

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

1. Exercise the conversion privileges in the common stock of any security acquired under this subchapter or N.J.A.C. 17:16-7;
2. Purchase the preferred stock, whether convertible or not, of a company the stock of which qualifies for investment and is on the "Approved Common and Preferred Stock and Convertible Securities List";
3. Purchase the convertible issue of a company the common stock of which qualifies for investment and is on the "Approved Common and Preferred Stock and Convertible Securities List".

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).

**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. Trustees for the Support of Public Schools.
7. Judicial Retirement System of New Jersey.
8. The Deferred Compensation Equity Fund.

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.

**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 60 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 58 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 or its Executive Committee. 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 60 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 60 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 limitation for the Trustees for the Support of Public Schools shall be 10 percent. 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.

**17:16-41.4 Approved Common Stock List**

(a) The "Approved Common and Preferred Stock and Convertible Securities List" is a list of those companies

whose stocks can be purchased by the eligible funds. Additions to or deletions from the List shall be made by the Council, in its discretion, based, respectively, upon the presence or absence of the following:

1. The company shall have growth in revenues and earnings which exceed growth in the Gross National Product;
2. The company shall have a strong market franchise, unique products and proven marketing capability;
3. The company's management shall have demonstrated the ability to preserve profit margins, to avoid earnings surprises and to take the needed initiatives to preserve and improve upon the company's strengths;
4. The company shall have capitalization which is not heavily leveraged, thereby allowing it more flexibility to finance future expansion;
5. The company shall not be unduly capital intensive, which might expose it to the necessities of raising capital at times when capital markets are unduly expensive;
6. The company shall demonstrate that it can generate capital internally for growth;
7. The market for the company's shares shall have enough liquidity to permit the orderly acquisition and disposition of a full position; and
8. The company shall have conservative accounting practices.

(b) Companies which are not in conformance with (a)1 through 8 above may be added to or retained on the List, on a case-by-case basis, if the Council determines that the company is otherwise financially secure and presents a sound investment opportunity.

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.

## SUBCHAPTER 42. COMMON STOCKS AND CONVERTIBLE SECURITIES (TRUST FUND)

### 17:16-42.1 Definition

As used in this subchapter, "convertible securities" shall mean convertible preferred stocks and convertible bonds.

### 17:16-42.2 Permissible investments

(a) The common stock and securities shall be listed on a securities exchange in the United States.

(b) The convertible preferred stocks and bonds must meet the following requirements:

1. The obligations have been registered with the Securities and Exchange Commission;
2. The obligor corporation is not in default as to the payment of principal or interest upon any of its outstanding obligations;
3. The obligor corporation has a capitalization of at least \$50,000,000.

(c) The Director shall submit a list of common stocks and convertible securities to the Council for its approval. Such list may be amended or enlarged from time to time subject to the Council's approval and shall be designated the "Approved Common and Preferred Stock and Convertible Securities List".

(d) The Director shall select for purchase issues of common stocks and convertible securities from the "Approved Common and Preferred Stock and Convertible Securities List".

(e) 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 and is on the "Approved Common and Preferred Stock and Convertible Securities List".

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

Amended by R.1993 d.189, effective May 3, 1993.  
See: 25 N.J.R. 909(b), 25 N.J.R. 1886(b).

Deleted (b); Revised (c); Redesignated existing (c) through (f) as (b) through (e).

### 17:16-42.3 Applicable funds in the trust group

(a) Applicable funds in the trust group are:

1. College of Medicine and Dentistry of New Jersey—Endowment Funds;
2. Supplemental Annuity Collective Trust.

As amended, R.1972 d.75, eff. April 19, 1972.  
See: 4 N.J.R. 109(a).

### 17:16-42.4 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.