pension Fund A, in:

1. Direct obligations of approved sovereign governments;
2. Obligations of political subdivisions of an approved sovereign government;
3. Obligations of agencies of an approved sovereign government which are unconditionally guaranteed as to principal and interest by the sovereign government's full faith and credit;
4. Obligations of international agencies which are directly backed by the collective credit of multiple countries; and
5. Obligations of agencies of the Canadian Government or Canadian Provinces which qualify under N.J.A.C. 17:16-16.

(b) The Director shall submit a list of international governments to the Council for its approval. Such list may be amended or enlarged from time to time by the Council and shall constitute the "Approved List of International Governments."

Amended by R.1991 d.386, effective August 5, 1991.  
 See: 23 N.J.R. 1775(b), 23 N.J.R. 2344(a).

In (a)2, added Common Pension Fund D.  
 Amended by R.1992 d.274, effective July 6, 1992.  
 See: 24 N.J.R. 1690(a), 24 N.J.R. 2464(a).  
 Revised text.

Amended by R.2004 d.249, effective July 6, 2004.  
 See: 36 N.J.R. 1739(a), 36 N.J.R. 3269(b).

In (b), deleted ", their subdivisions and their agencies, and international agencies" in the first sentence and deleted "and Agencies" in the second sentence; deleted (c).

Amended by R.2005 d.322, effective September 19, 2005.  
 See: 37 N.J.R. 2149(a), 37 N.J.R. 3720(a).

In (a), rewrote the introductory paragraph, 1, 3, and 4.

### 17:16-20.2 Limitations

(a) Not more than one percent of the assets of any pension and annuity group fund shall be invested in any one issuer of obligations under this subchapter, whether direct or guaranteed. The one percent limitation shall not apply to Common Pension Funds B and D.

(b) All obligations under this subchapter must be rated at least double-A by either Moody's Investors Service, Inc. or Standard & Poor's Corporation or have equivalent ratings. Subsequent to purchase, if ratings fall below double-A for such issues, they do not have to be sold.

(c) The total amount of debt issues purchased or acquired of any one issuer shall not exceed two percent of the outstanding debt of the issuer, and not more than 10 percent of any one issue may be purchased at the time of issue, except that these requirements may be waived by the State Investment Council.

Amended by R.1991 d.386, effective August 5, 1991.  
 See: 23 N.J.R. 1775(b), 23 N.J.R. 2344(a).

Deleted prior (a); recodified (b)-(d) as (a)-(c). In (a), added "any one issuer of". In (b), changed rating from "Aaa/AAA" to "Aa/AA".

Amended by R.1994 d.445, effective September 6, 1994.

See: 26 N.J.R. 2751(a), 26 N.J.R. 3742(a).

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.249, effective July 6, 2004.

See: 36 N.J.R. 1739(a), 36 N.J.R. 3269(b).

In (a), substituted "any one issuer of obligations under this subchapter, whether" for "any one issuer of international government and agency obligations, whether"; rewrote (b); in (c), deleted "on the Approved List".

Amended by R.2005 d.322, effective September 19, 2005.

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

In (a), added the last sentence, "The one percent limitation shall not apply to Common Pension Funds B and D."

### 17:16-20.3 Legal papers

(a) Prior to any commitment to purchase obligations of the type described in this subchapter, the Director shall have obtained a public prospectus or circular describing the issue.

(b) In the case of an issue which is privately placed, the Director shall obtain, in addition to the requirements of (a) above:

1. Such other documents or opinions which the Attorney General may require; and
2. A written approving opinion from the Attorney General to the effect that all such documents and opinions received by the Director are satisfactory as to form and substance.

Amended by R.1992 d.274, effective July 6, 1992.

See: 24 N.J.R. 1690(a), 24 N.J.R. 2464(a).

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

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

### 17:16-20.4 (Reserved)

## SUBCHAPTER 21. U.S. TREASURY FUTURES CONTRACTS

### 17:16-21.1 Definition of U.S. Treasury Futures Contract

As used in this subchapter, a "U.S. Treasury Futures Contract" is 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 treasury securities at a specified price (futures price) at a stated time in the future (delivery date). Prices are determined by competitive bids on the floor of the Chicago Board of Exchange. The terms of the contract are standardized and the Chicago Board of Exchange Clearinghouse takes the opposite side to each cleared transaction.

