

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 or bank 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.

“Private placement” shall mean a negotiated sale in which the securities are sold directly to institutional or private investors, rather than through a public offering. Such placements are not registered with the Securities and Exchange Commission.

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.

“International corporate obligations” shall mean debt obligations of any corporation deemed by the Director to be not based in the United States. In determining whether or not 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. 17:16-16.1, Permissible investments, recodified to N.J.A.C. 17:16-16.2.

### 17:16-16.2 Permissible investments

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

1. All such securities must be payable as to both principal and interest in United States dollars;

2. The obligor is not in default as to the payment of principal or interest upon any of its outstanding obligations. Subsequent to purchase, if the obligor defaults, the obligations do not have to be sold;

3. The obligor has a market capitalization of at least \$US 100 million. Subsequent to purchase, if capitalization falls below \$US 100 million, the investment does not have to be sold; and

4. The obligations have a credit rating of Baa3 or higher by Moody’s Investor 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 has not been obtained from the above services, the obligations may be purchased if the publicly issued outstanding debt of the obligor carries the minimum rating or higher. Subsequent to purchase, if 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 the restrictions in (a) above, the Director may invest and reinvest the moneys of Common Pension Fund B in corporate obligations, international corporate obligations, collateralized notes and mortgages, bank loans, non-convertible preferred stock and mortgage backed passthrough securities that do not meet the minimum credit ratings set forth in N.J.A.C. 17:16-12.2, this section, and N.J.A.C. 17:16-19.2, 23.2, 40.2 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.

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

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

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

Council approval of each issuer deleted; minimum rating added; investment in Canadian obligations specified.

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. 17:16-16.1 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.

Amended by R.2007 d.253, effective August 20, 2007.

See: 39 N.J.R. 1461(a), 39 N.J.R. 3547(b).

In (b), 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”.

Amended by R.2008 d.386, effective December 15, 2008.

See: 40 N.J.R. 4686(a), 40 N.J.R. 6995(a).

In (a)2, inserted “. Subsequent to purchase, if the obligor defaults, the obligations do not have to be sold”; in (a)3, substituted “100 million.” for “50 million”, and inserted the second sentence; and in (b), deleted “finance company debt, bank debentures,” preceding “international” and “14.2, 15.2,” following “N.J.A.C. 17:16-12.2,” and inserted “bank loans, non-convertible preferred stock” and “, 23.2, 40.2”.

### 17:16-16.3 Eligible funds

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

1. Common Pension Fund B.

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 “Legal papers”.

### 17:16-16.4 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 assets of any eligible fund shall be invested in international corporate obligations, whether direct or guaranteed;

2. The total amount of debt issues purchased or acquired of any one issuer shall not exceed 10 percent of the outstanding debt of the issuer, or 25 percent of any one issue may be purchased at the time of issue, except that these requirements may be waived by the Council;

3. Not more than five percent of the assets of any one fund shall be invested in debt issues and non-convertible preferred stock of any one issuer; and

4. The market value of international corporate obligations, when combined with common and preferred stock and issues convertible into common stock permitted under N.J.A.C. 17:16-44 and 46 and international government and agency obligations permitted under N.J.A.C. 17:16-20,

2. Are in compliance with Rule 2a-7 under the Investment Company Act of 1940 as promulgated by the U.S. Securities and Exchange Commission; and

3. Have a minimum net asset value of \$1 billion. Subsequent to purchase, if the net asset value falls below \$1 billion, the investment does not have to be sold.

(b) Notwithstanding the restrictions contained in this subchapter, the Council may approve the purchase of money market funds on a case-by-case basis.

Amended by R.2004 d.253, effective July 6, 2004.

See: 36 N.J.R. 1742(a), 36 N.J.R. 3270(c).

Rewrote the section.

Recodified from N.J.A.C. 17:16-37.1 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). Former N.J.A.C. 17:16-37.2, Other limitations, recodified to N.J.A.C. 17:16-37.4.

