

CHAPTER 16

RULES OF THE STATE INVESTMENT COUNCIL

Authority

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

Source and Effective Date

R.2001 d.119, effective March 9, 2001.
See: 33 N.J.R. 372(b), 33 N.J.R. 1115(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 16, Rules of the State Investment Council, expires on September 5, 2006. See: 38 N.J.R. 2039(a).

Chapter Historical Note

Chapter 16, Rules of the State Investment Council, was adopted and became effective prior to September 1, 1969.

Subchapter 3, Monthly Report of Purchases, was adopted and became effective prior to September 1, 1969.

Subchapter 8, Corporate Securities—Industrial Obligations, was adopted and became effective prior to September 1, 1969.

Subchapter 27, Certificates of Deposit, was adopted and became effective prior to September 1, 1969.

Subchapter 29, Title II Federal Housing Administration Insured Construction Mortgages; Multi-family, was adopted as R.1970 d.57. See: 2 N.J.R. 51(c).

Subchapter 31, State of New Jersey Cash Management Fund, and Subchapter 32, Common Pension Fund A, were adopted as R.1971 d.17, effective February 1, 1971. See: 3 N.J.R. 14(a), 3 N.J.R. 52(b).

Subchapter 33, Community College Capital Projects Funding, was adopted as R.1971 d.175A, effective October 1, 1971. See: 3 N.J.R. 183(d), 3 N.J.R. 235(a).

Subchapter 37, Repurchase Agreements, was adopted as R.1974 d.36, effective February 14, 1974. See: 6 N.J.R. 125(a).

Subchapter 39, Bankers Acceptance, was adopted as R.1974 d.263, effective September 24, 1974. See: 6 N.J.R. 415(b).

Subchapter 38, Common Pension Fund C, was adopted as R.1974 d.266, effective September 24, 1974. See: 6 N.J.R. 416(c).

Subchapter 19, Title II Section 203B Federal Housing Administration Mortgages, was adopted as R.1975 d.67, effective March 14, 1975. See: 7 N.J.R. 180(d).

Subchapter 38, Common Pension Fund C, was adopted as new rules by R.1978 d.615, effective December 2, 1985. See: 17 N.J.R. 2386(b), 17 N.J.R. 2914(b).

Subchapter 42, Covered Call Options, and Subchapter 43, Mortgage Backed Securities were adopted as R.1979 d.307, effective August 9, 1979. See: 11 N.J.R. 475(c).

Subchapter 5, Classification of Funds, was adopted as R.1983 d. 233, effective June 1, 1983. See: 15 N.J.R. 531(a), 15 N.J.R. 1038(d).

Pursuant to Executive Order No. 66(1978), Subchapter 39, Bankers Acceptance, was readopted as R.1983 d.283, effective July 18, 1983. See: 15 N.J.R. 796(a), 15 N.J.R. 1182(d).

Pursuant to Executive Order No. 66(1978), Subchapter 32, Common Pension Fund A, expired on January 17, 1984.

Pursuant to Executive Order No. 66(1978), Subchapter 38, Common Pension Fund C, expired on January 17, 1984.

Pursuant to Executive Order No. 66(1978), Subchapter 37, Repurchase Agreements was readopted as R.1984 d.261, filed June 13, 1984. See: 16 N.J.R. 1042(a), 16 N.J.R. 1808(a).

Pursuant to Executive Order No. 66(1978), Subchapter 31, State of New Jersey Cash Management Fund, was readopted as R.1984 d.262, effective July 2, 1984. See: 16 N.J.R. 1041(a), 16 N.J.R. 1807(c).

Pursuant to Executive Order No. 66(1978), Subchapter 42, Covered Call Options, was readopted as R.1984 d.383, filed August 13, 1984. See: 16 N.J.R. 1708(a), 16 N.J.R. 2378(b).

Pursuant to Executive Order No. 66(1978), Subchapter 43, Mortgage Backed Securities, was readopted as R.1984 d.384, filed August 13, 1984. See: 16 N.J.R. 1709(a), 16 N.J.R. 2379(a).

Pursuant to Executive Order No. 66(1978), Subchapter 27, Certificates of Deposit, expired on October 31, 1984.

Pursuant to Executive Order No. 66(1978), Chapter 16, Rules of the State Investment Council, was readopted, and Subchapter 27, Certificates of Deposit, was adopted as R.1985 d.201, effective August 5, 1985. See: 17 N.J.R. 60(b), 17 N.J.R. 1907(c).

Subchapter 8, Corporate Securities—Industrial Obligations, was repealed by R.1985 d.553, effective November 4, 1985. See: 17 N.J.R. 2093(b), 17 N.J.R. 2675(a).

Subchapter 38, Common Pension Fund C, was repealed and a new Subchapter 38, Common Pension Fund C, was adopted by R.1987 d.107, effective February 17, 1987. See: 18 N.J.R. 2438(a), 19 N.J.R. 380(b).

Subchapter 41, Loan Participation Notes, was adopted as R.1988 d.466, effective October 3, 1988. See: 20 N.J.R. 1779(b), 20 N.J.R. 2467(c).

Subchapter 44, Deferred Compensation Plan, and Subchapter 46, Common Pension Fund D, and Subchapter 47, International Government and Agency Obligations, and Subchapter 49, Purchase and Sale of International Currency, were adopted as R.1990 d.7, effective January 2, 1990. See: 21 N.J.R. 3262(a), 22 N.J.R. 60(b).

Subchapter 43, Mortgage Backed Securities, was repealed and Subchapter 43, Mortgage-Backed Securities; Private Pass-Through, was adopted as new rules by R.1990 d.305, effective June 18, 1990. See: 22 N.J.R. 1043(a), 22 N.J.R. 1945(a).

Subchapter 21, Bank Debentures, was adopted by R.1990 d.306. See: 22 N.J.R. 1043(b), 22 N.J.R. 1945(b).

Subchapter 45, Real Estate Equity, was adopted as R.1990 d.307, effective June 18, 1990. See: 22 N.J.R. 1044(b), 22 N.J.R. 1945(c).

The Executive Order No. 66(1978) expiration date of Chapter 16, Rules of the State Investment Council, was extended by gubernatorial directive from December 2, 1990 to May 2, 1991. See: 23 N.J.R. 26(a).

Subchapter 1, Definitions, was repealed by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 2, Amortization Procedures, was repealed by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 3, Monthly Report of Purchases, was repealed and a new Subchapter 3, Classification of Funds, was recodified from N.J.A.C. 17:16-5 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 4, Investment Control, was repealed by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 5, Classification of Funds, was recodified to N.J.A.C. 17:16-3 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 6, United States Treasury and Government Agency Obligations, was recodified to N.J.A.C. 17:16-11 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 7, Corporate Obligations, was recodified to N.J.A.C. 17:16-12 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 9, Finance Companies—Senior Debt, was repealed by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 10, Title 11 Federal Housing Administration Mortgages, was recodified to N.J.A.C. 17:16-55 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 11, New Jersey State and Municipal General Obligations, was recodified to N.J.A.C. 17:16-17 and Subchapter 11, United States Treasury and Government Agency Obligations, was recodified from N.J.A.C. 17:16-6 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 12, Public Authority Revenue Obligations, was recodified to N.J.A.C. 17:16-18 and Subchapter 12, Corporate Obligations, was recodified from N.J.A.C. 17:16-7 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 13, Commercial Paper, was recodified to 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 14, International Bank for Reconstruction and Development, was repealed and Subchapter 14, Finance Companies; Senior Debt, was adopted as new rules by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 15, Capehart Mortgages, was repealed and Subchapter 15, Bank Debentures, was adopted as new rules by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 16, United States Government Insured Merchant Marine Bonds, was repealed and Subchapter 16, Canadian Obligations, was recodified from N.J.A.C. 17:16-23 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 17, Common and Preferred Stock and Issues Convertible into Common Stock, was recodified to N.J.A.C. 17:16-41 and Subchapter 17, New Jersey State and Municipal Government Obligations, was recodified from N.J.A.C. 17:16-11 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 18, Inter-American Development Bank, was repealed and Subchapter 18, Public Authority Revenue Obligations, was recodified from N.J.A.C. 17:16-12 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 19, Title II Section 203(B) Federal Housing Administration Mortgages, was repealed and a new Subchapter 19, Collateralized Notes and Mortgages, was recodified from N.J.A.C. 17:16-40 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 20, Title III Section 501(B) Veterans Administrative Mortgages, was repealed and a new Subchapter 20, International Government and Agency Obligations, was recodified from N.J.A.C. 17:16-47 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

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

Subchapter 22, Common Stocks and Convertible Securities, was recodified to 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 23, Canadian Obligations, was recodified to N.J.A.C. 17:16-16 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 24, United States Government Obligations, was repealed by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 25, Three-party Agreements; United States Government, was repealed by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 26, Three-party Agreements; Corporate, was repealed by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 27, Certificates of Deposit, was recodified to 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 28, Title II Federal Housing Administration—Insured Mortgages; Multifamily, was recodified to N.J.A.C. 17:16-53 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

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

Subchapter 30, Minimum Legal Requirements, was repealed by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 31, State of New Jersey Cash Management Fund, was recodified to N.J.A.C. 17:16-61 and Subchapter 31, Commercial Paper, was recodified from N.J.A.C. 17:16-13 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 32, Common Pension Fund A, was recodified to N.J.A.C. 17:16-62 and Subchapter 32, Certificates of Deposit, was recodified from N.J.A.C. 17:16-27 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 33, Community College Capital Projects Funding, was repealed and a new Subchapter 33, Repurchase Agreements, was recodified from N.J.A.C. 17:16-37 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 34, Rule on Investment of Proceeds of Bonds for School Building Construction, was repealed and a new Subchapter 34, Bankers Acceptance, was recodified from N.J.A.C. 17:16-39 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 35, Loan Participation Notes, was recodified from N.J.A.C. 17:16-41 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

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

Subchapter 37, Repurchase Agreements, was recodified to N.J.A.C. 17:16-33 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 38, Common Pension Fund C, was repealed by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 39, Bankers Acceptance, was recodified to N.J.A.C. 17:16-34 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 40, Collateralized Notes and Mortgages, was recodified to N.J.A.C. 17:16-19 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 41, Loan Participation Notes, was recodified to N.J.A.C. 17:16-35 and Subchapter 41, Common and Preferred Stock and Issues Convertible into Common Stock, was recodified from N.J.A.C. 17:16-17 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

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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(b).

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).

Subchapter 90, Private Equity, was adopted as new rules by R.2005 d.203, effective June 20, 2005. See: 37 N.J.R. 579(a), 37 N.J.R. 2222(a).

Subchapter 100, Absolute Return Strategy Investments, was adopted as new rules by R.2005 d.204, effective June 20, 2005. See: 37 N.J.R. 580(a), 37 N.J.R. 2223(a).

Subchapter 46, Common and Preferred Stocks and Issues Convertible Into Common Stock of International Corporations In Emerging Markets and Global, Regional or Country Funds, was renamed Common and Preferred Stocks and Issues Convertible Into Common Stock of International Corporations and Global, Regional or Country Funds In Emerging Markets by R.2006 d.259, effective July 17, 2006. See: 38 N.J.R. 1410(a), 38 N.J.R. 3065(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.

Source and Effective Date

R.2005 d.123, effective April 18, 2005.
See: 36 N.J.R. 4695(a), 37 N.J.R. 1223(a).

17:16-4.1 Purpose

(a) It is the policy of the State Investment Council to ensure that the selection of investment management firms to provide investment management services to the State pension funds is based on the merits of such firms and not on the political contributions made by such firms. This subchapter is designed to protect the beneficiaries of the pension funds, the State taxpayers and the public interest by:

1. Prohibiting investment management firms from being engaged to provide investment management services to the State if certain political contributions have been made; and
2. Requiring investment management firms that provide or are applying to provide investment management services to the State to disclose certain political contributions, as well as other information, thereby allowing meaningful public scrutiny of the selection of investment management firms.

17:16-4.2 Definitions

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

“Control” means to possess, directly or indirectly, influence or authority over another.

“Council” means the State Investment Council.

“Investment management firm” means one or more natural persons, corporations, partnerships or other entities, incorporated or unincorporated, that provide investment management services.

“Investment management professional” means:

1. Any person associated with an investment management firm who is primarily engaged in the provision of investment management services;
2. Any person associated with an investment management firm involved in client development or the solicitation of business for investment management services from pension fund clients;
3. Any person associated with an investment management firm who is a supervisor of any person described in 1 or 2 above, up through and including the Chief Executive Officer or similarly situated official; or
4. Any person associated with an investment management firm, its parent company, or any other entity that controls the investment management firm, who is a member of the executive or management committee of such firm or controlling entity, or similarly situated officials, if any.

“Investment management services” means:

1. The business of making or recommending investment management decisions for or on behalf of the State pension fund clients;
2. The business of advising or managing a separate entity which makes or recommends investment management decisions for or on behalf of the State pension fund clients; or
3. The provision of financial advisory or consultant services to State pension fund clients.

“Payment” means any gift subscription, loan, advance, or deposit of money or anything of value.

“Political contribution” means any gift, subscription, loan, advance, or deposit of money or anything of value made:

1. For the purpose of influencing any election for State office;
2. For the purpose of influencing any election for local office by a person who is also:

i. A State official; or

ii. An employee or advisor of either the State or a State official;

3. For payment of debt incurred in connection with any such election; or

4. For transition or inaugural expenses incurred by the successful candidate in any such election.

“Political party” means any political party or political committee organized in this State, including county and “independent” committees.

“State” means the State of New Jersey. Communication with the State includes communication with its officers and employees.

“State official” means any person (including any election or political action committee for such person) who was, at the time of the political contribution, an incumbent, candidate or successful candidate for Governor or for a seat in the Legislature. Communication with a State official includes communication with the employees and advisors of such official.

“Third party solicitor” means a third party lobbyist who solicits investment management business through direct or indirect communication with the State or a State official on behalf of an investment management firm, but does not include any person whose sole basis of compensation from the investment management firm is the actual provision of legal, accounting, engineering, real estate or other professional advice, services or assistance.

Amended by R.2005 d.275, effective August 15, 2005.

37 N.J.R. 1126(a), 37 N.J.R. 3050(a).

Rewrote 4. in “Investment management professional” definition.

17:16-4.3 Restrictions

(a) The Division of Investment shall not engage an investment management firm to provide investment management services for the benefit of the State or its pension funds and shall terminate the contract of any investment management firm if, within the two years prior to such engagement or during the term of such engagement, any political contribution or payment to a political party covered by this policy has been made or paid by:

1. The investment management firm, its parent company, or any other person or entity that controls the investment management firm;
2. Any investment management professional associated with such investment management firm;
3. Any third party solicitor associated with such investment management firm; or
4. Any political action committee controlled by the investment management firm, its parent company, or any

other entity that controls the investment management firm, or by an investment management professional of such investment management firm or controlling entity.

(b) The provision of (a) above shall not, however, prohibit the investment management firm from being engaged to provide investment management services to the State if the only political contributions made by a person noted above within the two years prior to, and during, any such engagement were/are made by the contributor to State officials for whom the contributor was/is entitled to vote. Political contributions made by a contributor, pursuant to this subsection, shall not exceed \$250.00 per State official, per election.

(c) The provision of (a) above shall not, however, prohibit the investment management firm from being engaged to provide investment management services to the State if the only payments to any political party made by a person noted above within the two years prior to, and during, any such engagement did/do not exceed \$250.00 per political party, per year.

(d) The provisions of (a) through (c) above shall apply to political contributions and payments to political parties made by any individual or entity for the 12-month period prior to such individual or entity becoming an investment management firm, investment management professional or third party solicitor.

Amended by R.2005 d.275, effective August 15, 2005.
37 N.J.R. 1126(a), 37 N.J.R. 3050(a).

Rewrote (a)1 and 4.

17:16-4.4 Solicitations

(a) Any investment management firm, investment management professional or third party solicitor that is engaged or is seeking to be engaged in providing investment management services to the State shall not:

1. Solicit any person or political action committee to make a political contribution or payment to a political party;
2. Coordinate political contributions or payments to a political party;
3. Fund political contributions or payments to a political party made by third parties, including consultants, attorneys, family members or persons controlling the investment management firm; or
4. Engage in any exchange of political contributions or payments between State officials or political parties to circumvent the intent of this policy.

17:16-4.5 Indirect violations

No investment management firm, investment management professional or third party solicitor shall, directly or indi-

rectly, through or by any other person or any means whatsoever, do any act which would violate the provisions of N.J.A.C. 17:16-4.3 or 4.4, or otherwise circumvent the intent of this policy.

Amended by R.2005 d.275, effective August 15, 2005.

37 N.J.R. 1126(a), 37 N.J.R. 3050(a).

Added "any" preceding "means", "whatsoever" following "means" and ", or otherwise circumvent the intent of this policy" following "4.4".

17:16-4.6 Reporting

(a) Each investment management firm that seeks to be engaged to provide investment management services to the State shall designate those persons who qualify as investment management professionals.