(b) Not more than four percent of the market value of any pension fund shall be invested in the common and preferred stock of any one corporation except that this four percent limitation shall not apply to Common Pension Fund A included in the list of applicable funds listed in N.J.A.C. 17:16-41.2.

(c) 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.

Amended by R.1973 d.44, eff. Feb. 8, 1973.  
 See: 5 N.J.R. 94(b).  
 Amended by R.1983 d.107, eff. April 18, 1983.  
 See: 15 N.J.R. 133(a), 15 N.J.R. 627(a).  
 25 percent deleted, replaced by 35 percent in subsection (a).  
 Amended by R.1985 d.582, effective November 18, 1985.  
 See: 17 N.J.R. 2239(b), 17 N.J.R. 2784(c).  
 "40 percent" substituted for "35 percent"; deleted "1837 Surplus Revenue Fund".  
 Amended by R.1986 d.356, effective September 8, 1986.  
 See: 18 N.J.R. 1353(a), 18 N.J.R. 1838(a).  
 (c) "five" amended to "10".  
 Amended by R.1989 d.466, effective September 5, 1989.  
 See: 21 N.J.R. 1821(a), 21 N.J.R. 2808(a).  
 Exception to equity limitation for Common Pension Fund A added at (a).  
 Administrative correction to (b).  
 See: 21 N.J.R. 3556(a).  
 Amended by R.1990 d.147, effective March 5, 1990.  
 See: 22 N.J.R. 21(b), 22 N.J.R. 840(a).  
 Individual stock holdings limited to four percent, except Common Pension Fund A.  
 Amended by R.1991 d.388, effective August 5, 1991.  
 See: 23 N.J.R. 1776(b), 23 N.J.R. 2344(b).  
 In (a), added international stocks and increased market value from 40 to 60 percent. Also added council notification when Common Pension Funds A and D exceed 58 percent. Also added six-month grace period to reduce fund below 60 percent. In (c), reduced from 10 to 5 percent amount of stock permitted to be held in one company.  
 Amended by R.1996 d.222, effective May 6, 1996.  
 See: 28 N.J.R. 1366(a), 28 N.J.R. 2397(a).  
 In (b) substituted market value for book value.  
 Amended by R.1996 d.324, effective July 15, 1996.  
 See: 28 N.J.R. 2514(a), 28 N.J.R. 3615(a).  
 Amended by R.2000 d.249, effective June 19, 2000.  
 See: 32 N.J.R. 1324(a), 32 N.J.R. 2257(b).  
 In (b), deleted "limitation for the Trustees for the Support of Public Schools shall be 10 percent. This" preceding "four".  
 Amended by R.2004 d.254, effective July 6, 2004.  
 See: 36 N.J.R. 1742(b), 36 N.J.R. 3271(a).  
 In (a), deleted "or its Executive Committee" in the second sentence.

**17:16-41.4 (Reserved)**

Amended by R.1996 d.222, effective May 6, 1996.  
 See: 28 N.J.R. 1366(a), 28 N.J.R. 2397(a).  
 Rewrote section.  
 Amended by R.2001 d.119, effective April 2, 2001.  
 See: 33 N.J.R. 372(b), 33 N.J.R. 1115(a).  
 In (a)I, substituted "Domestic" for "National".  
 Amended by R.2003 d.332, effective August 4, 2003.  
 See: 35 N.J.R. 1871(a), 35 N.J.R. 3606(b).  
 Added (c).  
 Repealed by R.2004 d.254, effective July 6, 2004.  
 See: 36 N.J.R. 1742(b), 36 N.J.R. 3271(a).  
 Section was "Approved Common Stock and Exchange-traded Funds List".

**SUBCHAPTER 42. COMMON STOCKS AND ISSUES  
 CONVERTIBLE INTO COMMON STOCKS  
 (TRUST FUNDS)**

**17:16-42.1 Permissible investments**

(a) The stock shall be issued by a company or bank incorporated or organized under the laws of the United States or any state thereof or of the District of Columbia, or by any international company that is included in the S & P 500 Composite Index.