**17:16-37.3 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 Demand Fund;
4. Any fund classified as a Temporary Reserve Fund;
5. Any fund classified as a Trust Fund;
6. The State of New Jersey Cash Management Fund; and
7. Common Pension Fund B.

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 "Legal papers".

**17:16-37.4 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 any fund shall be invested in money market funds; and
2. The total amount of shares or units purchased or acquired of any one money market fund shall not exceed five percent of the shares or units outstanding.

(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. 17:16-37.2 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 "Other limitations". Rewrote the section.

SUBCHAPTERS 38 THROUGH 39. (RESERVED)

SUBCHAPTER 40. NON-CONVERTIBLE PREFERRED STOCKS OF U.S. CORPORATIONS

**17:16-40.1 Definitions**

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

"Non-convertible preferred stocks" means shares of stock which provide a 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. The shares are not convertible into common stock of the corporation.

"Private placement" shall mean a negotiated sale in which the securities are sold directly to institutional or private investors, rather than through a public offering. Such placements are not registered with the Securities and Exchange Commission.

"U.S. corporation" means a 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.

**17:16-40.2 Permissible investments**

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys of any eligible fund in the non-convertible preferred stock of a U.S. corporation provided that:

1. The stock is traded on a securities exchange in the United States or the over-the-counter market or issued through a private placement. If the Director invests in non-convertible preferred stock of a company not incorporated in the United States, but is deemed to be based in the United States, 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;

2. The company has a market capitalization of at least \$100 million. Subsequent to purchase, if capitalization falls

below \$100 million, the investment does not have to be sold; and

3. The stock has 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. Subsequent to purchase, if the ratings fall below the minimum rating for such securities, they do not have to be sold, and they may be exchanged with securities with credit ratings lower than the minimum rating if the securities received in exchange are, on balance, similarly rated.

(b) Notwithstanding the restrictions in (a) above, the Director may invest and reinvest the moneys of Common Pension Fund B in corporate obligations, international corporate obligations, collateralized notes and mortgages, bank loans, non-convertible preferred stock and mortgage backed passthrough securities that do not meet the minimum credit ratings set forth in N.J.A.C. 17:16-12.2, 16.2, 19.2, 23.2, this section and N.J.A.C. 17:16-58.2, 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.

(c) Notwithstanding the restrictions contained in this subchapter, the Council may approve the purchase of non-convertible preferred stock on a case-by-case basis.

### 17:16-40.3 Eligible funds

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

1. Common Pension Fund B.

### 17:16-40.4 Limitations

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

1. The total amount of non-convertible preferred stock purchased or acquired under this subchapter of any one corporation shall not exceed 10 percent of the outstanding non-convertible preferred stock or 25 percent of the issue at the time of issue, except that these requirements may be waived by the Council;

2. Not more than five percent of the market value of the assets of any eligible fund shall be invested in the debt and non-convertible preferred convertible stock of any one corporation; and

3. Not more than five percent of the market value of the assets of any eligible fund shall be invested in debt issued through a private placement.

(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.

## SUBCHAPTER 41. COMMON AND PREFERRED STOCKS AND DEBT ISSUES CONVERTIBLE INTO COMMON STOCK OF U.S. CORPORATIONS AND U.S. EXCHANGE-TRADED FUNDS

### 17:16-41.1 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.

“Convertible debt issue” shall mean debt obligations of any corporation which is convertible into the common stock of the corporation.

“Convertible preferred stocks” shall mean shares of stock which provide a 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. The shares are convertible into common stock of the corporation.

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

“U.S. corporation” shall mean a 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. 17:16-41.1, Permissible investments, recodified to N.J.A.C. 17:16-41.2.

Amended by R.2008 d.391, effective December 15, 2008.

See: 40 N.J.R. 4690(a), 40 N.J.R. 6998(a).

Added definitions “Convertible debt issue” and “Convertible preferred stocks”; and deleted definition “Preferred stocks”.

### 17:16-41.2 Permissible investments

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