(b) Except as otherwise provided in (d) below, each investment management firm that is engaged to provide investment management services to the State shall, by the last day of the month following the end of each calendar quarter, send to the Council and the Division of Investment the following information:

1. Any updates to designations pursuant to (a) above;
2. For all political contributions and payments to political parties in the State made by persons described in N.J.A.C. 17:16-4.3(a), excluding any political contribution or payment to a political party made pursuant to N.J.A.C. 17:16-4.3(b) and (c):
 - i. The name and address of the contributor;
 - ii. The name and title of each State official or political party receiving the political contribution or payment;
 - iii. The amount of the political contribution or payment to the political party; and
 - iv. The date of the political contribution or payment to the political party.
3. Whether any political contribution or payment to a political party listed in (b) above is the subject of an exemption pursuant to N.J.A.C. 17:16-4.10, and the date of such exemption; and
4. For any payment made to a third party solicitor: the name and business address of the recipient, the services provided by the recipient, the compensation arrangement between the investment management firm and the recipient, and the total dollar amount of payments made during the report period.

(c) Each investment management firm seeking to be engaged to provide investment management services to the State shall send to the Council and the Division of Investment quarterly disclosure reports as provided in (b) above for a period of time which is the lesser of two years or from April 18, 2005, prior to the date of its application or proposal to provide investment management services to the State.

(d) No investment management firm shall be required to report to the Council and the Division of Investment for any calendar quarter in which such investment management firm has no information that is required to be reported pursuant to (b) above for such calendar quarter.

(e) Once a political contribution or payment to a political party or third party solicitor has been disclosed on a report, the investment management firm need not disclose that particular contribution or payment on subsequent reports.

(f) Each investment management firm seeking to be engaged to provide investment management services to the State shall report the information required by this section on forms provided by the Division of Investment.

(g) Each Council member shall comply with the reporting provisions of (b) above for their term as a member of the Council. Each Council member shall further send to the Council quarterly disclosure reports as provided in (b) above for the four quarters immediately preceding April 18, 2005.

(h) It is prohibited for any Council member to receive any form of compensation, gratuity, gift, service or payment in connection with the hiring or retention of any investment management firm by the Division of Investment, any investment management professional associated therewith or third party solicitor related thereto during the Council member's term and for a two-year period immediately following the completion of such Council member's term. This subsection shall include any and all compensation, gratuity, service or payment from such investment management firm, investment management professional or third party solicitor made to the Council member's immediate family. For the purposes of this subsection, "immediate family" shall mean a person's spouse, child, parent or sibling residing in the same household or a person's domestic partner as defined in P.L. 2003, c.246 (N.J.S.A. 26:8A-3).

17:16-4.7 Public disclosure

The Council and the Division of Investment shall make public a copy of each report received from an investment management firm within 30 days of its receipt or as otherwise required by law.

17:16-4.8 Additional information

The Council and the Division of Investment will accept additional information related to political contributions, payments to political parties and payments to third party solicitors voluntarily submitted by investment management firms or others.

17:16-4.9 Contract termination

The Division of Investment shall provide in each contract with an investment management firm that a violation of the provisions in this subchapter shall be cause for immediate termination of such contract.

17:16-4.10 Exemptions

(a) An investment management firm that is prohibited from being engaged to provide investment management services to the State pursuant to N.J.A.C. 17:16-4.3 may exempt itself from such prohibition, subject to (b) and (c) below, upon satisfaction of the following requirements:

1. The investment management firm must have discovered the political contribution or the payment to a political party that resulted in the prohibition on business within four months of the date of such contribution or payment;

2. Such political contribution or payment to a political party must not have exceeded \$250.00; and

3. The contributor must obtain a return of the political contribution or payment to the political party within 60 calendar days of the date of discovery of such contribution or payment.

(b) An investment management firm is entitled to no more than two exemptions for every 12-month period.

(c) An investment management firm may not utilize more than one exemption relating to political contributions or payment to a political party by the same investment management professional or third party solicitor regardless of the time period.

17:16-4.11 Effectiveness

The prohibitions and disclosures found in this subchapter, except for the provisions of N.J.A.C. 17:16-4.6(h) relating to 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 United States Treasury and Government Agency Obligations

(a) Notwithstanding the provisions of any law pertaining to legal investments, the Director shall not make any commitment to purchase securities for any fund unless such securities are of the class of securities in which such fund may be invested pursuant to these regulations; except that the Director may purchase for any pension and annuity, static, trust, demand or temporary reserve fund without regard to any limitation:

1. United States Treasury Obligations;
2. United States Government Agency Obligations from a list approved by the State Investment Council; and
3. Treasury receipts, certificates of accrual, collateralized mortgage obligations or similar securities which evidence ownership of interest and/or principal of securities eligible under 1. and 2. above, provided that the Director and a member of his staff certify that the security being considered for purchase is qualitatively substantially identical to the Government securities which secure or otherwise support it.

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).

SUBCHAPTER 12. CORPORATE OBLIGATIONS

17:16-12.1 Permissible investments

The Director may invest and reinvest the moneys of any fund in corporate obligations which meet the standards set forth in N.J.A.C. 17:16-12.2.

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.

17:16-12.2 Pension and annuity group; static group; trust group

(a) The Director may invest or reinvest the moneys of any pension and annuity fund, static group fund, trust group fund, Common Pension Fund B, or where maturities are less than two years, the State of New Jersey Cash Management 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 and the issuer has executed a Registration Rights Agreement which obligates it to file a Registration Statement with the Securities and Exchange Commission within 180 days of the date of issuance, except that this requirement may be waived by the State Investment Council.

2. The obligor is incorporated under the laws of the United States or any State thereof or of the District of Columbia;

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

4. The obligor has a stockholders' equity (consisting of the sum of equity accounts, capital surplus and earned surplus) of at least \$50 million; and furthermore the long term debt ratio (defined as the ratio of long term debt to the sum of stockholders' equity and long term debt) of the obligor shall be less than 60 percent;

5. The obligor has a credit rating of Baa/BBB or higher by Moody's Investors Service, Inc. and Standard & Poor's Corporation, except that one rating is sufficient if only one rating is available. If a rating has not been obtained from either service, the issue may be purchased if the publicly issued outstanding debt of the issuer carries a Baa/BBB rating or higher. Subsequent to purchase, if ratings fall below Baa/BBB for such issues, they do not have to be sold, and they may be exchanged with issues of

credits rated lower than Baa/BBB if the credits received in exchange are, on balance, similarly rated; and

6. The total amount of debt issues purchased or acquired in a fund of any one corporation shall not exceed 25 percent of the outstanding long term debt of the company, and not more than 25 percent of the issue at the time of issue.

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

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

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

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

(a)1.-(a)5, added.

Amended by R.1990 d.304, effective June 18, 1990.

See: 22 N.J.R. 1042(b), 22 N.J.R. 1944(b).

In (a)4, increased long term debt ratio from 50 to 60 percent and telephone debt ratio from 55 to 60 percent.

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

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

Text at (a)6 added.

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) specified funds and in (a)4 deleted exception for telephone utilities.

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.2001 d.320, effective September 4, 2001.

See: 33 N.J.R. 2255(a), 33 N.J.R. 3031(b).

Rewrote (a)1.

17:16-12.3 Legal papers

(a) Prior to any commitment to purchase obligations of the type described in this subchapter, the Director shall have obtained, in all cases, a certification signed by a member of the Division's staff and endorsed by the Director stating that, in their opinion, the security under consideration qualifies under the requisites of this subchapter and the Division shall have received:

1. With respect to issues registered with the Securities and Exchange Commission, or issued pursuant to Rule 144A of the Securities and Exchange Commission and the issuer has executed a Registration Rights Agreement which obligates it to file a Registration Statement with the Securities and Exchange Commission within 180 days of the date of issuance:

i. On new issues, a prospectus or offering memorandum describing the issue;

ii. On existing issues, a copy of the description of the issue as contained in Moody's Investors Service, Inc. or in the Standard & Poor's or in any other corporation records publication or service published for the use of and accepted as reliable by investors in such obligations;

2. With respect to all other issues not registered with the Securities and Exchange Commission:

i. On new issues, in the case of private placements:

ii. On existing issues, in the case of issues which were originally offered to the public:

(1) A copy of the description of the issues as contained in Moody's Investor's Service, Inc. or Standard & Poor's Corporation records or in any other publication or service published for the use of and accepted as reliable by investors in such obligations;

(2) A written approving opinion from the Attorney General to the effect that the purchase agreement is satisfactory as to form and substance;

(3) At the closing for the purchase of the private placement legal opinions of counsel for the purchaser and counsel for the issuer, which opinions shall include a statement to the effect that the bonds are properly authorized and valid obligations of the issuer;

iii. On existing issues, in the case of issues which were originally placed privately:

(1) A copy of the original offering memorandum describing the terms of the issue and the business and operations of the issuer at the time of the original issue;

(2) A copy of the purchase agreement for the issue, together with all amendments thereto;

(3) A copy of the form 10-K of the issuer which was most recently filed with the Securities and Exchange Commission, or if the company does not file for 10-K reports, then the most recent audited financial statement;

(4) Representations, in writing, from the seller to the Division to the effect that there are no restrictions on the sale of the bonds to funds managed by the Division; no registration of the issue with the Securities and Exchange Commission is required if the bonds are sold to funds managed by the Division; and the seller purchased the bonds directly from the issuer when the issue was originally sold. In the event other owners have intervened between the issuer and the seller, the seller must substitute for the last requirement mentioned in the first sentence above, the representation that no such intervening transaction required registration of the securities with the Securities and Exchange Commission. The seller may substitute for these representations a no-action letter of the Securities and Exchange Commission regarding any requirements to register the bonds;

(5) A written approving opinion from the Attorney General that the representations or no-action letter required by (4) above are satisfactory; and

(6) Approval of the State Investment Council.

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

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

As amended, R.1974 d.191, eff. July 16, 1974.

See: 6 N.J.R. 328(b).

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

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

Old section "Temporary reserve group; demand group" repealed and old 7.4 recodified with amendments.

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

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

Amended by R.2001 d.320, effective September 4, 2001.

See: 33 N.J.R. 2255(a), 33 N.J.R. 3031(b).

In (a)1. rewrote the introductory paragraph, inserted "or offering memorandum" following "prospectus" in i and substituted "Investors Service, Inc." for "Manuals" in ii; in (a)2, inserted "all other" preceding "issues" in the introductory paragraph and substituted "Investor's Service, Inc." for "Manuals" in ii(1).

Amended by R.2004 d.248, effective July 6, 2004.

See: 36 N.J.R. 1738(a), 36 N.J.R. 3269(a).

In (a), substituted "the requisites of this subchapter and the Division shall have received;" for "the requisites of this subchapter; and" in the introductory paragraph.

17:16-12.4 (Reserved)

SUBCHAPTER 13. (RESERVED)

SUBCHAPTER 14. FINANCE COMPANIES—SENIOR DEBT

17:16-14.1 Permissible investments

The Director may invest and reinvest the moneys of any eligible fund in the debt securities of finance companies as is set forth in this subchapter.

17:16-14.2 Pension and annuity group; static group; trust group

(a) The Director may invest or reinvest the moneys of any pension and annuity fund, static group fund, trust group fund, Common Pension Fund B or, where maturities are less than two years, the State of New Jersey Cash Management Fund, in the debt securities of finance companies 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 and the issuer has executed a Registration Rights Agreement which obligates it to file a Registration Statement with the Securities and Exchange Commission within 180 days of the date of issuance, except that this requirement may be waived by the State Investment Council;

2. The obligor is incorporated under the laws of the United States or any State thereof or of the District of Columbia;

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

4. The obligor has a capitalization of at least \$200 million;

5. The obligor or its predecessors shall have had an average pre-tax interest coverage of at least 1.00 times for the last five reported fiscal years;

6. The obligor has a credit rating of A/A or higher by Moody's Investors Service, Inc. and Standard & Poor's Corporation, excepting that one rating is sufficient if only one rating is available. If a rating has not been obtained from either service, the issue may be purchased if the publicly issued outstanding debt of the issuer carries a A/A rating or higher. Subsequent to purchase, if ratings fall below A/A for such issues, they do not have to be sold, and they may be exchanged with issues of credits rated lower than A/A if the credits received in exchange are, on balance, similarly rated;

7. The total amount of debt issues purchased or acquired of any one corporation shall not exceed 10 percent of the outstanding debt of the corporation, 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.

8. Not more than three percent of the assets at the time of purchase of any one fund shall be invested in senior debt of any one company maturing more than 12 months from date of purchase.

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 two years for a year, and in (a)5 inserted "at least".

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)8, substituted "three" for "two".

Amended by R.2001 d.321, effective September 4, 2001.
See: 33 N.J.R. 2256(a), 33 N.J.R. 3031(c).
Rewrote (a)1.

17:16-14.3 Legal papers

(a) Prior to any commitment to purchase obligations of the type described in this subchapter, the Director shall have obtained, in all cases, a certification signed by a member of the Division's staff and endorsed by the Director stating that, in their opinion, the security under consideration qualifies under the requisites of this subchapter and the Division shall have received:

1. With respect to issues registered with the Securities and Exchange Commission, or issued pursuant to Rule 144A of the Securities and Exchange Commission and the issuer has executed a Registration Rights Agreement which obligates it to file a Registration Statement with the Securities and Exchange Commission within 180 days of the date of issuance:

i. On new issues, a prospectus or offering memorandum describing the issue; and

ii. On existing issues, a copy of the description of the issue as contained in Moody's Investors Service, Inc. or in the Standard & Poor's or in any other corporation records, publication or service published for the use of and accepted as reliable by investors in such obligations.

2. With respect to all other issues not registered with the Securities and Exchange Commission:

i. On new issues, in the case of private placements:

(1) An offering memorandum describing the terms of the issue and the business and operations of the issuer;

(2) A written approving opinion from the Attorney General to the effect that the purchase agreement is satisfactory as to form and substance;

(3) At the closing for the purchase of the private placement, legal opinions of counsel for the purchaser and counsel for the issuer, which opinions shall include a statement to the effect that the bonds are properly authorized and valid obligations of the issuer;

ii. On existing issues, in the case of issues which were originally offered to the public, a copy of the description of the issue as contained in Moody's Investors Service, Inc. or Standard & Poor's Corporation records or in any other publication or service published for the use of and accepted as reliable by investors in such obligations;

iii. On existing issues, in the case of issues which were originally placed privately:

(1) A copy of the original offering memorandum describing the terms of the issue and the business

and operations of the issuer at the time of the original issue;

(2) A copy of the purchase agreement for the issue, together with all amendments thereto;

(3) A copy of the form 10-K of the issuer which was most recently filed with the Securities and Exchange Commission, or if the company does not file form 10-K reports, then the most recent audited financial statement;

(4) Representation, in writing, from the seller to the Division to the effect that:

(A) There are no restrictions on the sale of the bonds to funds managed by the Division;

(B) No registration of the issue with the Securities and Exchange Commission is required if the bonds are sold to funds managed by the Division; and

(C) The seller purchased the bonds directly from the issuer when the issue was originally sold or, if other owners have intervened between the issuer and the seller, that no such intervening transaction required registration of the securities with the Securities and Exchange Commission; or

(D) In substitution for the representations in (a)2iii(4)(A)-(C) above, a no-action letter of the Securities and Exchange Commission regarding any requirements to register the bonds;

(5) A written approving opinion from the Attorney General that the representations or no-action letter required by (a)2iii(4) above are satisfactory; and

(6) Approval of the State Investment Council.

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)1ii, substituted "Investors Service, Inc." for "Manuals".

Amended by R.2001 d.321, effective September 4, 2001.

See: 33 N.J.R. 2256(a), 33 N.J.R. 3031(c).

In (a)1, rewrote the introductory paragraph and inserted "or offering memorandum" preceding "describing" in i; in (a)2, inserted "all other" preceding "issues" in the introductory paragraph and , substituted "Investors Service, Inc." for "Manuals" in ii.

SUBCHAPTER 15. BANK DEBENTURES

17:16-15.1 Permissible investments

The Director may invest and reinvest the moneys of any eligible fund in the debt securities of banks as is set forth in this subchapter.

17:16-15.2 Pension and annuity group; static group; trust group

(a) The Director may invest or reinvest the moneys of any pension and annuity fund, static group fund, trust group fund, Common Pension Fund B or, where maturities are 25 months or less, the State of New Jersey Cash Management Fund, in the debt securities of banks 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 and the issuer has executed a Registration Rights Agreement which obligates it to file a Registration Statement with the Securities and Exchange Commission within 180 days of the date of issuance, except that this requirement may be waived by the State Investment Council;

2. The obligor is incorporated under the laws of the United States or any State thereof or of the District of Columbia;

3. The total amount of debt issues purchased or acquired of any one corporation shall not exceed 10 percent of the outstanding debt of the corporation 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;

4. The obligor:

i. Is not in default as to the payment of principal or interest upon any of its outstanding obligations;

ii. Has common equity (including surplus and retained earnings) of at least \$200 million;

iii. The issuer, at the date of its last published balance sheet preceding the date of investment, was in conformance with all capital requirements as stipulated by:

(1) The Federal Reserve Board, in the case of United States banks; and

(2) The appropriate national regulatory body, in the case of foreign-headquartered banks.