(b) The common stock and securities must trade on an exchange in the United States or over-the-counter market, except that the common stock and securities for the Supplemental Annuity Collective Trust Fund shall be listed on a securities exchange in the United States, as required by N.J.S.A. 52:18A-115.

(c) Notwithstanding the restrictions contained in this subchapter, the Council may approve the purchase of common stocks on a case-by-case basis.

(d) Notwithstanding the above restrictions, the Director may:

1. Exercise the conversion privileges into common stock of any security acquired under this Subchapter;
2. Purchase the convertible issue of a company, the common stock of which qualifies for investment under this subchapter;
3. Purchase up to one percent of any eligible fund's assets in new public offerings of companies without prior approval of the State Investment 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
4. Retain any distribution received as a result of a corporate action, even if the security does not meet the requirements of this subchapter.

Recodified from N.J.A.C. 17:16-42.2 and amended by R.2000 d.250, effective June 19, 2000.  
 See: 32 N.J.R. 1324(b), 32 N.J.R. 2257(c).  
 Rewrote the section. Former N.J.A.C. 17:16-42.1, Definition, repealed.  
 Amended by R.2004 d.255, effective July 6, 2004.  
 See: 36 N.J.R. 1744(a), 36 N.J.R. 3271(b).  
 Rewrote the section.

**17:16-42.2 Applicable funds in the trust group**

- (a) Applicable funds in the trust group are:
1. University of Medicine and Dentistry of New Jersey—Endowment Funds;
  2. Supplemental Annuity Collective Trust;
  3. Trustees for the Support of Public Schools;

4. The Deferred Compensation Equity Fund;
5. The Deferred Compensation Small Capitalization Equity Fund; and
6. New Jersey Better Educational Savings Trust.

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

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

Recodified from N.J.A.C. 17:16-42.3 by R.2000 d.250, effective June 19, 2000.

See: 32 N.J.R. 1324(b), 32 N.J.R. 2257(c).

Former N.J.A.C. 17:16-42.3, Applicable funds in the trust group, recodified to N.J.A.C. 17:16-42.2. In (a), added 3 through 6.

### 17:16-42.3 Limitations

(a) Not more than 10 percent of the market value of any fund shall be invested, in the aggregate, in the common stock and convertible securities of any one corporation.

(b) 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 the elections of directors, of such corporation.

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.

Recodified from N.J.A.C. 17:16-42.4 by R.2000 d.250, effective June 19, 2000.

See: 32 N.J.R. 1324(b), 32 N.J.R. 2257(c).

Former N.J.A.C. 17:16-42.3, Applicable funds in the trust group, recodified to N.J.A.C. 17:16-42.2.

### 17:16-42.4 (Reserved)

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

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

Rewrote section.

Recodified from N.J.A.C. 17:16-42.6 by R.2000 d.250, effective June 19, 2000.

See: 32 N.J.R. 1324(b), 32 N.J.R. 2257(c).

Former N.J.A.C. 17:16-42.4, Limitations, recodified to N.J.A.C. 17:16-42.3.

Repealed by R.2004 d.255, effective July 6, 2004.

See: 36 N.J.R. 1744(a), 36 N.J.R. 3271(b).

Section was "Approved Common Stock and Convertible Securities List".

### 17:16-42.5 (Reserved)

Repealed by R.2000 d.250, effective June 19, 2000.

See: 32 N.J.R. 1324(b), 32 N.J.R. 2257(c).

Section was "Legal papers".

### 17:16-42.6 (Reserved)

Recodified to N.J.A.C. 17:16-42.4 by R.2000 d.250, effective June 19, 2000.

See: 32 N.J.R. 1324(b), 32 N.J.R. 2257(c).

## SUBCHAPTER 43. COVERED CALL OPTIONS

### 17:16-43.1 Definition

As used in this subchapter, "covered call options" shall mean options on common stocks held in the pertinent portfolio.

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".

### 17:16-43.2 Permissible transactions

(a) Options may be written only on stocks held in the pertinent portfolio.

(b) Any option purchased or sold shall be listed on the Chicago Board Option Exchange, the American Stock Exchange, the Philadelphia Stock Exchange or the Pacific Stock Exchange.

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.

