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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).
 Recodified from N.J.A.C. 17:16-61.12 and amended by R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Rewrote the section. Former N.J.A.C. 17:16-61.7, Valuation, recodified to N.J.A.C. 17:16-61.4

17:16-61.8 (Reserved)

Recodified to N.J.A.C. 17:16-61.4 by R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Section was "Date of valuation".

17:16-61.9 Limitations

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.

New Rule, R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Former N.J.A.C. 17:16-61.9, Calculation of daily income per participating unit, recodified to N.J.A.C. 17:16-61.5.

17:16-61.10 Liquidation

(a) The Director, subject to the approval of the Council and the Treasurer, may, upon two months' notice liquidate the State of New Jersey Cash Management Fund, including the reserve 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 State of New Jersey Cash Management Fund, and the Other-than-State funds, shall share proportionately in the reserve 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 State of New Jersey Cash Management 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 effected without the approval by the Council of a plan of distribution of the assets of the State of New Jersey Cash Management 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).
 Recodified from N.J.A.C. 17:16-61.13 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Rewrote the section. Former N.J.A.C. 17:16-61.10, Reinvestment of daily income per participating unit, combined with N.J.A.C. 17:16-61.5.

17:16-61.11 (Reserved)

Recodified to N.J.A.C. 17:16-61.6 by R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Section was "Admission and withdrawal of participating units".

17:16-61.12 (Reserved)

Recodified to N.J.A.C. 17:16-61.7 by R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Section was "Amendments".

17:16-61.13 (Reserved)

Recodified to N.J.A.C. 17:16-61.10 by R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Section was "Liquidation".

17:16-61.14 (Reserved)

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).
 Repealed by R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Section was "Guidelines on error correction".

SUBCHAPTER 62. COMMON PENSION FUND A

17:16-62.1 General provisions

(a) Pursuant to P.L. 1970, c. 270, there is hereby created in the Division a common trust fund, to be known as Common Pension Fund A, for the purpose of investing in stocks and related securities.

(b) The following funds may participate in 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; and
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).
 Amended by R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "General provision". Rewrote (a), introductory paragraph of (b), and (b)4.

17:16-62.2 Permissible investments

The Director may invest the assets of Common Pension Fund A in corporate common stocks or securities convertible into such stock, including any investments permitted under this chapter, the State of New Jersey Cash Management Fund, United States Treasury Obligations and commercial paper.

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

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

Recodified in part to N.J.A.C. 17:16-62.3 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote the section.

Amended by R.2007 d.262, effective August 20, 2007.

See: 39 N.J.R. 1468(a), 39 N.J.R. 3550(b).

Deleted designation (a), deleted "and in" preceding "the State", and inserted "United States Treasury Obligations and commercial paper".

17:16-62.3 Units of participation

(a) Common Pension Fund A shall be composed of units of participation of unlimited quantity. 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 provided in N.J.A.C. 17:16-62.5.

(b) All units of participation in Common Pension Fund A, representing net capital contributions to the fund together with any income thereon, shall be evidenced by a certificate prepared by and issued by the Director. Each such certificate may represent one or more units of participation, and 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.

(c) All units of participation 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 this subchapter.

Recodified in part from N.J.A.C. 17:16-62.2 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Former N.J.A.C. 17:16-62.3, Certificates of ownership, repealed.

17:16-62.4 Valuation of investment

(a) Upon each valuation date, as provided in (b) below, there shall be a valuation for every investment in the common fund in the method provided for in this section.

(b) 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 business day.

(c) The Director shall use the following method of valuation of investments:

1. Where there have been recorded sales of an investment in the common fund on a security exchange, the last recorded sales price 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 recorded bid and asked prices shall be used.

3. For the purpose of this subsection, 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 (c)1 and 2 above, 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 section, 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).

Recodified from N.J.A.C. 17:16-62.5 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Valuation". Section combined with former N.J.A.C. 17:16-62.6, Date of valuation, and 17:16-62.7, Method of valuation, and was substantially amended. Former N.J.A.C. 17:16-62.4, Units of participation, repealed.

17:16-62.5 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. 17:16-62.4, 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) 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 participating fund'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).
 Recodified from N.J.A.C. 17:16-62.8 and amended by R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Rewrote the section. Former N.J.A.C. 17:16-62.5, Valuation, recodified to N.J.A.C. 17:16-62.4.

17:16-62.6 Admission and withdrawal

(a) No admission to or withdrawal from the common fund shall be permitted 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 in cash or in kind.