5. Has a credit rating of A/A or higher by Moody's Investors Service, Inc. and Standard & Poor's Corporation, excepting that one rating is sufficient if only one rating is available. If a rating has not been obtained from either service, the issue may be purchased if the publicly issued outstanding debt of the issuer carries a A/A rating or higher. Subsequent to purchase, if ratings fall below A/A for such issues, they do not have to be sold, and they may be exchanged with issues of credits rated lower than A/A if the credits received in exchange are, on balance, similarly rated.

Amended by R.1998 d.207, effective May 4, 1998.

See: 30 N.J.R. 804(a), 30 N.J.R. 1635(a).

In (a), substituted "where maturities are less than two years" for "where maturities are less than a year" in the introductory paragraph. Amended by R.2001 d.322, effective September 4, 2001.

See: 33 N.J.R. 2257(a), 33 N.J.R. 3032(a).

In (a), substituted "25 months or less" for "less than two years" in introductory paragraph, and rewrote 1.

17:16-15.3 Legal papers

(a) Prior to any commitment to purchase obligations of the type described in this subchapter, the Director shall have obtained, in all cases, a certification signed by a member of the Division's staff and endorsed by the Director stating that, in their opinion, the security under consideration qualifies under the requisites of this subchapter and the Division shall have received:

1. With respect to issues registered with the Securities and Exchange Commission, or issued pursuant to Rule 144A of the Securities and Exchange Commission and the issuer has executed a Registration Rights Agreement which obligates it to file a Registration Statement with the Securities and Exchange Commission within 180 days of the date of issuance:

i. On new issues, a prospectus or offering memorandum describing the issue;

ii. On existing issues, a copy of the description of the issue as contained in Moody's Investors Service, Inc. or in the Standard & Poor's or in any other corporation records, publication or service published for the use of and accepted as reliable by investors in such obligations.

2. With respect to all other issues not registered with the Securities and Exchange Commission:

i. On new issues, in the case of private placements:

(1) An offering memorandum describing the terms of the issue and the business and operations of the issuer;

(2) A written approving opinion from the Attorney General to the effect that the purchase agreement is satisfactory as to form and substance; and

(3) At the closing, for the purchase of the private placement, legal opinions of counsel for the purchaser and counsel for the issuer, which opinions shall include a statement to the effect that the bonds are properly authorized and valid obligations of the issuer;

ii. On existing issues, in the case of issues which were originally offered to the public, a copy of the description of the issue as contained in Moody's Investors Service, Inc. or Standard & Poor's Corporation records or in any other publication or service published for the use of and accepted as reliable by investors in such obligations;

iii. On existing issues, in the case of issues which were originally placed privately;

(1) A copy of the original offering memorandum describing the terms of the issue and the business and operations of the issuer at the time of the original issue;

(2) A copy of the purchase agreement for the issue, together with all amendments thereto;

(3) A copy of the form 10-K of the issuer which was most recently filed with the Securities and Exchange Commission, or if the company does not file form 10-K reports, then the most recent audited financial statement;

(4) Representation, in writing, from the seller to the Division to the effect that:

(A) There are no restrictions on the sale of the bonds to funds managed by the Division;

(B) No registration of the issue with the Securities and Exchange Commission is required if the bonds are sold to funds managed by the Division; and

(C) The seller purchased the bonds directly from the issuer when the issue was originally sold or, if other owners have intervened between the issuer and the seller, that no such intervening transaction required registration of the securities with the Securities and Exchange Commission; or

(D) In substitution for these representations in (a)2iii(4)(A)-(C) above, a no-action letter of the Securities and Exchange Commission regarding any requirements to register the bonds;

(5) A written approving opinion from the Attorney General that the representations or no-action letter required by (a)2iii(4) above are satisfactory; and

(6) Approval of the State Investment Council.

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)1ii and (a)2ii, substituted "Investors Service, Inc." for "Manuals".

Amended by R.2001 d.322, effective September 4, 2001.

See: 33 N.J.R. 2257(a), 33 N.J.R. 3032(a).

In (a)1, rewrote the introductory paragraph, and inserted "or offering memorandum" following "prospectus" in i; in (a)2, inserted "all other" preceding "issues" in the introductory paragraph.

SUBCHAPTER 16. CANADIAN OBLIGATIONS

17:16-16.1 Permissible investments

Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys of any pension and annuity group fund including Common Pension Fund B and Common Pension Fund D in obligations issued by any company incorporated within the Dominion of Canada or which are the direct obligations of or are unconditionally guaranteed as to principal and interest by the Government of Canada, or by a province thereof and which are rated A or better by Moody's Investors Service, Inc. and Standard & Poor's Corporation. All such securities must be payable as to both principal and interest in United States dollars.

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).

17:16-16.2 Limitations

(a) Not more than 10 percent of the book value of the assets of any pension and annuity group fund shall be invested in Canadian obligations, whether direct or guaranteed.

(b) Not more than two percent of the book value of the assets of any pension and annuity group fund shall be invested in Canadian obligations, whether direct or guaranteed, of any one issuer.

(c) The total amount of debt issues purchased or acquired of any one issuer on the approved list shall not exceed 10 percent of the outstanding debt of the issuer, and not more than the greater of \$10 million or 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.

As amended, R.1972 d.75, effective April 19, 1972.
See: 4 N.J.R. 109(a).
As amended, R.1976 d.155, effective May 19, 1976.
See: 8 N.J.R. 314(b).
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.
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) and (b) inserted "book value".

17:16-16.3 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 describing the issue; and
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. 17:16-16.1 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. 17:16-16.1.

(b) In the case of an issue not registered with the Securities and Exchange Commission, the Director shall obtain, in addition to the 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.

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

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

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)2, substituted "N.J.A.C. 17:16-16.1" for "section 1 of this subchapter".

17:16-16.4 (Reserved)

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

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

Section was "Approved Canadian Obligations List".

SUBCHAPTER 17. NEW JERSEY STATE AND MUNICIPAL GENERAL OBLIGATIONS

17:16-17.1 Applicable funds

(a) The Director may invest and reinvest moneys of any pension and annuity group or other fund in the obligations of the State of New Jersey or any municipal or political subdivision of this State as set forth in this subchapter.

As amended, R.1975 d.363, effective December 11, 1975.

See: 7 N.J.R. 51(b).

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

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

Provisions amended to include all funds.

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

See: 32 N.J.R. 372(b), 33 N.J.R. 1115(a).

17:16-17.2 Investment prerequisites

(a) The Director may invest moneys of any eligible fund provided that:

1. The obligor is not in default as to the payment of principal or interest upon any of its outstanding obligations;
2. The obligor has a credit rating of A/A or higher by Moody's Investors Service, Inc. and Standard & Poor's Corporation, excepting that one rating is sufficient if only one rating is available. If a rating has not been obtained from either service the issue may be purchased if the publicly issued outstanding debt of the issuer carries a A/A rating or higher. Subsequent to purchase, if ratings fall below A/A for such issues, they do not have to be sold, and they may be exchanged with issues of credit

rated lower than A/A if the credits received in exchange are, on balance, similarly rated;

3. The total amount of debt issues purchased or acquired of any one political entity shall not exceed 10 percent of the outstanding debt of the entity, and not more than 10 percent of any one issue, serial note or maturity may be purchased in the aggregate by all eligible funds; and

4. Not more than 2 percent of the assets at the time of purchase of any one fund shall be invested in senior debt of any one political entity maturing more than 12 months from date of purchase.

(b) Investment made pursuant to this subchapter shall comply with Federal arbitrage regulations.

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

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

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

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

Deletion of written affidavit requirements; Director given authority to invest funds based on financial status of obligor and amount of debt purchased; Federal arbitrage regulations incorporated.

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

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

17:16-17.3 Legal papers

(a) Prior to any commitment to purchase obligations of the type described in this office, the Director shall have obtained, in all cases, a certification signed by a member of the Division's staff and endorsed by the Director stating that, in their opinion, the security under consideration qualified under the requisites of this subchapter and the Division shall have received:

1. On new issues, a prospectus describing the issue; and
2. On existing issues, a copy of the description of the issue as contained in Moody's or in the Standard & Poor's or in any other financial records publication or service accepted as reliable by investors for such obligations.

New Rule. R.1991 d.274. effective June 3, 1991.

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

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), substituted "subchapter" for "article".

17:16-17.4 Purchases for Temporary Reserve Group, Demand and Static Funds

The Director may invest and reinvest the moneys of an eligible fund in the obligations of any State or political subdivision thereof provided that such investment in tax exempt securities is required in order to comply with Federal arbitrage regulations and further provided that such investment qualifies under this subchapter and that the obligation was issued with an unqualified approving opinion of a recognized bond counsel to the effect that the obligations have been duly authorized and issued and are legal, valid and binding obligations of the issuer. If the obligation is guaranteed by the Federal government, the above requirement may be waived.

New Rule. R.1982 d.192, effective June 4, 1982.

See: 13 N.J.R. 526(b), 14 N.J.R. 663(b).

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

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

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).

SUBCHAPTER 18. PUBLIC AUTHORITY REVENUE OBLIGATIONS

17:16-18.1 Definitions

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

"Public authority" means any State or any political subdivision thereof, any authority, department, district or commission, or any agency or instrumentality of any of the foregoing, or any agency or instrumentality of the Federal government, or a commission or other public body created by an Act of Congress or pursuant to a compact between any two or more states.

"Revenue obligations" means any bonds or other interest-bearing obligations of a public authority, the principal and interest of which are by their terms payable from the revenues derived from a utility or enterprise owned or operated by the public authority which issued such bonds or obligations, or by an agency or instrumentality thereof.

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

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

"Enterprise" added to "Revenue obligations".

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

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

17:16-18.2 Applicable funds

(a) Subject to the limitations contained in N.J.A.C. 17:16-18.3, the Director may invest and reinvest the moneys of any pension and annuity group fund or other fund in the revenue obligations of any public authority provided that:

1. Such investment in tax exempt securities is required to comply with Federal arbitrage regulations;
2. Such obligations are rated A or better by Moody's Investors Service and the Standard & Poor's Corporation; and
3. No more than 10 percent of any one issue, serial note or maturity may be purchased in the aggregate by all eligible funds.

Amended by R.1982 d.192, effective June 4, 1982.

See: 13 N.J.R. 526(b), 14 N.J.R. 663(b).

(b) added.

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

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

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 eligible fund in:

1. Direct obligations of sovereign governments;
2. Obligations of political subdivisions of a sovereign government;
3. Obligations of agencies of a sovereign government which are unconditionally guaranteed as to principal and interest by the sovereign government's full faith and credit; and
4. Obligations of international agencies which are directly backed by the collective credit of multiple sovereign governments.

(b) Notwithstanding (a) above, the Director may only invest and reinvest the moneys of the Cash Management Fund in direct obligations of the Canadian government or a province thereof that are:

1. Denominated in United States dollars; and
2. Have a credit rating of Aa3 or higher by Moody's Investor Service, Inc., AA- or higher by Standard & Poor's Corporation, and AA- 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.

(c) Notwithstanding subsection above, the Director may only invest and reinvest the moneys of Common Pension Fund B in international government and agency obligations that are:

1. Denominated in United States dollars; and
2. 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.

(d) Notwithstanding the restrictions contained in (a) through (c) above, the Council may approve the purchase of international government and agency obligations on a case-by-case basis.

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.
 Amended by R.2006 d.257, effective July 17, 2006.
 See: 38 N.J.R. 1407(a), 38 N.J.R. 3063(a).

Rewrote the section.

17:16-20.2 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;
6. Common Pension Fund B;
7. Common Pension Fund D; and
8. Cash Management Fund.

New Rule, R.2006 d.257, effective July 17, 2006.

See: 38 N.J.R. 1407(a), 38 N.J.R. 3063(a).

Former N.J.A.C. 17:16-20.2, Limitations, recodified to N.J.A.C. 17:16-20.3.

17:16-20.3 Limitations

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

1. Not more than one percent of the market value of the assets of any eligible fund, either directly or through Common Pension Funds B or D, shall be invested in obligations, whether direct or guaranteed, of any one issuer. The one percent limitation shall not apply to Common Pension Funds B and D.

2. The total amount of debt issues purchased or acquired of any one issuer shall not exceed 25 percent of the outstanding debt of the issuer, and not more than the greater of \$US 10 million 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. The market value of international government and agency obligations held by an eligible fund (other than Common Pension Fund D), either directly or through Common Pension Fund D, 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 Canadian obligations permitted under N.J.A.C. 17:16-16, cannot exceed 22 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.

(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.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."

Recodified from N.J.A.C. 17:16-20.2 and amended by R.2006 d.257, effective July 17, 2006.

See: 38 N.J.R. 1407(a), 38 N.J.R. 3063(a).

Rewrote the section. Former N.J.A.C. 17:16-20.3, Legal papers, repealed.

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.

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

17:16-21.2 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may purchase and sell U.S. Treasury Futures Contracts for the purpose of hedging U.S. Treasury Securities held in Common Pension Fund B.

(b) Any U.S. Treasury Futures Contract purchased or sold shall be listed on the Chicago Board of Trade.

(c) The Director may deliver U.S. Treasury Securities to satisfy contractual obligations pursuant to the Division of Investment's purchase and sale of U.S. Treasury Futures Contracts.

17:16-21.3 Limitations

(a) Net purchases of U.S. Treasury Futures Contracts shall not exceed the amount equal to 10 percent of the book value of Common Pension Fund B's underlying U.S. Treasury Bond holdings.

(b) Only Primary Government Securities Dealers may be used for executing transactions in U.S. Treasury Futures Contracts.

SUBCHAPTERS 22. FIXED INCOME EXCHANGE-TRADED FUNDS

Authority

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

Source and Effective Date

R.2003 d.330, effective August 4, 2003.
See: 35 N.J.R. 1869(a), 35 N.J.R. 3605(a).

17:16-22.1 Permissible investments

(a) Subject to the limitations contained in this subchapter, permissible investments include exchange-traded funds which invest primarily in domestic fixed income securities authorized pursuant to N.J.A.C. 17:16-11 through 21 herein and which are traded on the New York or American Stock Exchanges or the over-the-counter markets, and have a minimum market capitalization of \$100 million. Subsequent to purchase, if capitalization falls below \$100 million, the investment does not have to be sold.

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

Amended by R.2004 d.250, effective July 6, 2004.
See: 36 N.J.R. 1740(a), 36 N.J.R. 3269(c).
Rewrote the section.

17:16-22.2 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;
5. Common Pension Fund B;
6. Common Pension Fund D; and
7. Judicial Retirement System of New Jersey.

17:16-22.3 Limitations

(a) Not more than four percent of the market value of any pension fund shall be invested in a single fixed income exchange-traded fund.

(b) The total amount of shares or units purchased or acquired of any one fixed income exchange-traded fund shall not exceed five percent of the shares or units outstanding of any fixed income exchange-traded fund.

SUBCHAPTERS 23 THROUGH 30. (RESERVED)

SUBCHAPTER 31. COMMERCIAL PAPER

17:16-31.1 Definition

As used in this subchapter, "commercial paper" shall mean secured or unsecured promissory notes.

Amended by R.1969 d.32, effective Dec. 19, 1969.
See: 1 N.J.R. 24(b), 2 N.J.R. 44(e).

17:16-31.2 Permissible investments

(a) Subject to the maturity limitations contained in this subchapter, the Director may invest and reinvest the moneys of any fund in "prime" rated commercial paper which is not in default as to either principal or interest when acquired and which has been issued by a company incorporated within and transacting business within the United States. Subsequent to purchase, if the rating falls below "prime," the investment does not have to be sold.

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

As amended, R.1972 d.75, eff. April 19, 1972.
See: 4 N.J.R. 109(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.251, effective July 6, 2004.
 See: 36 N.J.R. 1740(b), 36 N.J.R. 3270(a).
 In (a), added the last sentence; rewrote (b).

17:16-31.3 Limitations

The Director may purchase "prime commercial paper" for any fund, including the State of New Jersey Cash Management Fund, providing the maturity purchased does not exceed 270 days.

Repeal and New Rule, R.1991 d.274, effective June 3, 1991.
 See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
 Amended by R.2004 d.251, effective July 6, 2004.
 See: 36 N.J.R. 1740(b), 36 N.J.R. 3270(a).

17:16-31.4 (Reserved)

17:16-31.5 Legal papers

Prior to any commitment to purchase commercial paper, the Director shall obtain a certificate or other evidence that such commercial paper is rated A-1 by "Standard & Poor's Commercial Paper Division" and P-1 by Moody's. If only one rating is available, the investment is considered to meet the requirements of this subchapter.