### 17:16-43.3 Applicable funds

(a) Applicable funds include:

1. Common Pension Fund A;
2. Supplemental Annuity Collective Trust;
3. Deferred Compensation Plan—Equity Fund; and
4. Deferred Compensation Plan—Small Capitalization Equity Fund.

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.

### 17:16-43.4 Limitations

Sales of covered call options shall not exceed 10 percent of any one common stock holding.

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.

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

### 17:16-44.1 Permissible investments

(a) Subject to the limitations contained in this subchapter, permissible investments include stock issued by a company:

1. Incorporated or organized under the laws of the countries listed on the Approved List of International Governments approved by the Council pursuant to N.J.A.C. 17:16-20.1(b), or domiciled in a country where the market capitalization of the companies included in the Morgan Stanley Capital International EAFE (MSCI EAFE) Index for that country represent more than five percent of the MSCI EAFE Index;

2. That has a minimum market capitalization of \$US250 million. Subsequent to purchase, if capitalization falls below \$US250 million, the investment does not have to be sold; and

3. Whose stock trades on an exchange or over-the-counter market.

(b) International equity exchange-traded funds or closed-end global, regional or country funds must have a minimum market capitalization of \$US100 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.

(c) Notwithstanding the restrictions contained in this subchapter, the Council may approve the purchase of common stocks 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.

(d) Notwithstanding the above restrictions, 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 up to one percent of any eligible fund's assets in new public offerings of companies without prior approval of the State Investment 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).

### 17:16-44.2 Applicable funds

(a) The following funds may invest in common and preferred stock of international corporations pursuant to this subchapter:

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.

### 17:16-44.3 Limitations

(a) Not more than one percent of the market value of any pension fund shall be invested in the common and preferred stock of any one corporation. This one percent limitation shall not apply to Common Pension Fund D included in the list of applicable funds in N.J.A.C. 17:16-44.2.

(b) 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.

(c) The market value of international common and preferred stock and issues convertible into common stock that can be held by a pension fund directly or through Common Pension Fund D, when combined with the market value of common and preferred domestic stock, and issues convertible into such common stocks, permitted under N.J.A.C. 17:16-41, cannot exceed 70 percent of the market value of a pension fund, with the exception of Common Pension Funds

A and D, subject to such further provisos as are contained in N.J.A.C. 17:16-41.

(d) The market value of international preferred and common stocks and issues convertible into common stocks, when combined with the market value of international government and agency obligations permitted under N.J.A.C. 17:16-20, cannot exceed 22 percent of the market value of a pension fund, subject to such further provisos as are contained in N.J.A.C. 17:16-67.

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.

## SUBCHAPTER 45. COVERED PUT OPTIONS

### 17:16-45.1 Definition

As used in this subchapter, "covered put options" shall mean puts for common stocks held in the pertinent portfolio.

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".

### 17:16-45.2 Permissible transactions

(a) Puts may be purchased only for stocks held in the pertinent portfolio.

(b) Any put purchased or sold shall be listed on the Chicago Board Option Exchange, the American Stock Exchange, the Philadelphia Stock Exchange or the Pacific Stock Exchange.

### 17:16-45.3 Applicable funds

(a) The following funds are applicable for the purchase of puts:

1. Common Pension Fund A;
2. Supplemental Annuity Collective Trust;
3. Deferred Compensation Plan—Equity Fund; and

### 4. Deferred Compensation Plan—Small Capitalization Equity Fund.

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.

### 17:16-45.4 Limitations

Purchases of covered put options shall not exceed 10 percent of any one common stock holding.

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.

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

### 17:16-46.1 Definition of emerging markets

As used in this subchapter, "emerging markets" are defined as countries which are not eligible for investment under N.J.A.C. 17:16-20.

### 17:16-46.2 Permissible investments

(a) Subject to the limitations contained in this Subchapter, permissible investments include stock, or securities convertible into stock, of companies in emerging markets:

1. Which have at least \$US 1 billion of market capitalization; or
2. Which have depository receipts that are traded on the New York or American Stock Exchanges, or the over-the-counter markets.

(b) Subject to the limitations contained in this Subchapter, permissible investments shall also include global, regional or country funds which invest in emerging countries and which are traded on the New York or American Stock Exchanges, or the over-the-counter markets, and which have a minimum market capitalization of \$US 100 million.

