

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unit value determined as described in section 8 of this subchapter, and no participation shall be admitted to or withdrawn from the common fund except on a valuation date or within 15 days thereafter; however, in the event that an admission or withdrawal occurs within the 15-day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.

(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), SEC-registered 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.

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).

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, 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.

17:16-65.7 Valuation

The net asset value per unit of participation in each DCP Fund on the last business day of each month (for Common Funds) or each business day (for Outside Funds) 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. Securities prices will be determined by a pricing service or 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.

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, 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.

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 con-

vertible 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).