As amended, R.1969 d.32, eff. December 19, 1969.
 See: 1 N.J.R. 24(b), 2 N.J.R. 44(c).
 As amended, R.1973 d.125, eff. May 10, 1973.
 See: 5 N.J.R. 204(b).
 As amended, R.1974 d.218, eff. August 8, 1974.
 See: 6 N.J.R. 361(c).
 As amended, R.1975 d.236, eff. August 6, 1975.
 See: 7 N.J.R. 442(b).
 Repealed by R.1991 d.274, effective June 3, 1991.
 See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
 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.251, effective July 6, 2004.
 See: 36 N.J.R. 1740(b), 36 N.J.R. 3270(a).
 Rewrote the section.

SUBCHAPTER 32. CERTIFICATES OF DEPOSIT

17:16-32.1 Permissible investments

(a) The following pertains to uncollateralized certificates of deposit:

1. Subject to the limitations contained in this subchapter, the Director may invest and reinvest moneys of any fund, including the State of New Jersey Cash Management Fund in certificates of deposit of banks, provided that:

- i. The investment in the certificate of deposit is limited to a term of one year or less;
- ii. The issuer of the certificate of deposit is a bank or trust company which:

(1) If headquartered in the United States or if a United States subsidiary of a foreign bank, is a member of the Federal Reserve System and the Federal Deposit Insurance Corporation; or

(2) If headquartered outside of the United States has Moody's ratings of at least Aa/P-1 on its long-term and short-term deposits, respectively, and is headquartered in a country which is rated at least Aa by Moody's and has agreed to adhere to the international capital standards as stipulated in the Basle Accord; and

iii. The issuer, at the date of its last published balance sheet preceding the date of investment, was in conformance with all capital requirements as stipulated by the Federal Reserve Board, in the case of United States banks, and the appropriate national regulatory body, in the case of foreign-headquartered banks.

2. The total investment in the certificate of deposit of any one issuer, combined with the total investment in the bankers acceptances of any one issuer, shall not exceed 10 percent of the issuer's primary capital.

(b) The following pertains to collateralized certificates of deposit:

1. Subject to the limitations contained in this subsection, the Director may invest and reinvest moneys of any pension and annuity, static, demand, temporary reserve or trust group fund in collateralized certificates of deposit provided that:

i. The investment in the certificate of deposit is limited to a term of one year or less;

ii. The issuer demonstrates the capacity to wire collateral against payment through the Federal Reserve System to a designated custodian bank;

iii. The issuer provides collateral against payment consisting of United States Government Treasury obligations or obligations of the following United States Government agencies:

- (1) Federal Farm Credit Banks Consolidated Systemwide Bonds;
- (2) Federal Financing Banks;
- (3) Federal Home Loan Banks; and/or
- (4) Federal Land Banks;

iv. At the time of purchase the market value of the collateral provided under (b)1iii above shall be equal to at least 120 percent of the purchase price of the certificate of deposit; and

v. The securities selected as collateral shall have a maturity not exceeding 10 years from the date of the purchase of the certificate of deposit.

Amended by R.1979 d.436, eff. October 31, 1979.

See: 11 N.J.R. 650(c).

Amended by R.1982 d.191, eff. June 21, 1982.

See: 13 N.J.R. 528(a), 14 N.J.R. 663(c).

(a): "uncollateralized" added; (a)1: "the" certificate was "a" certificate, (b) through (b)6 added.

Amended by R.1983 d.281, eff. July 18, 1983.

See: 15 N.J.R. 794(a), 15 N.J.R. 1182(b).

Minimum assets established and that a foreign entity not be in control.

Repeal and new rule by R.1990 d.335, effective July 2, 1990.

See: 22 N.J.R. 1349(a), 22 N.J.R. 2032(c).

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

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

New Jersey Cash Management Fund added.

Amended by R.1995 d.482, effective September 5, 1995.

See: 27 N.J.R. 2543(a), 27 N.J.R. 3378(a).

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)2 substituted "primary" for "total".

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

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

17:16-32.2 Other limitations

(a) The issuer of a certificate of deposit shall deliver such certificate to a third party bank designated by the Division of Investment.

(b) The prospective issuer of a certificate of deposit shall be capable of providing rate quotes over the telephone upon request, and such quotes shall be good for 10 minutes.

(c) The certificate of deposit is in an amount of at least \$1,000,000.

Amended by R.1974 d.63, March 12, 1974.

See: 6 N.J.R. 158(c).

Amended by R.1974 d.94, eff. April 18, 1974.

See: 6 N.J.R. 205(a).

Amended by R.1979, d.436, eff. October 31, 1979.

See: 11 N.J.R. 650(c).

Amended by R.1983 d.281, eff. July 18, 1983.

See: 15 N.J.R. 794(a), 15 N.J.R. 1182(a).

References to total investment and bankers acceptances, added.

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

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

In (b), substituted "10" for "ten".

17:16-32.3 Legal papers

Prior to any commitment to purchase obligations of the type described in N.J.A.C. 17:16-32.1(a), it shall be ascertained that the security under consideration is included on a list of banks which has been certified by the Director and a member of his staff as having met the requirements of this regulation.

Amended by R.1972 d.75, eff. April 9, 1972.

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

Amended by R.1974 d.63, eff. March 12, 1974.

See: 6 N.J.R. 158(c).

Amended by R.1976 d.208, eff. July 1, 1976.

See: 8 N.J.R. 407(a).

Amended by R.1979 d.436, eff. October 31, 1979.

See: 11 N.J.R. 650(c).

Amended by R.1983 d.281, eff. July 18, 1983.

See: 15 N.J.R. 794(a), 15 N.J.R. 1182(a).

Language added regarding a list of banks certified by the Director and a member of staff as having met the requirements of the regulation.

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

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

Amended the N.J.A.C. reference.

17:16-32.4 (Reserved)

SUBCHAPTER 33. REPURCHASE AGREEMENTS

17:16-33.1 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest moneys of any fund, including the State of New Jersey Cash Management Fund, in repurchase agreements of any bank or securities broker, provided that:

1. The seller is a bank or trust company or a wholly-owned subsidiary of such bank or trust company which:
 - i. Is headquartered in the United States; and
 - ii. Is a member of the Federal Reserve System; or
2. The seller is a securities broker which:
 - i. Is headquartered in the United States;
 - ii. Is registered with the Securities and Exchange Commission; and
 - iii. Meets the criteria for issuers of Commercial Paper as specified under N.J.A.C. 17:16-31.
3. The seller demonstrates the capacity to wire collateral against payment through the Federal Reserve System to a designated custodian bank; and
4. The security sold by the bank or securities broker and subject to repurchase is an obligation of the United States Government or an obligation of the following United States Government agencies:
 - i. Federal Farm Credit Banks Consolidated System-wide Bonds;
 - ii. Federal Financing Bank;
 - iii. Federal Home Loan Banks; and
 - iv. Federal Land Banks.

As amended, R.1974 d.264, eff. September 24, 1974.

See: 6 N.J.R. 416(a).

As amended, R.1979 d.95, eff. March 8, 1979.

See: 11 N.J.R. 212(a).

As amended, R.1983 d.282, eff. July 18, 1983.

See: 15 N.J.R. 795(a), 15 N.J.R. 1182(c).

Restrictions on investments limited to banks in U.S. not foreign controlled, ability to wire collateral through Federal Reserve and security is an obligation of U.S. Government.

Amended by R.1986 d.357, effective September 8, 1986.

See: 18 N.J.R. 1353(b), 18 N.J.R. 1838(b).

Added text to (a)1.

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

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

New Jersey Cash Management Fund added.

Amended by R.1993 d.188, effective May 3, 1993.

See: 25 N.J.R. 909(a), 25 N.J.R. 1886(a).

Revised text.

Amended by R.1995 d.483, effective September 5, 1995.

See: 27 N.J.R. 2543(b), 27 N.J.R. 3378(b).

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.252, effective July 6, 2004.

See: 36 N.J.R. 1741(a), 36 N.J.R. 3270(b).

In (a), rewrote 2iii.

17:16-33.2 Limitations

The maturity of repurchase agreements shall not exceed 15 days. At the time of purchase, the market value of the securities delivered pursuant to the repurchase agreement shall be equal to at least 102 percent of the par value of the repurchase agreement. The securities delivered shall have a maturity not exceeding 10 years from the date of the repurchase agreement.

As amended, R.1983 d.282, eff. July 18, 1983.

See: 15 N.J.R. 795(a), 15 N.J.R. 1182(c).

30 days maturity of repurchase agreement reduced to 15 days.

17:16-33.3 through 17:16-33.4 (Reserved)

SUBCHAPTER 34. BANKERS ACCEPTANCE

17:16-34.1 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest moneys of any fund, including the State of New Jersey Cash Management Fund, in bankers acceptances of banks provided that:

1. The investment in the bankers acceptance is limited to a term of one year or less; or
2. The accepting institution is a bank or trust company which:
 - i. If headquartered in the United States or if a United States subsidiary of a foreign bank, is a member of the Federal Reserve System and the Federal Deposit Insurance Corporation; or
 - ii. If headquartered outside of the United States has Moody's ratings of at least Aa/P-1 on its long-term and short-term deposits, respectively, and is headquartered in a country which is rated at least Aa by Moody's and has agreed to adhere to the international capital standards as stipulated in the Basle Accord.

(b) In the case of (a)2i and ii above, the issuer, at the date of its last published balance sheet preceding the date of investment, shall have been in conformance with all capital requirements as stipulated by the Federal Reserve Board, in the case of United States banks, and the appropriate national regulatory body, in the case of foreign-headquartered banks.

(c) The total investment in the bankers acceptances of any one issuer, combined with the total investment in the certificates of deposit on any one issuer, shall not exceed 10 percent of the issuer's primary capital.

As amended, R.1983 d.283, eff. July 18, 1983.

See: 15 N.J.R. 796(a), 15 N.J.R. 1182(d).

Fuller clarification of limitations on bankers acceptances.

Amended by R.1985 d.555, effective November 4, 1985.

See: 17 N.J.R. 2095(b), 17 N.J.R. 2676(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).

New Jersey Cash Management Fund added.

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

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

Rewrote (a)2, deleted (a)3 which mandated a minimum capital ratio, added (b) and redesignated (a)4 as (c).

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

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

17:16-34.2 (Reserved)

17:16-34.3 Other limitations

(a) The accepting institution shall deliver the acceptance to a third party bank designated by the Division of Investment.

(b) The accepting institution shall be capable of providing rate quotes over the telephone upon request, and such quotes shall be good for 10 minutes.

(c) The bankers acceptance is in an amount of at least \$1,000,000.

As amended, R.1983 d.283, eff. July 18, 1983.

See: 15 N.J.R. 796(a), 15 N.J.R. 1182(d).

State agencies added to list.

Amended by R.1985 d.555, effective November 4, 1985.

See: 17 N.J.R. 2095(b), 17 N.J.R. 2676(b).

Old text deleted and new text substituted.

17:16-34.4 through 17:16-34.5 (Reserved)

17:16-34.6 Legal papers

Prior to any commitment to purchase obligations of the type described in this subchapter, it shall have been ascertained that the security under consideration is included on a list of banks which has been certified by the Director and a member of his staff as having met the requirements of this regulation.

As amended, R.1983 d.283, eff. July 18, 1983.

See: 15 N.J.R. 796(a), 15 N.J.R. 1182(d).

SUBCHAPTER 35. (RESERVED)

SUBCHAPTER 36. GUARANTEED INCOME CONTRACTS

17:16-36.1 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest the assets of any fund in guaranteed income contracts, provided that:

1. The issuer of the guaranteed income contract is incorporated in the United States;

2. The issuer is not in default as to the payment of any of its outstanding obligations;

3. The issuer, in the case of an insurance company, had a total combined capital stock and surplus reserve for contingencies equal to at least \$200,000,000 at the date of its last published financial statement and a credit rating of at least A+ from A.M. Best Company; or

4. The issuer, in the case of a commercial bank, meets all capital requirements as defined by the Federal Reserve Board at the date of its last published financial statement and has a short term debt rating of at least P1 from Moody's Investor's Service, Inc.

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

17:16-36.2 Other limitations

The investment in a guaranteed income contract is limited to a term of 10 years or less.

17:16-36.3 Legal papers

Prior to any commitment to purchase a guaranteed income contract, the Division of Investment shall ascertain that the issuer is included on a list of companies which has been certified by the Director as having met the requirements of this subchapter.

SUBCHAPTER 37. MONEY MARKET FUNDS

Authority

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

Source and Effective Date

R.2003 d.331, effective August 4, 2003.
See: 35 N.J.R. 1870(a), 35 N.J.R. 3606(a).

17:16-37.1 Permissible investments

(a) Subject to the limitations contained in this subchapter, permissible investments include money market funds which invest primarily in money market securities authorized pursuant to N.J.A.C. 17:16-11 and 17:16-31 through 36, 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 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.

17:16-37.2 Other limitations

(a) The Director may purchase money market funds for any fund, including the State of New Jersey Cash Management Fund.

(b) Not more than 10 percent of the book value of any fund shall be invested in money market funds.

(c) 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.

17:16-37.3 Legal papers

(a) Prior to any commitment to purchase shares or units in a money market fund described in this subchapter, the Director shall have obtained:

1. A prospectus describing the issue; and
2. The most recent annual and semiannual reports for the money market fund.

SUBCHAPTERS 38 THROUGH 40. (RESERVED)

**SUBCHAPTER 41. U.S. COMMON AND
PREFERRED STOCKS AND ISSUES
CONVERTIBLE INTO COMMON STOCKS
AND EXCHANGE-TRADED FUNDS**

17:16-41.1 Permissible investments

(a) Subject to the limitations contained in this subchapter, 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) Subject to the limitations contained in this subchapter, the common stock and securities shall trade on an exchange in the United States or the over-the-counter market.

(c) Permissible investments include exchange-traded funds which invest in companies incorporated or organized under the laws of the United States, are traded on the New York or American Stock Exchanges or over-the-counter markets, and have a minimum market capitalization of \$100 million. For the purposes of this subchapter, exchange-traded funds shall be considered as common stocks in

determining all applicable limitations contained within this subchapter. Subsequent to purchase, if capitalization falls below \$100 million, the investment does not have to be sold.

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

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

1. Exercise the conversion privileges in the common stock of any security acquired under this subchapter or under N.J.A.C. 17:16-12;
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 a debt issue of a company, the common stock of which qualifies for investment under this subchapter; for the purpose of this rule all such debt purchased shall be considered as common stock in determining all applicable limitations contained herein. Not more than three percent of the total assets held in Common Pension Fund A shall be invested in such debt;
5. 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
6. 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.1973 d.44, eff. Feb. 8, 1973.

See: 5 N.J.R. 94(b).

Amended by R.1986 d.356, effective September 8, 1986.

See: 18 N.J.R. 1353(a), 18 N.J.R. 1838(a).

Subchapter 8 amended to 7.

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

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

Amended by R.1995 d.385, effective July 17, 1995.

See: 27 N.J.R. 1767(a), 27 N.J.R. 2703(b).

Amended by R.2000 d.181, effective May 1, 2000.

See: 32 N.J.R. 743(a), 32 N.J.R. 1526(a).

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).

In (c), substituted "Approved Common and Preferred Stock and Convertible Securities List" for "Approved Common Stock List"; in (d)1, updated the N.J.A.C. reference.

Amended by R.2003 d.332, effective August 4, 2003.

See: 35 N.J.R. 1871(a), 35 N.J.R. 3606(h).

Added new (b); recodified former (b) through (d) as new (c) through (e); rewrote new (c) and (d).

Amended by R.2003 d.356, effective September 2, 2003.

See: 35 N.J.R. 2411(a), 35 N.J.R. 4124(c).

In (e), added a new 4 and recodified former 4 as 5.

Amended by R.2004 d.254, effective July 6, 2004.

See: 36 N.J.R. 1742(b), 36 N.J.R. 3271(a).

Rewrote the section.

17:16-41.2 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.
5. Common Pension Fund A.
6. Judicial Retirement System of New Jersey.

Amended by R.1983 d.107, eff. April 18, 1983.

See: 15 N.J.R. 133(a), 15 N.J.R. 627(a).

Deleted reference to 1837 Surplus Revenue Fund.

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

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

Deferred Compensation Equity Fund added.

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

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

Deleted Consolidated Police and Firemen's Pension Fund.

Amended by R.1998 d.29, effective January 5, 1998.

See: 29 N.J.R. 4409(b), 30 N.J.R. 106(a).

Added (a)9.

Amended by R.2000 d.181, effective May 1, 2000.

See: 32 N.J.R. 743(a), 32 N.J.R. 1526(a).

Added (a)10.

Amended by R.2000 d.249, effective June 19, 2000.

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

In (a), deleted a former 6, recodified former 7 as 6, deleted former 8 and 9, and recodified former 10 as 7.

Administrative change.

See: 32 N.J.R. 2602(b).

17:16-41.3 Limitations

(a) The market value of total investments in common and preferred stock and issues convertible into common stock, both domestic, as permitted herein, and international, as permitted in N.J.A.C. 17:16-44, for any one of the pension funds listed in N.J.A.C. 17:16-41.2 shall not exceed 70 percent of the market value of such fund, with the exception of Common Pension Funds A and D. When the combined market value of the common and preferred stock and issues convertible into common stock, held by a pension fund, either directly or in Common Pension Funds A and D, reaches or exceeds 68 percent of the total market value of the pension fund as of the end of a period used for evaluating unit values of participation, then the Council shall be notified at a 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 a pension fund, either directly or in Common Pension Funds A and D, exceeds 70 percent of the total market value of the respective 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.