(c) Notwithstanding the restrictions contained in this subchapter, the Council may approve the purchase of common stocks or global, regional or country funds on a case-by-case basis.

(d) Notwithstanding the restrictions in (a) through (c) 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 up to 0.1 percent of Common Pension Fund D's assets in new public offerings of companies in emerging markets without prior approval of the State Investment 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 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.

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.

**17:16-46.3 Applicable funds**

(a) Permissible investment is limited to Common Pension Fund D for the following pension funds:

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

**17:16-46.4 Limitations**

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

1. Not more than five 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, of such corporation;
3. The total amount of shares or interests in any one global, regional or country fund shall not exceed 10 percent of the total shares or interests of such fund; and
4. The total market value of stock, or securities convertible into stock, of companies in emerging markets and

the shares or interests in global, regional or country funds shall not exceed five percent of the total market value of the assets held by Common Pension Fund D.

(b) If, subsequent to initial purchase, the market value of the common and preferred stock of any one corporation exceeds five percent of the total market value of the emerging markets stocks in Common Pension Fund D, or the total market value of stock, or securities convertible into stock, of companies in emerging markets and the shares or interests in global, regional or country funds exceeds five percent of the total market value of the assets held by Common Pension Fund D, then the Council shall be notified at a 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 five percent level, 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.

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**SUBCHAPTER 47. EQUITY FUTURES CONTRACTS**

**Authority**

N.J.S.A. 52:18A-91.

**Source and Effective Date**

R.2003 d.334, effective August 4, 2003.  
 See: 35 N.J.R. 1872(b), 35 N.J.R. 3607(b).

**17:16-47.1 Definition**

As used in this subchapter, an "equity futures contract" is 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.

**17:16-47.2 Permissible investments**

(a) Subsections (b), (c) and (d) below are subject to the limitations contained in this subchapter.

(b) The Director may purchase and sell equity futures contracts in connection with the domestic equity securities held in Common Pension Fund A and the international equity securities held in Common Pension Fund D.

(c) Permissible investments include equity futures contracts with a minimum average daily trading volume of \$US 1 billion and that trade on the U.S. Futures Exchanges or Futures Exchanges in countries set forth in N.J.A.C. 17:16-20 or 17:16-46.

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

(e) The Council may approve the purchase of equity futures contracts on a case-by-case basis.

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.

**17:16-47.3 Limitations**

Net transactions of equity futures contracts shall not exceed the amount equal to 10 percent of the book value of Common Pension Fund A's or Common Pension Fund D's underlying equity holdings.

SUBCHAPTERS 48 THROUGH 52. (RESERVED)

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

**17:16-53.1 Definition**

(a) As used in this subchapter, a "Federal Housing Administration Insured Multi-Family Mortgage" (hereinafter referred to as "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 the following sections:

<u>Apartment House</u>	<u>Rental Units</u>
207	221D3
220	221D4

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

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

(c) The Common Pension Fund E shall not own more than 25 percent of any individual investment. 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 13 percent of the market value of the assets of any pension and annuity group 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 pension fund or through Common Pension Fund E. If the market value exceeds 13 percent, then the State Investment Council shall be notified at a 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 13 percent level, except that the period of grace may be extended for additional four-month periods with the approval of the State Investment Council.

**17:16-69.13 Liquidation**

(a) The Director, Division of Investment, subject to the approval of the State Investment Council and the State Treasurer, may, upon two months’ notice, initiate the liquidation of the aforementioned common fund.

(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 State Investment Council of a plan of distribution of the assets of the common fund.

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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 (excluding publicly traded real estate investment trusts), oil and gas, timber properties, royalty trusts and commodity-linked investments.

“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”.

### 17:16-71.2 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest 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 is permissible provided:

i. 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.

ii. In direct investments, co-investments and joint ventures, no more than 1.65 percent of the market value of the assets of any pension and annuity group fund investing in Common Fund E may be invested in real estate located outside the United States.

iii. No more than two percent of the market value of the assets of any pension and annuity group fund investing in Common Fund E may be invested in a single property type, such types being defined as office, retail, apartment/multi-family, industrial and mixed use.

iv. In direct investments, co-investments and joint ventures, no more than two percent of the market value of the assets of any pension and annuity group fund investing in Common Fund E may be invested in any one region of the United States, such regions being defined as:

- (1) East;
- (2) South;
- (3) Midwest; and
- (4) West.