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).
 Recodified from N.J.A.C. 17:16-62.9 and amended by R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Section was "Admission date". Rewrote the section. Former N.J.A.C. 17:16-62.6, Valuation, combined with N.J.A.C. 17:16-62.4.

17:16-62.7 Amendments

This subchapter may be amended from time to time by the Council. Any amendment adopted by the Council shall be binding upon all participating funds, trusts and beneficiaries thereof.

Amended by R.2001 d.119, effective April 2, 2001.
 See: 33 N.J.R. 372(b), 33 N.J.R. 1115(a).
 Recodified from N.J.A.C. 17:16-62.10 and amended by R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Rewrote the section. Former N.J.A.C. 17:16-62.7, Method of valuation, combined with N.J.A.C. 17:16-62.4.

17:16-62.8 Distribution of realized appreciation

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

Recodified from N.J.A.C. 17:16-62.11 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

In the introductory paragraph of (a), deleted "State Investment" preceding "Council may consider". Former N.J.A.C. 17:16-62.8, Valuation of units, recodified to N.J.A.C. 17:16-62.5.

17:16-62.9 Limitations

(a) Unless otherwise specifically provided therein, in the event that any subchapter contains a limitation of the assets of any Pension and Annuity 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 and Annuity Funds and shall not restrict the total common pension fund investment in such issue or issues to those limitations for any individual Pension and Annuity 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.

See: 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.

Recodified from N.J.A.C. 17:16-62.12 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote the section. Former N.J.A.C. 17:16-62.9, Admission date, recodified to N.J.A.C. 17:16-62.6.

17:16-62.10 Liquidation

(a) The Director, subject to the approval of the Council and the Treasurer, may, upon two months' notice, liquidate Common Pension Fund A.

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

Recodified from N.J.A.C. 17:16-62.13 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote (a); in (c), inserted "or she"; and in (e) deleted "State Investment" preceding "Council". Former N.J.A.C. 17:16-62.10, Amendments, recodified to N.J.A.C. 17:16-62.7.

17:16-62.11 (Reserved)

Recodified to N.J.A.C. 17:16-62.8 by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Distribution of realized appreciation".

17:16-62.12 (Reserved)

Recodified to N.J.A.C. 17:16-62.9 by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Limitations".

17:16-62.13 (Reserved)

Recodified to N.J.A.C. 17:16-62.10 by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Liquidation".

SUBCHAPTER 63. COMMON PENSION FUND B

17:16-63.1 General provisions

(a) Pursuant to P.L. 1970, c. 270, there is hereby created in the Division a common trust fund, to be known as Common Pension Fund B, for the purpose of investing in fixed income, debt securities and non-convertible preferred stock.

(b) The following funds may participate in 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; and
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).

Amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote (a) and introductory paragraph of (b); and in (b)4 added "and" at the end.

Amended by R.2008 d.395, effective December 15, 2008.

See: 40 N.J.R. 4694(b), 40 N.J.R. 7000(b).

In (a), substituted a comma for “and” following “income”, and inserted “and non-convertible preferred stock”.

17:16-63.2 Permissible investments

The Director may invest the assets of Common Pension Fund B in fixed income, debt securities and non-convertible preferred stock, including any investments permitted under this chapter, and in the State of New Jersey Cash Management Fund.

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).
 Amended by R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Rewrote the section.
 Amended by R.2008 d.395, effective December 15, 2008.
 See: 40 N.J.R. 4694(b), 40 N.J.R. 7000(b).
 Substituted a comma for “and” following “income”, and inserted “and non-convertible preferred stock”.

17:16-63.3 Units of participation

(a) Common Pension Fund B shall be composed of units of participation of unlimited quantity. 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 provided in N.J.A.C. 17:16-63.5.

(b) All units of participation in Common Pension Fund B, representing net capital contributions to the fund together with any income thereon, shall be evidenced by a certificate prepared by and issued by the Director. Each such certificate may represent one or more units of participation, and 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;
6. The principal valuation price per unit purchased.

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

Amended by R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Rewrote the section.

17:16-63.4 Valuation of investments

(a) Upon each valuation date, as provided in (b) below, there shall be a valuation for every investment in the common fund in the method provided for in this section.

(b) 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 business day.

(c) The Director shall use the following method of valuation of investments:

1. The Director shall use a recognized pricing service approved prior to use by the Director.
2. 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.
3. An investment sold but not delivered pending receipt of proceeds shall be valued at the net sales price.
4. 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.

As amended, R.1974 d.265, effective September 24, 1974.
 See: 6 N.J.R. 416(b).
 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.
 Recodified from N.J.A.C. 17:16-63.5 and amended by R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Section was “Valuation”. Section combined with former N.J.A.C. 17:16-63.6, Date of valuation and 17:16-63.7, Method of valuation, and substantially amended. Former N.J.A.C. 17:16-63.4, Units of participation, repealed.