(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)1, 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, the Director may invest and reinvest the moneys of any eligible fund in:

1. Stock issued by a company incorporated, headquartered or primarily doing business in a country 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, and whose stock trades on an exchange or over-the-counter market; and

2. International equity exchange-traded funds or closed-end global, regional or country funds with a minimum market capitalization of \$US 50 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 50 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.

17:16-44.2 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.

17:16-44.3 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 10 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 Canadian obligations permitted under N.J.A.C. 17:16-16, cannot exceed 22 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.

(b) If, subsequent to initial purchase, the limitations in (a)1 or 2 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.

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 AND GLOBAL, REGIONAL OR COUNTRY FUNDS IN EMERGING MARKETS

17:16-46.1 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 companies incorporated, headquartered or primarily doing business in emerging markets; and

2. Global, regional or country funds which invest in emerging markets 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 50 million. Subsequent to purchase, if capitalization falls below \$US 50 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.

(d) For purposes of this subchapter, "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.

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.

17:16-46.2 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.

17:16-46.3 Limitations

(a) At 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 10 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 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 Canadian obligations permitted under N.J.A.C. 17:16-16, cannot exceed 22 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.

(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.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.

SUBCHAPTER 47. EQUITY FUTURES CONTRACTS

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).

17:16-53.2 General provision

Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys in any pension and annuity group fund in 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).

17:16-53.3 Limitations

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

(b) The book value of mortgages purchased under this subchapter shall not exceed 20 percent of the assets of any pension and annuity fund at any one time.

(c) The Director shall approve the servicing agent for the mortgage.

(d) Prior to the purchase of any mortgage, the Director may designate a qualified consultant to inspect the property and general area and render a report of the feasibility of the purchase including his opinion of value. His fee shall be paid by the borrower or the sponsoring financial organization.

(e) No mortgage application for a mortgage on real property located within the State of New Jersey shall be considered except upon the recommendation of:

1. A New Jersey corporation presently servicing mortgages worth over \$50,000,000; or
2. A bank chartered by the Federal government and whose principal office is located in New Jersey and is presently servicing mortgages worth over \$50,000,000; or
3. The Real Estate Department of a bank or brokerage firm with capital stock, surplus and undivided profits totaling at least \$50,000,000, engaged in the purchase of FHA insured multi-family housing mortgages.

(f) Said New Jersey corporation or bank shall take the following factors into consideration in making its recommendations:

1. The net worth of the borrower;
2. The adequacy of the Federal Housing Administration escrow arrangements;
3. The salability of the property;
4. The income productivity of the property at the levels designated in the Federal Housing Administration documentation;
5. Any feasibility report of the consultant designated by the Director.

(g) No mortgage shall be recommended for purchase to the pension funds unless the Research Group within the

Division of Investment shall have certified that the purchase is a legal investment and that the terms and yield on the security purchased are fair and equitable when compared with other securities available in the marketplace.

(h) No mortgage shall be purchased in a state which gives the borrower a redemption period.

As amended, R.1970 d.57, eff. May 21, 1970.
See: 2 N.J.R. 51(c).
As amended, R.1970 d.137, eff. November 13, 1970.
See: 2 N.J.R. 86(c), 2 N.J.R. 102(d).
As amended, R.1972 d.182, eff. September 18, 1972.
See: 4 N.J.R. 249(b).
As amended, R.1982 d.192, eff. June 4, 1982.
See: 13 N.J.R. 526(b), 14 N.J.R. 663(b).
Sections 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).
Citations corrected.
Amended by R.2001 d.119, effective April 2, 2001.
See: 33 N.J.R. 372(b), 33 N.J.R. 1115(a).
In (c), inserted "agent" following "servicing".

17:16-53.4 Legal papers

(a) Prior to issuance of a commitment to purchase, the Director shall have obtained and approved:

1. Advance commitment:
 - i. A current credit report on the borrower;
 - ii. Plans and specifications of proposed construction and a survey of the property;
 - iii. A copy of FHA commitment;
 - iv. A copy of FHA mortgagee's application for insurance, completed in its entirety;
 - v. All other pertinent FHA documents and approvals including, but not limited to, project analysis, estimated cost of construction and personal financial and credit statements.
2. Immediate purchase commitment:
 - i. Photographs of the property;
 - ii. Credit report on mortgage;
 - iii. Mortgagor's most recent financial statement;
 - iv. Current operating statement and occupancy report;
 - v. Copy of the application for FHA commitment, the FHA commitment for insurance and project analysis.

(b) Subsequent to the time of closing, the Director shall obtain:

1. Such documents as the Attorney General shall determine were required to effect the investment;
2. A written approving opinion from the Attorney General to the effect that all such documents and opin-

ions received by the Director are satisfactory as to form and substance;

3. A servicing agreement in such form as the Attorney General may direct, entered into with the agent approved by the Director.

As amended, R.1970 d.57, eff. May 21, 1970.

See: 2 N.J.R. 51(c).

As amended, R.1972 d.182, eff. September 18, 1972.

See: 4 N.J.R. 249(b).

As amended, R.1982 d.192, eff. June 4, 1982.

See: 13 N.J.R. 526(b), 14 N.J.R. 663(b).

(a)1 added. Renumbered 1-5 as i-v;

(a)6 now (a)2 with "such" and "data as" deleted.

(b)3 "bank ... mortgage" deleted and "agent approved by the Director" added.

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

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

SUBCHAPTER 54. TITLE II FEDERAL HOUSING ADMINISTRATION INSURED CONSTRUCTION MORTGAGES—MULTI- FAMILY

17:16-54.1 Definitions

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

1. 207;
2. 220;
3. 221D3;
4. 221D4;
5. 236.

As amended, R.1975 d.364, eff. December 11, 1975.

See: 7 N.J.R. 51(c).

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

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

17:16-54.2 General provision

Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys in any pension and annuity group fund in Title II Federal Housing Administration Insured Construction 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).

17:16-54.3 Limitations

(a) Any investment in any construction mortgage shall be not less than \$1,000,000 nor more than \$10,000,000.

(b) The book value of construction mortgages and those purchased under N.J.A.C. 17:16-53 and 54 shall not exceed 20 percent of the assets of any pension and annuity fund at any one time.

(c) No construction mortgage shall be made except in conjunction with a mortgage and under the limitations contained in N.J.A.C. 17:16-53, Title II Federal Housing Administration Insured Mortgages—Multi-Family.

(d) No construction mortgage application shall be considered unless said mortgage is to be on real property located within the State of New Jersey.

(e) A corporation, brokerage firm or bank qualified under N.J.A.C. 17:16-53 must recommend the construction mortgage, but must, as a condition of their recommendation, arrange for a bank located in New Jersey to act as a principal in said construction mortgage for an amount not less than 10 percent and not more than 30 percent of the total amount of the construction mortgage. Said principal bank shall in all cases be approved by the Director.

(f) No construction mortgage shall be recommended for purchase to the pension funds unless the Research Group within the Division of Investment shall have certified that the purchase is a legal investment and that the terms and yield on the security purchased are fair and equitable.

As amended, R.1970 d.137, eff. November 13, 1970.

See: 2 N.J.R. 86(e), 2 N.J.R. 102(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): \$10,000,000 was \$8,000,000.

(c): "New Jersey" deleted, "brokerage firm" added.

(f): 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).

Citations corrected.

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

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

In (c), substituted "N.J.A.C. 17:16-53" for "Subchapter 28" and deleted "of this Chapter" following "Multi-Family"; in (e), substituted "principal" for "principle" following "in said construction" and updated the N.J.A.C. reference.

17:16-54.4 Legal papers

(a) Prior to issuance of any commitment to participate in a construction loan, the Director shall have obtained and approved:

1. A current credit report on the borrower;
2. Plans and specifications of proposed construction and a survey of the property;
3. A copy of FHA commitment for insurance;
4. A copy of the application for FHA commitment, completed in its entirety;

5. All other pertinent FHA documents and approvals including, but not limited to, project analysis, estimated cost of construction and personal financial credit statements;

6. A participation agreement entered into between the principal bank and the pension or annuity fund;

7. Builder's qualifications, including but not limited to, recent financial statements and past experience on similar projects.

(b) Subsequent to the time of closing, the Director shall obtain:

1. Such documents as the Attorney General shall determine were required to effect the investment;

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.

As amended, R.1972 d.182, eff. September 18, 1972.
See: 4 N.J.R. 249(b).

SUBCHAPTER 55. TITLE II FEDERAL HOUSING ADMINISTRATION HOSPITAL MORTGAGES

17:16-55.1 Definition

As used in this subchapter, a "Federal Housing Administration Hospital Mortgage" (hereinafter referred to as "mortgage") shall mean a mortgage on a hospital 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 Section 242(G).

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

17:16-55.2 General provision

Subject to the limitations contained in this subchapter, the director may invest and reinvest the moneys in any pension and annuity group fund in Title II Federal Housing Administration Hospital Mortgages.

17:16-55.3 Limitations

(a) Any investment in any mortgage shall be not less than \$1,000,000 nor more than \$15,000,000.

(b) The book value of mortgages purchased under N.J.A.C. 17:16-53 and 55 shall not exceed 20 percent of the assets of any pension and annuity fund at any one time.

(c) The hospital must be located in the State of New Jersey and the mortgage must be serviced by the Division of Investment.

(d) No mortgage shall be recommended for purchase to the pension funds unless the Research Group within the Division of Investment shall have certified that the purchase is a legal investment and that the terms and yield on the security purchased are fair and equitable.

Amended by R.1970 d.137, effective November 13, 1970.

See: 2 N.J.R. 86(e), 2 N.J.R. 102(d).

Amended by R.1972 d.52, eff. March 10, 1972.

See: 4 N.J.R. 108(a).

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

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

Citations corrected in (b).

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

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

Rewrote (d).

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

See: 32 N.J.R. 372(b), 33 N.J.R. 1115(a).

17:16-55.4 Legal papers

(a) Prior to issuance of any commitment to purchase, the Director shall have obtained and approved:

1. A current credit report on the borrower;

2. A current photograph of the property, or plans and specifications of proposed construction, and a survey of the property;

3. A copy of FHA commitment;

4. A copy of FHA Mortgagee's application for insurance, completed in its entirety;

5. All other pertinent FHA Documents and Approvals including, but not limited to, project analysis and breakdown of reserves for replacements;

6. The breakdown of the estimated cost of construction.

(b) Subsequent to the time of closing, the Director shall obtain:

1. Such documents as the Attorney General shall determine were required to effect the investment;

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.1972 d.182, effective September 18, 1972.

See: 4 N.J.R. 249(b).

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

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

SUBCHAPTERS 56 THROUGH 57. (RESERVED)

SUBCHAPTERS 59 THROUGH 60. (RESERVED)

SUBCHAPTER 58. MORTGAGE BACKED
SECURITIES—PRIVATE PASSTHROUGH

17:16-58.1 Permissible investments

The Director may invest and reinvest the moneys of any fund in senior debt securities which are fully collateralized by mortgage securities. Not more than 25 percent of any one issue, which must be \$50,000,000 or more in size, may be purchased at the time of issue, except that this requirement may be waived by the State Investment Council.

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

See: 32 N.J.R. 372(b), 33 N.J.R. 1115(a).

Substituted "\$50,000,000" for "\$50 million".

17:16-58.2 Pension and annuity group; static group; trust group

(a) The Director may invest or reinvest the moneys of any pension and annuity or trust group fund in mortgage backed passthrough securities provided that:

1. The issue has been registered with the Securities and Exchange Commission, except that this requirement may be waived by the State Investment Council;
2. The sponsor is incorporated under the laws of the United States or any state thereof or of the District of Columbia;
3. The sponsor is not in default as to the payment of principal or interest upon any of its outstanding obligations;
4. The individual mortgage loans serving as collateral have an average loan-to-value ratio of 75 percent or less; the collateral is at least 90 percent single-family detached residential property and at least 95 percent owner-occupied residential property; and
5. The issue has a credit rating of Aa or higher by Moody's Investors Service, Inc. and Standard & Poor's Corporation, excepting that one rating is sufficient if only one rating is available.

17:16-58.3 Legal papers

Prior to any commitment to purchase obligations of the type described in this subchapter, the Director shall have obtained, in all cases, a certification signed by a member of the Division's staff and endorsed by the Director stating that, in their opinion, the security under consideration qualifies under the requisites of this subchapter.

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

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

Substituted "subchapter" for "article".

SUBCHAPTER 61. STATE OF NEW JERSEY CASH
MANAGEMENT FUND

17:16-61.1 Definition

Pursuant to chapter 270, P.L. 1970 as amended and supplemented by chapter 281, P.L. 1977, there is hereby created in the Division of Investment, Department of the Treasury, a common trust fund, to be known as the State of New Jersey Cash Management Fund, in which may be deposited the surplus moneys of the State (including funds administered by the Division of Pensions and Benefits, and the Division of Budget and Accounting within the Office of Management and Budget), its counties, municipalities and school districts and the agencies or authorities created by any of these entities.

Amended by R.1979 d.96, effective March 8, 1979.

See: 11 N.J.R. 212(b).

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

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

Inserted "and Benefits" following "of Pensions" and inserted "within the Office of Management and Budget" following "and Accounting".

17:16-61.2 Participation in the State of New Jersey Cash
Management Fund

Participation in the State of New Jersey Cash Management Fund by State funds, representing net capital contributions to the fund together with any income thereon, shall be evidenced by proper entries setting forth ownership units in the records of the Bureau of Accounting, Division of Budget and Accounting within the Office of Management and Budget, Department of the Treasury. Aggregate participation of other entities shall also be evidenced by proper entries in the records of the Bureau of Accounting, Division of Budget and Accounting within the Office of Management and Budget, and their individual participation shall be evidenced by proper entries in the records of the Division of Investment and of the custodian bank. Contributions to the common fund by the participating funds will be made in cash.

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

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

Inserted "within the Office of Management and Budget," following "and Accounting".

17:16-61.3 Distribution of income

All income of the State of New Jersey Cash Management Fund, as calculated under N.J.A.C. 17:16-61.9, shall be invested in units of participation in accordance with the requirements of N.J.A.C. 17:16-61.10. Such units of participation may be withdrawn in accordance with the requirements of N.J.A.C. 17:16-61.11.

Amended by R.1985 d.554, effective November 4, 1985.

See: 17 N.J.R. 2095(a), 17 N.J.R. 2676(a).

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).
 Fee paid by non-State participants raised to $\frac{1}{10}$ of one percent.
 Amended by R.2001 d.119, effective April 2, 2001.
 See: 33 N.J.R. 372(b), 33 N.J.R. 1115(a).
 Inserted "the requirements of" prior to N.J.A.C. reference.

17:16-61.4 Participating funds

The participation of any fund is subject to the approval of the State Treasurer.

17:16-61.5 Permissible investments

The Director may invest the assets of the State of New Jersey Cash Management Fund in fixed-income and debt securities which are legal investments for savings banks, or which are permitted under the provisions of N.J.S.A. 52:18A-89, subject to any applicable provisions of the regulations of the State Investment Council. All investments in the fund shall mature or are to be redeemed within one year, except that up to 25 percent of the fund may be invested in eligible securities which mature within 25 months; provided, however, that the average maturity of all investments in the fund shall not exceed one year.

Amended by R.1993 d.425, effective September 7, 1993.
 See: 25 N.J.R. 2839(a), 25 N.J.R. 4119(a).
 Amended by R.2001 d.119, effective April 2, 2001.
 See: 33 N.J.R. 372(b), 33 N.J.R. 1115(a).
 In last sentence, substituted "25 months" for "two years".

17:16-61.6 Units of participation

Each unit of participation shall represent an equal beneficial interest in the fund and no unit shall have priority or preference over any other. Each unit of participation shall be valued at the net asset value per unit as is set forth in N.J.A.C. 17:16-61.7.

Amended by R.2001 d.119, effective April 2, 2001.
 See: 33 N.J.R. 372(b), 33 N.J.R. 1115(a).
 Substituted "N.J.A.C. 17:16-61.7" for "section 7 of this subchapter".

17:16-61.7 Valuation

The net asset value per unit of participation shall remain at \$1.00, except only in an instance where net income available for distribution might be negative, in which case the net asset value per unit would be reduced by each participant's proportionate share of such negative amount.

Amended by R.1980 d.235, effective July 1, 1980.
 See: 12 N.J.R. 436(a).

17:16-61.8 Date of valuation

The valuation shall be determined at the opening of business on each business day, and shall be based on realized gains or losses, accruals, and amortization as of the close of the previous day as set forth in N.J.A.C. 17:16-61.9.

Amended by R.1980 d.235, effective July 1, 1980.
 See: 12 N.J.R. 436(a).
 Amended by R.2001 d.119, effective April 2, 2001.