2. Investments in real assets such as oil and gas, timber, royalty trusts and commodity-linked investment vehicles are permissible provided no more than 1.5 percent of the market value of the assets of any pension and annuity group fund investing in Common Fund E may be invested in this subcategory.

(b) If the leverage or market value exceeds the limitations set forth in (a) above, then the State Investment Council shall be notified at a regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to cause the real estate portfolio of Common Pension Fund E to conform with the limitations, 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.219, effective June 19, 2006.  
See: 38 N.J.R. 1176(a), 38 N.J.R. 2731(b).

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

### 17:16-71.3 Applicable funds

(a) Applicable funds are as follows:

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

### 17:16-71.4 Limitations

(a) The aggregate market value of the investment of real assets under this subchapter, for any eligible pension fund, shall not exceed five percent of the market value of all assets of such pension fund.

(b) If the market value exceeds five percent, then the State Investment Council shall be notified at a 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 five percent level, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

**17:16-71.5 Legal papers**

(a) Prior to any commitment to purchase obligations of the type described in this subchapter, the Director shall have obtained:

1. A prospectus or offering documentation describing the investment;
2. A purchase agreement, if applicable; and
3. Such other documents or opinions which the Attorney General may require.

SUBCHAPTERS 72 THROUGH 80. (RESERVED)

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**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).

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

**SUBCHAPTER 90. PRIVATE EQUITY**

**Authority**  
 N.J.S.A. 52:18A-91.

**Source and Effective Date**  
 R.2005 d.203, effective June 20, 2005.  
 See: 37 N.J.R. 579(a), 37 N.J.R. 2222(a).

**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 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, is permissible provided:

i. No more than 3.75 percent of the market value of the assets of any pension and annuity group fund investing in Common Fund E may be invested in this subcategory; and

ii. No more than 2.45 percent of the market value of the assets of any pension and annuity group fund investing in Common Fund E may be invested outside of the United States.

2. **Venture Capital Investments:** Purchase of an equity position in small, privately-owned, high-growth companies is permissible provided:

i. No more than 1.75 percent of the market value of the assets of any pension and annuity group fund investing in Common Fund E may be invested in this subcategory; and

ii. No more than 2.45 percent of the market value of the assets of any pension and annuity group fund investing in Common Fund E may be invested outside of the United States.

3. **Debt-related Investments:** Purchase of investments which combine a debt instrument with equity participation is permissible provided:

i. No more than 1.75 percent of the market value of the assets of any pension and annuity group fund investing in Common Fund E may be invested in this subcategory; and

ii. No more than 2.45 percent of the market value of the assets of any pension and annuity group fund investing in Common Fund E may be invested outside of the United States.

#### 17:16-90.3 Applicable funds

(a) Applicable funds are as follows:

1. Police and Firemen’s Retirement System;
2. Public Employees’ Retirement System;
3. State Police Retirement System;
4. Teachers’ Pension and Annuity Fund; and

#### 5. Judicial Retirement System of New Jersey.

#### 17:16-90.4 Limitations

(a) The aggregate market value of private equity investments under this subchapter, for any eligible pension fund, shall not exceed seven percent of the market value of all assets of such pension fund.

(b) If the market value exceeds seven percent, then the State Investment Council shall be notified at a 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 seven percent level, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

#### 17:16-90.5 Legal papers

(a) Prior to any commitment to purchase obligations of the type described in this subchapter, the Director shall have obtained:

1. A prospectus or offering documentation describing the investment;
2. A purchase agreement, if applicable; and
3. Such other documents or opinions which the Attorney General may require.

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#### SUBCHAPTERS 91 THROUGH 99. (RESERVED)

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#### SUBCHAPTER 100. ABSOLUTE RETURN STRATEGY INVESTMENTS

##### Authority

N.J.S.A. 52:18A-91.

##### Source and Effective Date

R.2005 d.204, effective June 20, 2005.  
See: 37 N.J.R. 580(a), 37 N.J.R. 2223(a).

#### 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 investment strategies with the goal of achieving positive returns with a degree of independence from movements in financial markets and independent of traditional performance benchmarks such as the S & P 1500 Index.