See: 33 N.J.R. 372(b), 33 N.J.R. 1115(a).
 Substituted "N.J.A.C. 17:16-61.9" for "section 9 of this subchapter".

17:16-61.9 Calculation of daily income per participating unit

(a) The income due to the participants in the State of New Jersey Cash Management Fund shall be calculated daily. For the purpose of this calculation, net income available for distribution shall equal the sum of daily interest income, daily discount income, realized gain on sales, and amortized discount, from which sum shall be deducted the sum of realized loss on sales, amortized premium and total daily expenses. Such net income available for distribution shall then be divided by the number of outstanding participating units to determine the daily income per participating unit.

(b) In the case of participating funds of counties, municipalities, school districts and agencies or authorities created by either such entities or the State (the "Other-than-State Funds"), daily income per participating unit shall be further reduced by both a charge to establish a reserve and a charge for administrative expenses.

(c) The charge to establish a reserve shall be in the sum of up to and not to exceed $\frac{1}{10}$ of one percent per annum of the aggregate value of the units owned by the Other-than-State Funds, and the daily income per participating unit owned by such Other-than-State Funds shall reflect their pro rata share of such sum. The reserve fund shall be a participating fund in the State of New Jersey Cash Management Fund and shall be credited with and will retain daily income per participating unit in the manner of participating State funds. In the event of a loss occasioned by the bankruptcy of an issuer of a security held by the State of New Jersey Cash Management Fund, or a loss realized upon the sale of a security, such loss will be shared pro rata by all participants in the Fund, but the assets of the reserve fund will be applied pro rata in a manner approved by the State Investment Council to that portion of the loss accruing to the "Other-than-State Funds." In no event will the application of the assets of the reserve fund exceed the loss accruing to the Other-than-State Funds; and no State funds will share in the disposition of the assets of the reserve fund.

(d) Similarly, the Other-than-State participants' pro rata share of any gains realized upon the sale of securities by the Fund should be credited to the reserve fund. The charge for administrative expenses shall be in the sum of up to and not to exceed one-tenth of one percent per annum of the aggregate value of the units owned by the Other-than-State Funds, and the daily income per participating unit owned by such Other-than-State Funds shall reflect their pro rata share of such sum. The charge for administrative expenses shall be paid into a fund whose assets shall be at the disposal of the Treasurer.

(e) The method of calculation of each of the above terms will be in accordance with an agreement between the Treasurer of the State of New Jersey and the custodian bank.

As amended, R.1979 d.437, eff. October 31, 1979.

See: 11 N.J.R. 651(a).

As amended, R.1980 d.235, eff. July 1, 1980.

See: 12 N.J.R. 436(a).

As amended, R.1982 d.191, eff. June 21, 1982.

See: 13 N.J.R. 528(a), 14 N.J.R. 663(c).

"1/20" was "1/10".

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

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

Fee paid by non-State participants raised to $\frac{1}{10}$ of one percent.

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

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

17:16-61.10 Reinvestment of daily income per participating unit

The aggregate of daily income per participating unit on total units owned by each participant will be reinvested automatically in additional units at a price of \$1.00 per unit and such new units will be credited to the respective accounts of all of the participants in proportion to their holdings of participating units immediately prior to the determination of net income available for distribution. In the reinvestment of aggregate daily income as described above, fractional units may be issued representing fractions of a dollar, but no units will be issued representing fractions of one cent, nor will cash dividends be transmitted. Participating funds may obtain cash by redemption of units in accordance with N.J.A.C. 17:16-61.11.

As amended, R.1980 d.235, eff. July 1, 1980.

See: 12 N.J.R. 436(a).

Amended by R.1985 d.554, effective November 4, 1985.

See: 17 N.J.R. 2095(a), 17 N.J.R. 2676(a).

Recodified from 31.11: Old 31.10 was "Guidelines for valuation of securities".

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

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

Substituted "N.J.A.C. 17:16-61.11" for "N.J.A.C. 17:16-31.11".

17:16-61.11 Admission and withdrawal of participating units

(a) Admission to or withdrawal from the common fund shall be permitted on any business day. Admissions prior to 1:00 P.M. will receive credit for net income available for distribution for such day if such admissions remain in the common fund through the close of such day. Withdrawals from the fund will receive credit for net income available for distribution only as of the close of the day next preceding such withdrawal.

(b) All admissions and withdrawals will be made in cash.

Amended by R.1985 d.554, effective November 4, 1985.

See: 17 N.J.R. 2095(a), 17 N.J.R. 2676(a).

Recodified from 31.12.

Amended by R.1998 d.130, effective March 2, 1998.

See: 30 N.J.R. 61(a), 30 N.J.R. 859(b).

In (a), changed time from noon to 1:00 P.M. to receive credit for admissions.

17:16-61.12 Amendments

This regulation may be amended from time to time by regulation of the State Investment Council. Any amendment adopted by such Council shall be binding upon all participating funds, trusts and beneficiaries thereof. An amendment shall become effective, unless otherwise provided for therein, on the date it becomes effective under the Administrative Procedures Act.

Amended by R.1985 d.554, effective November 4, 1985.

See: 17 N.J.R. 2095(a), 17 N.J.R. 2676(a).

Recodified from 31.13.

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

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

17:16-61.13 Liquidation

The Director, Division of Investment, subject to the approval of the State Investment Council and the State Treasurer, may, upon two months' notice liquidate the aforementioned common fund, including the reserve fund. 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, and the Other-than-State Funds, shall share proportionately in the reserve fund. When such proportionate distribution is impracticable in the judgment of the Director, he may instead distribute on liquidation, cash or temporary investments held by the common fund. No liquidation will be effected without the approval by the State Investment Council of a plan of distribution of the assets of the common fund including the assets of the reserve fund.

Amended by R.1985 d.554, effective November 4, 1985.

See: 17 N.J.R. 2095(a), 17 N.J.R. 2676(a).

Recodified from 31.14.

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

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

17:16-61.14 Guidelines on error correction

Any error in the statement of daily income to participants which is less than either one-third of a true calculation of such income or \$100,000, whichever is greater, may be adjusted over future daily income of the Fund in such a manner as may be approved by the Director of the Division of Investment. Any error in excess of such amount may be adjusted in such a manner as may be approved by the State Investment Council, through the restatement of income on days the error occurred, by charge against income on future days, or otherwise.

R.1982 d.363, eff. October 18, 1982.

See: 14 N.J.R. 899(a), 14 N.J.R. 1166(a).

Amended by R.1985 d.554, effective November 4, 1985.

See: 17 N.J.R. 2095(a), 17 N.J.R. 2676(a).

Recodified from 31.15.

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

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

SUBCHAPTER 62. COMMON PENSION FUND A

17:16-62.1 General provision

(a) Pursuant to P.L. 1970, chapter 270, there is hereby created in the Division of Investment, Department of the Treasury, a common trust fund, to be known as Common Pension Fund A.

(b) The following participating funds may invest in said Common Pension Fund A:

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.

As amended, R.1973 d.158, eff. June 19, 1973.

See: 5 N.J.R. 247(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 (b) deleted Consolidated Police and Firemen's Pension Fund.

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

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

17:16-62.2 Permissible investments

(a) The Common Pension Fund A shall be a fund created for the purpose of investing in corporate common stocks or securities convertible into such stock which are legal investments for a life insurance company organized under the laws of this State.

(b) Said common fund shall be composed of units of ownership of unlimited quantity.

(c) All units of ownership shall be represented by a certificate prepared by and issued by the Director of the Division of Investment.

(d) Each such certificate may represent one or more units of ownership.

(e) All units shall be purchased by the participating fund for the principal valuation price determined by these regulations.

(f) At the outset of said common fund, all initial purchases shall be made for a principal valuation price of \$1,000 per unit.

(g) All units of ownership shall be purchased by cash payments or in kind.

As amended, R.1972 d.229, eff. November 16, 1972.

See: 14 N.J.R. 311(a).

17:16-62.3 Certificates of ownership

(a) All certificates of ownership of units shall contain the following information:

1. Number of units purchased;
2. Purchaser;
3. Aggregate principal valuation price for the number of units purchased;
4. Date of purchase;
5. Serial number of the certificate;
6. Principal valuation price per unit purchased.

17:16-62.4 Units of participation

Each unit of participation shall represent an equal beneficial interest in the fund and no unit shall have priority or preference over any other.

17:16-62.5 Valuation

(a) Upon each valuation date, as defined below, there shall be a valuation for every investment in the common fund in the method provided for in these regulations.

(b) The valuation shall be for the principal value per outstanding unit and the income value per outstanding unit.

17:16-62.6 Date of valuation

The valuation shall be determined at the opening of business of the first business day of each month, and shall be based on market prices and accruals as of the close of the previous day.

As amended, R.1979 d.20, eff. January 17, 1979.

See: 11 N.J.R. 106(a).

17:16-62.7 Method of valuation

(a) The Director of the Division of Investment shall use the following method of valuation of investments:

1. Where there have been recorded sales or bid and asked prices of an investment in the common fund on a security exchange or exchanges approved pursuant to N.J.A.C. 17:16-41, the last recorded sales price, if there has been a recorded sale, shall be used, unless on a day subsequent to such sale, there shall have been recorded bid and asked prices, in which event the mean of the most recent of such bid and asked prices shall be used.
2. If there have been no such recorded sales, the mean of the most recent such recorded bid and asked prices shall be used.
3. For the purpose of this regulation, recorded sales and bid and asked prices shall be those appearing in newspapers of general circulation published in the City of New York, in standard financial periodicals, or those established by a recognized pricing service.
4. In the case of a stock where a dividend has been declared and not as yet paid and the amount of such dividend has been included as income, such amount shall be deducted from the value of the stock as determined in

paragraphs 1 and 2 of this subsection, unless such value has been based on an ex-dividend valuation.

5. 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.

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

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

As amended R.1979 d.20, eff. January 17, 1979.

See: 11 N.J.R. 106(a).

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

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

Citation corrected.

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

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

17:16-62.8 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 section 7 of this subchapter, there shall be added:

i. Uninvested cash principal;

ii. The value of any rights or stock dividends which may have been declared but not received as of the valuation date when the security has been valued ex-right and ex-dividend;

iii. Such portion as shall constitute principal of any extraordinary or liquidating dividend which may have been declared but which is unpaid as of the valuation date when the particular security has been valued ex-dividend;

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 so ascertained 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.

(b) The following method shall be used in determining the income value per unit:

1. Income shall include all moneys received or accrued which are not included in or defined as principal in this section;

2. From such income on hand and accrued there shall be deducted the expenses and liabilities due and accrued which are chargeable to income;

3. The amount of net income thus determined shall be divided by the number of existing units in order to ascertain the income value per unit;

4. Such income value per unit shall be disbursed, monthly or quarterly and in cash, to each participating fund according to ownership of units;

5. Adjustments to income in the amount of \$50,000 or more in any one month shall be adjusted according to the participant's holdings as of the month in which the error occurred. Adjustments under \$50,000 shall be included in the current month's income.

Amended by R.1972 d.229, effective November 16, 1972.

See: 4 N.J.R. 311(a).

Amended by R.1974 d.35, effective February 14, 1974.

See: 6 N.J.R. 124(d).

Amended by R.1977 d.125, effective April 11, 1977.

See: 9 N.J.R. 244(c).

17:16-62.9 Admission date

(a) No admission to or withdrawal from the common fund shall be permitted except on the basis of the principal unit value determined as described in section 8 of this subchapter and no participation shall be admitted to or withdrawn from the common fund 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 by cash payments or in kind.

(c) The price for purchasing units, except for original units issued by the common fund, shall be the principal valuation per unit as determined on each valuation date pursuant to section 8 of this subchapter.

Amended by R.1974 d.35, effective February 14, 1974.

See: 6 N.J.R. 124(d).

Amended by R.1979 d.97, effective March 8, 1979.

See: 11 N.J.R. 212(c).

17:16-62.10 Amendments

(a) These regulations may be amended from time to time by regulation of the State Investment Council.

(b) Any amendment adopted by such Council shall be binding upon all participating trusts and beneficiaries thereof.

(c) An amendment shall become effective, unless otherwise provided for therein, on the date it becomes effective under the Administrative Procedures Act.

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

17:16-62.11 Distribution of realized appreciation

(a) Subsequent to the receipt of audited financial statements for the prior fiscal year, the State Investment 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.

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

Amended by R.1987 d.86, effective February 2, 1987.
See: 18 N.J.R. 2377(b), 19 N.J.R. 304(b).
Amended by R.1994 d.326, effective July 5, 1994.
See: 26 N.J.R. 1771(b), 26 N.J.R. 2798(b).
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)1, inserted "declared" following "principal".

17:16-62.12 Limitations

(a) The Common Pension Fund A shall be permitted to invest in the Cash Management Fund and in such securities subject to the limitations and conditions contained in the rules of the State Investment Council, particularly N.J.A.C. 17:16-41, except for the condition as to classification of funds contained in N.J.A.C. 17:16-3.

(b) In the event that any regulation contains a limitation of the assets of any pension and annuity group fund which may be invested either in one issue or a class of issues, that limitation shall be construed to apply to the combined assets of all of the pension funds and shall not restrict the total common pension fund investment in such assets or assets to those limitations for any individual pension fund.

As amended, R.1972 d.229, effective November 16, 1972.
See: 4 N.J.R. 311(a).
Amended by R.1988 d.248, effective June 6, 1988.
See: 20 N.J.R. 741(b), 20 N.J.R. 1208(d).
Added the Cash Management Fund and the State Investment Council.
Recodified by R.1991 d.274, effective June 3, 1991.

Sec: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
Citation corrected; "and conditions" added.
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), updated N.J.A.C. references.

17:16-62.13 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, liquidate the Common Pension 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 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.

SUBCHAPTER 63. COMMON PENSION FUND B

17:16-63.1 General provisions

(a) Pursuant to P.L. 1970, chapter 270, there is hereby created in the Division of Investment, Department of the Treasury, a common trust fund, to be known as Common Pension Fund B.

(b) The following participating funds may invest in said Common Pension Fund B:

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.

As amended, R.1973 d.158, effective June 19, 1973.
See: 5 N.J.R. 247(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 (b) deleted Consolidated Police and Firemen's Pension Fund.
Amended by R.2001 d.119, effective April 2, 2001.
See: 33 N.J.R. 372(b), 33 N.J.R. 1115(a).

17:16-63.2 Permissible investments

(a) The Common Pension Fund B shall be a fund created for the purpose of investing in fixed income and debt securities which are legal investments for savings banks or life insurance companies organized under the laws of this State.

(b) Said common fund shall be composed of units of ownership of unlimited quantity.

(c) All units of ownership shall be represented by a certificate prepared by and issued by the Director of the Division of Investment. Each such certificate may represent one or more units of ownership.

(d) All units shall be purchased by the participating fund for the principal valuation price determined by these regulations.

(e) At the outset of said common fund, all initial purchases shall be made for a principal valuation price of \$1,000 per unit.

(f) All units of ownership shall be purchased by cash payments or in kind.

As amended, R.1972 d.229, effective November 16, 1972.

See: 4 N.J.R. 311(a).

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

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

17:16-63.3 Certificates of ownership

(a) All certificates of ownership of units shall contain the following information:

1. Number of units purchased;
2. Purchaser;
3. Aggregate principal valuation price for the number of units purchased;
4. Date of purchase;
5. Serial number of the certificate;
6. Principal valuation price per unit purchased.

17:16-63.4 Units of participation

Each unit of participation shall represent an equal beneficial interest in the fund and no unit shall have priority or preference over any other.

17:16-63.5 Valuation

(a) Upon each valuation date, as defined in N.J.A.C. 17:16-63.6, there shall be a valuation for every investment in the common fund in the method provided for in this chapter.

(b) The valuation shall be for the principal value per outstanding unit and the income value per outstanding unit.

17:16-63.6 Date of valuation

The valuation shall be determined at the opening of business on the first business day of each month, and shall be based on market prices and accruals as of the close of the previous day.

Amended by R.1991 d.478, effective September 16, 1991.

See: 23 N.J.R. 2103(a), 23 N.J.R. 2868(a).

Market price and accruals based on previous day's close.

17:16-63.7 Method of valuation

(a) The Director of the Division of Investment shall use a recognized pricing service approved prior to use by the State Investment Council.

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

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

(d) 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 regulation, brokers' commission or other expenses which would be incurred on a sale thereof.

As amended, R.1974 d.265, effective September 24, 1974.

See: 6 N.J.R. 416(b).

17:16-63.8 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 this section, there shall be added:

- i. Uninvested cash principal;
- ii. Rights, warrants, or other options;
- iii. 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 so ascertained 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.

(b) The income value per unit shall be determined by the following method:

1. Income shall include all interest accrued and accrual of discount;

2. From such income on hand and accrued there shall be deducted amortization of premium and the expenses and liabilities due and accrued, which are chargeable to income;

3. The amount of net income thus determined shall be divided by the number of existing units in order to ascertain the income value per unit;

4. Such income value per unit shall be disbursed, monthly or quarterly and in cash, to each participating fund according to ownership of units;

5. Adjustments to income in the amount of \$50,000 or more in any one month shall be adjusted according to the participants' holdings as of the month in which the error occurred;

6. Adjustments under \$50,000 shall be included in the current month's income.

As amended, R.1972 d.229, effective November 16, 1972.

See: 4 N.J.R. 311(a).

As amended, R.1974 d.265, effective September 24, 1974.

See: 6 N.J.R. 416(b).

As amended, R.1977 d.126, effective April 11, 1977.

See: 9 N.J.R. 244(d).

17:16-63.9 Admission date

(a) No admission to or withdrawal from the common fund shall be permitted except on the basis of the principal unit value determined as described in section 8 of this subchapter, and no participation shall be admitted to or withdrawn from the common fund 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 on the principal value as of the last valuation date preceding said admission or withdrawal.

(b) All admissions or withdrawals shall be made by cash payments or in kind. The price for purchasing units, except for original units issued by the common fund, shall be the principal valuation per unit as determined on each valuation date pursuant to section 8 of this subchapter.

Amended by R.1974 d.265, effective September 24, 1974.

See: 6 N.J.R. 416(b).

17:16-63.10 Amendments

(a) This subchapter may be amended from time to time by the State Investment Council.

(b) Any amendment adopted by the State Investment Council shall be binding upon all participating trusts and beneficiaries thereof.

(c) An amendment shall become effective on the date the adoption notice is published in the New Jersey Register. The State Investment Council may, at its discretion, postpone the effectiveness of any amendment by including an operative date in the adoption notice.

17:16-63.11 Distribution of realized appreciation

(a) Subsequent to the receipt of audited financial statements for the proper fiscal year, the State Investment Council may consider the realized appreciation in the common fund per unit.

(b) 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.

Amended by R.1974 d.265, effective September 24, 1974.

See: 6 N.J.R. 416(b).

Amended by R.1987 d.87, effective February 2, 1987.

See: 18 N.J.R. 2378(a), 19 N.J.R. 304(b).

(c) added.

Amended by R.1994 d.327, effective July 5, 1994.

See: 26 N.J.R. 1772(a), 26 N.J.R. 2798(c).

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

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

Recodified (c) as (b)3.

17:16-63.12 Limitations

(a) The Common Pension Fund B shall be permitted to invest in the Cash Management Fund and in such securities subject to the limitations and conditions contained in the rules of the State Investment Council, N.J.A.C. 17:16, except for the condition as to classification of funds contained in N.J.A.C. 17:16-3.

(b) In the event that any regulation contains a limitation of the assets of any pension and annuity group fund which may be invested either in one issue or a class of issues, that limitation shall be construed to apply to the combined assets of all of the pension funds and shall not restrict the total common pension fund investment in such asset or assets to those limitations for any individual pension fund.

Amended by R.1972 d.229, effective November 16, 1972.

See: 4 N.J.R. 311(a).

Amended by R.1988 d.247, effective June 6, 1988.

See: 20 N.J.R. 742(a), 20 N.J.R. 1208(e).

Added Cash Management Fund and State Investment Council.

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

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

17:16-63.13 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, liquidate 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 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 of the State Investment Council of a plan of distribution of the assets of the common fund.

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

SUBCHAPTER 64. (RESERVED)

SUBCHAPTER 65. DEFERRED COMPENSATION PLAN

17:16-65.1 Definition

Pursuant to N.J.S.A. 52:18A-163 et seq., there is hereby created in the Division of Investment, Department of the Treasury, four common funds to be known as the New Jersey State Employees Deferred Compensation Equity Fund, the New Jersey State Employees Deferred Compensation Small Capitalization Equity Fund, the New Jersey State Employees Deferred Compensation Fixed Income Fund and the New Jersey State Employees Deferred Compensation Cash Management Fund (collectively, the Common Funds). Moneys from salary deductions of New Jersey State employees shall be deposited in the Common Funds up until the transition date. The transition date will be determined by the New Jersey State Employees Deferred Compensation Board, but in no event will be earlier than October 17, 2005. Investment options offered and managed by outside vendors (collectively, the Outside Funds) may accept deposited moneys from salary deductions of New Jersey State employees pursuant to the procedures described in this subchapter on or after the transition date. Collectively, the Common Funds and the Outside Funds shall be referred to as the DCP Funds.

Amended by R.1998 d.32, effective January 5, 1998.

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

Added the New Jersey State Employees Small Capitalization Equity Fund to the list of common funds.

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

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

Inserted "Fixed" following "Compensation".

Amended by R.2005 d.347, effective October 17, 2005.

See: 37 N.J.R. 2150(a), 37 N.J.R. 4032(a).

Rewrote the section.

17:16-65.2 Participation in the New Jersey State Employees Deferred Compensation Plan

Participation in the New Jersey State Employees Deferred Compensation Plan represented by contributions to the DCP Funds shall be evidenced by proper entries setting forth ownership units in the records of the persons, entities, or organizations engaged by the New Jersey State Employees Deferred Compensation Board to administer the plan, which may include the Division of Pensions and Benefits, Department of the Treasury, and/or one or more private organizations contracting with the Division pursuant to N.J.S.A. 52:18A-167 (collectively, the Plan Administrator). Contributions to the DCP Funds shall be made in cash. The participation of State employees is subject to the Plan as established by the New Jersey State Employees Deferred Compensation Board.

Amended by R.1998 d.32, effective January 5, 1998.

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

Substituted "Office of Management and Budget-Financial Reporting" for "Bureau of Accounting, Division of Budget and Accounting".

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

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

Substituted "Division of Pensions and Benefits" for "Office of Management and Budget—Financial Reporting, Department of the Treasury".

Amended by R.2005 d.347, effective October 17, 2005.

See: 37 N.J.R. 2150(a), 37 N.J.R. 4032(a).

In rule heading, deleted "State of" preceding "New Jersey" and added "State Employees" following "New Jersey"; rewrote the section.

17:16-65.3 Distribution of income

All income as calculated pursuant to N.J.A.C. 17:16-65.7 shall be invested in units of participation in accordance with N.J.A.C. 17:16-65.9 and such units shall be withdrawn in accordance with N.J.A.C. 17:16-65.10.

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.

17:16-65.4 Permissible investments

(a) The Director and/or any persons, entities or organizations engaged by the New Jersey State Employees Deferred Compensation Board to invest plan assets (collectively, the Portfolio Manager) shall invest the assets of the New Jersey State Employees Deferred Compensation Plan in securities which are legal investments for fiduciaries of trust estates in New Jersey which are permitted under N.J.S.A. 52:18A-163 et seq., subject to the applicable provisions of the regulations of the State Investment Council,

which shall include the Common Funds and the Outside Funds. The Common Funds will not accept ongoing deposits or transfers from participants on or after the transition date, but participants may choose to maintain any balances invested in the Common Funds or transfer all or part of such balances to one or more of the Outside Funds.

(b) Moneys in the Common Funds shall be invested as follows:

1. The New Jersey State Employees Deferred Compensation Fixed Income Fund will be invested in fixed income securities having a maturity of one year or more, and the New Jersey State Employees Deferred Compensation Equity Fund and the New Jersey State Employees Deferred Compensation Small Capitalization Equity Fund will be invested in such common and preferred stocks and issues convertible into common stock as are permitted under N.J.A.C. 17:16-41. In the case of the New Jersey State Employees Deferred Compensation Small Capitalization Equity Fund, investments will be made in stocks which are eligible under N.J.A.C. 17:16-41 and which are designated as small capitalization stocks by the Division of Investment. The New Jersey State Employees Deferred Compensation Cash Management Fund shall be invested in the State of New Jersey Cash Management Fund, which in turn will be invested in accordance with N.J.A.C. 17:16-61, or in such other fixed income securities maturing in less than one year as may be permitted by this chapter.

2. The New Jersey State Employees Deferred Compensation Fixed Income Fund, the New Jersey State Employees Deferred Compensation Equity Fund and the New Jersey State Employees Deferred Compensation Small Capitalization Equity Fund may hold up to 25 percent of their assets either in short-term fixed income securities, as permitted by the rules and regulations of the State Investment Council, or in the State of New Jersey Cash Management Fund.

3. With respect to the New Jersey State Employees Deferred Compensation Equity Fund, not more than 10 percent of the market value of the Fund shall be invested in the common stocks, preferred stocks and securities convertible into common stock of any one corporation.

4. With respect to the New Jersey State Employees Deferred Compensation Fixed Income Fund, not more than 10 percent of the market value of the assets of the fund shall be invested in the debt of any one corporation, and not more than 10 percent of any one issue may be purchased at the time of issue.

5. With respect to the New Jersey State Employees Deferred Compensation Small Capitalization Equity Fund, not more than 10 percent of the market value of the fund shall be invested in the common stocks, preferred stocks and securities convertible into common stock of any one corporation.

6. Common Funds may be organized as commingled accounts, mutual funds registered with the Securities and Exchange Commission (SEC), separate accounts of an insurance company licensed to transact business in the State of New Jersey, commingled trust accounts of a trust bank authorized to transact business in the State of New Jersey, or any other legal structure deemed acceptable to the Director.

(c) Moneys in the Outside Funds shall be invested as follows:

1. The Portfolio Manager shall invest moneys deposited at the participant's option in the Outside Funds on and after the transition date. Participants shall also be permitted to authorize the transfer of all or a portion of the funds previously invested in the Common Funds to the Outside Funds.

2. Outside Funds may be organized as mutual funds registered with the Securities and Exchange Commission (SEC), separate accounts of an insurance company licensed to transact business in the State of New Jersey, commingled trust accounts of a trust bank authorized to transact business in the State of New Jersey, or any other legal structure deemed acceptable to the Director. Outside Funds may also be organized as one of the above types of funds or accounts, combined with a synthetic guaranteed investment contract issued by an insurance company licensed to transact business in the State of New Jersey (such funds or accounts and investment contracts collectively referred to as "stable value funds").

3. The New Jersey State Employees Deferred Compensation Plan shall offer a minimum of five Outside Funds for investment to participants. Such Outside Funds shall be selected by the Director in consultation with the New Jersey State Employees Deferred Compensation Board. The Outside Funds shall offer participants a range of investment options with varying levels of risk and expected returns, and may include funds which invest primarily in domestic equity securities, international equity securities, domestic fixed income securities, and money market instruments.

4. The Director shall prepare a report for acceptance by the State Investment Council:

- i. Upon the initial determination of the Outside Funds to be offered; and

- ii. One time per year, commencing in 2006.

5. The report in (c)4 above shall describe the criteria utilized by the Director:

- i. In selecting the investment objectives for the number and type of Outside Funds; and

- ii. In selecting each specific Outside Fund.

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.1998 d.32, effective January 5, 1998.

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

In (a), in the second sentence, added the New Jersey State Employees Deferred Compensation Small Capitalization Equity Fund, and inserted the third sentence; in (b), added the New Jersey State Employees Deferred Compensation Small Capitalization Equity Fund; and added (e).

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

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

Substituted "market" for "book" throughout section; in (e), substituted "10" for "five".

Amended by R.2005 d.347, effective October 17, 2005.

See: 37 N.J.R. 2150(a), 37 N.J.R. 4032(a).

Rewrote (a)-(c); deleted (d) and (e).

Amended by R.2006 d.79, effective February 21, 2006.

See: 37 N.J.R. 4193(a), 38 N.J.R. 1226(a).

Added (b)6; in (c)2, deleted "SEC-registered" and added the last sentence.

17:16-65.5 Units of participation

Each unit of participation shall represent an equal beneficial interest in each respective DCP Fund and no unit shall have priority or preference over any other in each respective DCP Fund. Each unit of participation shall be valued at the net asset value per unit in accordance with N.J.A.C. 17:16-65.7.

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.2005 d.347, effective October 17, 2005.

See: 37 N.J.R. 2150(a), 37 N.J.R. 4032(a).

Rewrote the section.

17:16-65.6 Date of valuation

For the Common Funds, the valuation shall be determined after the close of business on the last business day of each month (or on each day that the primary securities exchanges in the United States are open for business, if so determined by the Director), and shall be based on market prices and accruals as of the close of business on such day. For the Outside Funds, the valuation shall be determined after the close of business on each day that the primary securities exchanges in the United States are open for business, and shall be based on market prices and accruals as of the close of business on such day.

Amended by R.2005 d.347, effective October 17, 2005.

See: 37 N.J.R. 2150(a), 37 N.J.R. 4032(a).

Rewrote the section.

Amended by R.2006 d.79, effective February 21, 2006.

See: 37 N.J.R. 4193(a), 38 N.J.R. 1226(a).

Added "(or on each day that the primary securities exchanges in the United States are open for business, if so determined by the Director)".

17:16-65.7 Valuation

The net asset value per unit of participation in each DCP Fund on the valuation date set forth in N.J.A.C. 17:16-65.6 shall be determined by dividing the total value of the fund's securities and other assets, less any administrative expenses or other liabilities, by the total outstanding units of participation in the fund. In the case of stable value funds, the total value of the

fund's securities and other assets shall equal the aggregate amount of principal deposited in the fund, plus the amount of interest provided in any synthetic guaranteed investment contract. Securities' prices will be determined by a pricing service or a method which has been approved by the State Investment Council. Accrual and amortization procedures will be calculated by procedures and formulas approved by the State Investment Council. The method of pricing each DCP Fund will be in accordance with contractual obligations of the custodian bank or Plan Administrator, subject to the approval of the State Investment Council. The method of calculation of units of participation will be in accordance with an agreement between the State of New Jersey and the Plan Administrator.

Amended by R.2005 d.347, effective October 17, 2005.

See: 37 N.J.R. 2150(a), 37 N.J.R. 4032(a).

Rewrote the section.

Amended by R.2006 d.79, effective February 21, 2006.

See: 37 N.J.R. 4193(a), 38 N.J.R. 1226(a).

Deleted "last business day of each month (for Common Funds) or each business day (for Outside Funds)"; added reference to N.J.A.C. 17:16-65.6; and added second sentence.

17:16-65.8 Guidelines for valuation of securities

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

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

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

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

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

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

17:16-65.9 Reinvestment of income earned

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

Amended by R.2005 d.347, effective October 17, 2005.

See: 37 N.J.R. 2150(a), 37 N.J.R. 4032(a).

Rewrote the section.

17:16-65.10 Admission and withdrawal of units of participation

Admission to (until the transition date) or withdrawal from the Common Funds shall be permitted as of the first business day of each month (or as of the end of each business day, if so determined by the Director), subject to the procedures of the Plan Administrator. Admissions to or withdrawals from the Outside Funds shall be permitted as of the end of each business day, subject to the procedures of the Plan Administrator. All admissions and withdrawals will be made in cash.

Amended by R.2005 d.347, effective October 17, 2005.

See: 37 N.J.R. 2150(a), 37 N.J.R. 4032(a).

Rewrote the section.

Amended by R.2006 d.79, effective February 21, 2006.

See: 37 N.J.R. 4193(a), 38 N.J.R. 1226(a).

Added "(or as of the end of each business day, if so determined by the Director)."

17:16-65.11 Errors and omissions

(a) In the event of errors or omissions in the calculation of accruals of income, amortization or pricing of securities, the custodian bank or Plan Administrator shall correct such errors or omissions as is set forth in any applicable contract with the State of New Jersey.

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

Amended by R.2005 d.347, effective October 17, 2005.

See: 37 N.J.R. 2150(a), 37 N.J.R. 4032(a).

Rewrote (a) and (b).

17:16-65.12 Amendments

This subchapter may be amended from time to time by the State Investment Council. Any amendment adopted by such Council shall be binding upon all participants and beneficiaries thereof, the Plan Administrator and the Portfolio Manager.

Amended by R.2005 d.347, effective October 17, 2005.

See: 37 N.J.R. 2150(a), 37 N.J.R. 4032(a).

Substituted "subchapter" for "rule"; deleted "regulation of" preceding "the State"; added ", the Plan Administrator and the Portfolio Manager".

17:16-65.13 Liquidation

The Director, Division of Investment, upon direction of the New Jersey State Employees Deferred Compensation Board and with the approval of the State Investment Council, shall liquidate the aforementioned Common Funds and/or holdings in one or more of the Outside Funds.

Amended by R.2005 d.347, effective October 17, 2005.

See: 37 N.J.R. 2150(a), 37 N.J.R. 4032(a).

Substituted "Common Funds and/or holdings in one or more of the Outside Funds" for "common funds".

SUBCHAPTER 66. (RESERVED)

SUBCHAPTER 67. COMMON PENSION FUND D

17:16-67.1 Definition

(a) Pursuant to P.L. 1970, c.270, there is hereby created in the Division of Investment, Department of the Treasury, a common trust fund, to be known as Common Pension Fund D. The following participating funds may invest in said Common Pension Fund D:

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.

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), inserted a new 3. and recodified former 3. and 4. as 4. and 5.

17:16-67.2 Permissible investments

The Common Pension Fund D shall be a fund created for the purpose of investing in international debt securities, international corporate common stocks or securities convertible into such stock, currencies and currency futures and options which are approved for investment under N.J.A.C. 17:16-20, 44, 46 and 81, and in the State of New Jersey Cash Management Fund. Said common fund shall be composed of units of ownership of unlimited quantity. All units of ownership shall be represented by a certificate prepared by and issued by the Director of the Division of Investment. Each such certificate may represent one or more units of ownership. All units of ownership shall be purchased by cash payments or in kind. All units shall be purchased by the participating fund for the principal valuation price determined by these rules. At the outset of said common fund, all initial purchases shall be made for a principal valuation price of \$1,000 per unit.

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

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

Citations corrected.

Amended by R.2000 d.374, effective September 18, 2000.

See: 32 N.J.R. 2685(a), 32 N.J.R. 3456(a).

Changed N.J.A.C. reference.

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

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

Substituted "rules" for "regulations" following "determined by these".

17:16-67.3 Certificates of ownership

(a) All certificates of ownership of units shall contain the following information:

1. The number of units purchased;

2. The purchaser;
3. The aggregate principal valuation price for the number of units purchased;
4. The date of purchase;
5. The serial number of the certificate; and
6. The principal valuation price per unit purchased.

17:16-67.4 Units of participation

Each unit of participation shall represent an equal beneficial interest in the fund and no unit shall have priority or preference over any other.

17:16-67.5 Valuation

Upon each valuation date, as defined in N.J.A.C. 17:16-67.6, there shall be a valuation for every investment in the common fund in the method provided for in these regulations. The valuation shall be for the principal value per outstanding unit and the income value per outstanding unit.

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

17:16-67.6 Date of valuation

The valuation shall be determined at the opening of business of the first business day of each month, and shall be based on market prices and accruals as of the close of the previous day, in every case converted into United States dollars as provided in N.J.A.C. 17:16-67.7.

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.2004 d.259, effective July 6, 2004.
See: 36 N.J.R. 1749(a), 36 N.J.R. 3273(b).

Substituted "month" for "quarter" preceding ", and shall be based on market prices".

17:16-67.7 Method of valuation

(a) The Director of the Division of Investment shall use the following method of valuation of investments:

1. Where there have been recorded sales or bid and asked prices of an investment in the common fund on recognized exchanges in foreign countries approved by the State Investment Council, the last recorded sales price, if there has been a recorded sale, shall be used, unless on a day subsequent to such sale, there shall have been recorded bid and asked prices, in which event the mean of the most recent of such bid and asked prices shall be used; or

2. If there have been no such recorded sales, the mean of the most recent such recorded bid and asked prices shall be used.

(b) For the purpose of this section, recorded sales and bid and asked prices shall be those appearing in newspapers of general circulation published in the City of New York, the City of London, England, in standard financial periodicals, or those established by a recognized pricing service.

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

(d) 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.

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

(f) For the purposes of valuation of an investment, with the exception of investments sold but not delivered, it shall not be necessary to deduct from the value ascertained by

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

(g) 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.

Amended by R.1991 d.390, effective August 5, 1991.
See: 23 N.J.R. 1777(b), 23 N.J.R. 2345(b).

In (g), added "or those established by a recognized pricing service".
Amended by R.2001 d.119, effective April 2, 2001.
See: 33 N.J.R. 372(b), 33 N.J.R. 1115(a).

In (c), inserted "and (b) above".

17:16-67.8 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. 17:16-67.7, there shall be added:

i. Uninvested cash principal;

ii. The value of any rights or stock dividends which may have been declared but not received as of the valuation date when the security has been valued ex-right and ex-dividend;

iii. Such portion as shall constitute principal of any extraordinary or liquidating dividend which may have been declared but which is unpaid as of the valuation date when the particular security has been valued ex-dividend; 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 so ascertained 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.

(b) 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 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.390, effective August 5, 1991.
See: 23 N.J.R. 1777(b), 23 N.J.R. 2345(b).

In (b), added "or those established by a recognized pricing service".

17:16-67.9 Admission date

(a) No admission to or withdrawal from the common fund shall be permitted except on the basis of the principal unit value determined as described in N.J.A.C. 17:16-67.8

hereof and no participation shall be admitted to or withdrawn from the common fund 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 by cash payments or in kind. The price for purchasing units, except for original units issued by the common fund, shall be the principal valuation per unit as determined on each valuation date pursuant to N.J.A.C. 17:16-67.8. Dividends and interest earned shall be retained within the common fund, but may be distributed in whole or in part to the participatory pension funds, at the direction of the State Investment Council.

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.2001 d.119, effective April 2, 2001.

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

17:16-67.10 Amendments

This subchapter may be amended from time to time by the State Investment Council. Any amendment adopted by the Council shall be binding upon all participating trusts and beneficiaries thereof. An amendment shall become effective on the date the adoption notice is published in the New Jersey Register. The State Investment Council may, at its discretion, postpone the effectiveness of any amendment by including an operative date in the adoption notice.

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

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

Effective date and operative date provisions added.

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

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

17:16-67.11 Distribution of realized appreciation

(a) Subsequent to the receipt of audited financial statements for the prior fiscal year, the State Investment 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.

Amended by R.1994 d.328, effective July 5, 1994.

See: 26 N.J.R. 1772(b), 26 N.J.R. 2798(d).

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

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

17:16-67.12 Limitations

(a) The Common Pension Fund D shall be permitted to invest in the Cash Management Fund and in such securities subject to the limitations and conditions contained in the regulations of the State Investment Council, particularly N.J.A.C. 17:16-20, 44, 46 and 81, except for the condition as to classification of funds contained in N.J.A.C. 17:16-3.

(b) In the event that any rule contains a limitation of the assets of any pension and annuity group fund which may be invested either in one issue or a class of issues, that limitation shall be construed to apply to the combined assets of all of the pension funds and shall not restrict the total common pension fund investment in such asset or assets to those limitations for any individual pension fund. Not more than 22 percent of the market value of the assets of any pension and annuity group fund shall be represented by the market value of international common and preferred stocks and securities convertible into common stock as permitted by N.J.A.C. 17:16-41, together with the market value of international government and agency obligations, as permitted by N.J.A.C. 17:16-20, whether held directly by such pension fund or through Common Pension Fund D.

(c) If the market value exceeds 22 percent, 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 22 percent level, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

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.390, effective August 5, 1991.

See: 23 N.J.R. 1777(b), 23 N.J.R. 2345(b).

In (b), increased from 5 to 15 percent of market value amount that may be represented by international and preferred stocks and convertible securities.

Amended by R.1998 d.208, effective May 4, 1998.

See: 30 N.J.R. 804(b), 30 N.J.R. 1635(b).

In (b), changed market value percentage from 15 percent to 20 percent in the second sentence.

Amended by R.2000 d.374, effective September 18, 2000.

See: 32 N.J.R. 2685(a), 32 N.J.R. 3456(a).

In (a), changed N.J.A.C. reference; and in (b), substituted a reference to 22 percent for a reference to 20 percent.
 Amended by R.2004 d.259, effective July 6, 2004.
 See: 36 N.J.R. 1749(a), 36 N.J.R. 3273(b).
 Added (c).

17:16-67.13 Liquidation

The Director, Division of Investment, subject to the approval of the State Investment Council and the State Treasurer, may, upon two months' notice, liquidate the aforementioned common fund. 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. 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. Distribution upon liquidation shall occur within 15 days after a valuation date and shall be based upon the principal value per unit determined upon such valuation date. 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.

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

**SUBCHAPTER 68. NEW JERSEY BETTER
 EDUCATIONAL SAVINGS TRUST (NJBEST)
 FUND**

17:16-68.1 Definition

Pursuant to N.J.S.A. 52:18A-91, there is hereby created in the Division of Investment, Department of the Treasury, a common trust fund to be known as NJBEST Fund, in which will be deposited monies from or for the benefit of New Jersey residents.

17:16-68.2 Participation in the NJBEST Plan

Participation in the NJBEST Plan represented by contributions to the fund shall be evidenced by proper entries setting forth ownership units in the records of the Office of Student Assistance, New Jersey Higher Education Assistance Authority, or an agent thereof. Contributions to the common fund shall be made in cash. The participation of New Jersey residents shall be subject to the Plan as established by the New Jersey Higher Education Assistance Authority Board.

17:16-68.3 Distribution of income

All income as calculated pursuant to N.J.A.C. 17:16-68.7 shall be invested in units of participation in accordance with N.J.A.C. 17:16-68.9 and such units shall be withdrawn in accordance with N.J.A.C. 17:16-68.10.

17:16-68.4 Permissible investments

(a) The Director may invest the assets of the NJBEST Plan in securities which are legal investments for fiduciaries of trust estates in New Jersey under N.J.S.A. 3B:20-11.1 et seq. which are permitted under N.J.S.A. 52:18A-91, subject to the applicable provisions of the regulations of the State Investment Council. The NJBEST Fund will be invested in fixed income securities and in such common and preferred stocks and issues convertible into common stock as are permitted under N.J.A.C. 17:16-41 subject to the exception noted in (c) below. The NJBEST Fund may be invested in the State of New Jersey Cash Management Fund, which in turn will be invested in accordance with N.J.A.C. 17:16-61, or in such other fixed income securities maturing in less than one year as may be permitted by N.J.A.C. 17:16.

(b) The NJBEST Fund may hold up to 100 percent of their assets either in fixed income securities, as permitted by the rules of the State Investment Council, or in the State of New Jersey Cash Management Fund.

(c) With respect to the NJBEST Fund, not more than 80 percent of the market value of the Fund as of the most recent audited report may be invested in the common stocks, preferred stocks and securities convertible into common stock as are permitted under N.J.A.C. 17:16-42.

(d) With respect to the NJBEST Fund, not more than 10 percent of the market value of the Fund as of the most recent audited report shall be invested in the common stocks, preferred stocks and securities convertible into common stock of any one corporation, in accordance with N.J.A.C. 17:16-41.

(e) With respect to the NJBEST Fund, not more than 10 percent of the market value of the assets of the Fund as of the most recent audited report shall be invested in the debt of any one corporation, and not more than 10 percent of any one issue may be purchased at the time of issue, in accordance with N.J.A.C. 17:16. Nothing in this section shall prohibit the investment of all or a portion of the assets of the Fund in securities issued by the U.S. Government and such agencies as are eligible for investment under N.J.A.C. 17:16-11.

Amended by R.2000 d.252, effective June 19, 2000.
 See: 32 N.J.R. 1326(a), 32 N.J.R. 2258(b).

In (c), substituted a reference to 80 percent for a reference to 40 percent, and changed N.J.A.C. reference.

17:16-68.5 Units of participation

Each unit of participation shall represent an equal beneficial interest in the assets of the Fund and no unit shall have priority or preference over any other. Each unit of participation shall be valued at the net asset value per unit as defined in N.J.A.C. 17:16-68.7.

17:16-68.6 Date of valuation

The valuation shall be determined after the close of business on the last day of each month, and shall be based on market prices and income accruals at the close of such day.

17:16-68.7 Valuation

The net asset value of the units of participation of the fund on the last day of each month shall be determined by dividing the total market value of the fund's securities and other assets, less any administrative expenses or other liabilities, by the total outstanding units of participation in the fund. Securities prices shall be determined by a pricing service or a method which has been approved by the State Investment Council. Accrual and amortization procedures shall be calculated by procedures and formulas approved by the State Investment Council. The method of pricing the fund and the units of participation in the fund monthly, shall be in accordance with contractual obligations of the custodian bank, subject to the approval of the State Investment Council. The method of calculation of units of participation will be in accordance with an agreement between the State of New Jersey and the Plan Administrator. Initial unit values will be \$1.00.

17:16-68.8 Guidelines for valuation of securities

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

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

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

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

17:16-68.9 Reinvestment of income earned

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

17:16-68.10 Admission and withdrawal of units of participation

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

17:16-68.11 Errors and omissions

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

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

17:16-68.12 Amendments

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

17:16-68.13 Liquidation

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

17:16-68.14 Classification of the fund

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

SUBCHAPTER 69. COMMON PENSION FUND E**Authority**

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

Source and Effective Date

R.2005 d.201, effective June 20, 2005.
See: 37 N.J.R. 575(a), 37 N.J.R. 2217(a).

17:16-69.1 Definition

(a) Pursuant to P.L. 1970, c.270, there is hereby created in the Division of Investment, Department of the Treasury, a common trust fund, to be known as Common Pension Fund E. The following participating funds may invest in said Common Pension Fund E:

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.

17:16-69.2 Permissible investments

The Common Pension Fund E shall be a fund created for the purpose of investing in alternative investments which are approved for investment under N.J.A.C. 17:16-71, 90, and 100, and in the State of New Jersey Cash Management Fund. Said common fund shall be composed of units of ownership of unlimited quantity. All units of ownership shall be represented by a certificate prepared by and issued by the Director of the Division of Investment. Each such certificate may represent one or more units of ownership. All units of ownership shall be purchased by cash payments or in kind. All units shall be purchased by the participating fund for the principal valuation price determined by these rules. At the outset of said common fund, all initial purchases shall be made for a principal valuation price of \$1,000 per unit.

17:16-69.3 Certificates of ownership

(a) All certificates of ownership of units shall contain the following information:

1. The number of units purchased;
2. The purchaser;
3. The aggregate principal valuation price for the number of units purchased;
4. The date of purchase;
5. The serial number of the certificate; and
6. The principal valuation price per unit purchased.

17:16-69.4 Units of participation

Each unit of participation shall represent an equal beneficial interest in the fund and no unit shall have priority or preference over any other.

17:16-69.5 Valuation

Upon each valuation date, as defined in N.J.A.C. 17:16-69.6, there shall be a valuation for every investment in the common fund in the method provided for in this subchapter. The valuation shall be for the principal value per outstanding unit and the income value per outstanding unit.

17:16-69.6 Date of valuation

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 day, in every case converted into United States dollars as provided in N.J.A.C. 17:16-69.7.

17:16-69.7 Method of valuation

(a) The Director of the Division of Investment shall use the following method of valuation for investments:

1. Where there has been an independent third party valuation, the valuation established by the independent third party may be used; or

2. The asset class will be valued using valuation criteria as approved by the Director of the Division of Investment.

(b) 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.

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

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

(e) 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.

17:16-69.8 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. 17:16-69.7, 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. 17:16-69.7;

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. 17:16-69.7; 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.

(b) 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.

17:16-69.9 Admission date

(a) No admission to or withdrawal from the common fund shall be permitted except on the basis of the principal unit value determined as described in N.J.A.C. 17:16-69.8 and no participation shall be admitted to or withdrawn from the common fund 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 by cash payments or in kind. The price for purchasing units, except for original units issued by the common fund, shall be the principal valuation per unit as determined on each valuation date pursuant to N.J.A.C. 17:16-69.8. Dividends, distributions and interest earned shall be retained within the common fund, but may be distributed in whole or in part to the participatory pension funds, at the direction of the State Investment Council.

17:16-69.10 Amendments

(a) These rules may be amended from time to time by regulation of the State Investment Council.

(b) Any amendment adopted by the State Investment Council shall be binding upon all participating trusts and beneficiaries thereof.

(c) An amendment shall become effective on the date the adoption notice is published in the New Jersey Register. The State Investment Council may, at its discretion, postpone the effectiveness of any amendment by including an operative date in the adoption notice.

17:16-69.11 Distribution of realized appreciation

(a) Subsequent to the receipt of audited financial statements for the prior fiscal year, the State Investment 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.

17:16-69.12 Limitations

(a) The Common Pension Fund E shall be permitted to invest in the Cash Management Fund and in such investments subject to the limitations and conditions contained in the rules of the State Investment Council, particularly N.J.A.C. 17:16-71, 90 and 100, except for the condition as to classification of funds contained in N.J.A.C. 17:16-3. For all investments made in Common Pension Fund E, the following shall occur:

1. The Director shall provide the Investment Policy Committee of the State Investment 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 the rules of the State Investment Council (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 State Investment 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 State Investment 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 State Investment 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 State Investment 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 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.

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)

SUBCHAPTER 81. PURCHASE AND SALE OF INTERNATIONAL CURRENCY

17:16-81.1 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) As used in this subchapter:

1. "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; and

2. "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.

(c) 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).

17:16-81.2 (Reserved)

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.

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 "Objectives".

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 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.

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 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.

“Equity long/short funds” means a fund 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.

“Funds-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 funds” means funds 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

“Opportunistic funds” means funds 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.

17:16-100.2 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest 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 is permissible provided:
 - i. 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 this subcategory; and
 - ii. No more than .2 percent of the market value of the assets of any pension and annuity group fund investing in Common Fund E may be invested directly in any individual fund.
2. Participation in equity long/short funds is permissible provided:
 - i. No more than three 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 .3 percent of the market value of the assets of any pension and annuity group fund

investing in Common Fund E may be invested directly in any individual fund.

3. Participation in opportunistic funds is permissible provided:

- i. 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; and
- ii. No more than .15 percent of the market value of the assets of any pension and annuity group fund investing in Common Fund E may be invested directly in any individual fund.

17:16-100.3 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.

17:16-100.4 Limitations

(a) The aggregate market value of absolute return strategy investments 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.

17:16-100.5 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.