17:16-63.5 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. 17:16-63.4, 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).

Recodified from N.J.A.C. 17:16-63.8 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

In (a)1, substituted "N.J.A.C. 17:16-63.4" for "this section". Former N.J.A.C. 17:16-63.5, Valuation, recodified to N.J.A.C. 17:16-63.4.

17:16-63.6 Admission and withdrawal

(a) No admission to or withdrawal from the common fund shall be permitted 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 in cash or in kind.

Amended by R.1974 d.265, effective September 24, 1974.

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

Recodified from N.J.A.C. 17:16-63.9 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Admission date". Rewrote the section. Former N.J.A.C. 17:16-63.6, Date of valuation, combined with current N.J.A.C. 17:16-63.4.

17:16-63.7 Amendments

This subchapter may be amended from time to time by the Council. Any amendment adopted by the Council shall be binding upon all participating funds, trusts and beneficiaries thereof.

Recodified from N.J.A.C. 17:16-63.10 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote the section. Former N.J.A.C. 17:16-63.7, Method of valuation, combined with current N.J.A.C. 17:16-63.4.

17:16-63.8 Distribution of realized appreciation

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

Recodified from N.J.A.C. 17:16-63.11 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

In (a), deleted "State Investment" preceding "Council". Former N.J.A.C. 17:16-63.8, Valuation of units, recodified to N.J.A.C. 17:16-63.5.

17:16-63.9 Limitations

(a) Unless otherwise specifically provided therein, in the event that any subchapter contains a limitation of the assets of any Pension and Annuity 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 and Annuity Funds and shall not restrict the total common pension fund investment in such issue or issues to those limitations for any individual Pension or Annuity Fund.

(b) For all investments made in Common Pension Fund B through separate accounts, funds-of-funds, commingled funds, co-investments and joint ventures under N.J.A.C. 17:16-23, the following shall occur:

1. The Director shall provide the Investment Policy Committee of the Council (Investment Committee) with the requested due diligence information for all investments recommended by the Division and a formal written 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 N.J.A.C. 17:16-23, 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 Council, which report shall include a written memorandum 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 memorandum to the 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 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 Council until the number and dollar value of "exempt" investment again falls below the 20 percent threshold.

(c) The investments in Common Pension Fund B made under N.J.A.C. 17:16-23 cannot comprise more than 20 percent of any one investment manager's total assets.

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).

Recodified from N.J.A.C. 17:16-63.12 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote the section. Former N.J.A.C. 17:16-63.9, Admission date, recodified to N.J.A.C. 17:16-63.6.

Amended by R.2008 d.395, effective December 15, 2008.

See: 40 N.J.R. 4694(b), 40 N.J.R. 7000(b).

Added (b) and (c).

17:16-63.10 Liquidation

(a) The Director, subject to the approval of the Council and the Treasurer, may, upon two months' notice, liquidate Common Pension Fund B.

(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 of the 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).
 Recodified from N.J.A.C. 17:16-63.13 and amended by R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Rewrote (a); in (c), inserted "or she" following "he"; and in (e), deleted "State Investment" preceding "Council". Former N.J.A.C. 17:16-63.10, Amendments, recodified to N.J.A.C. 17:16-63.7.

17:16-63.11 (Reserved)

Recodified to N.J.A.C. 17:16-63.8 by R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Section was "Distribution of realized appreciation".

17:16-63.12 (Reserved)

Recodified to N.J.A.C. 17:16-63.9 by R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Section was "Limitations".

17:16-63.13 (Reserved)

Recodified to N.J.A.C. 17:16-63.10 by R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Section was "Liquidation".

SUBCHAPTER 64. (RESERVED)

SUBCHAPTER 65. DEFERRED COMPENSATION PLAN

17:16-65.1 General provisions

(a) Pursuant to N.J.S.A. 52:18A-163 et seq., there are hereby created in the Division four common funds to be known as the New Jersey State Employees Deferred Compen-

sation 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).

(b) Moneys from salary deductions of New Jersey State employees shall be deposited in the Common Funds up to and including January 1, 2006. 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 January 2, 2006. Collectively, the Common Funds and the Outside Funds shall be referred to as the DCP Funds.

(c) 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).
 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.
 Amended by R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Section was "Definition". Section combined with former N.J.A.C. 17:16-65.2, Participation in the New Jersey State Employees Deferred Compensation Plan, and substantially amended.

17:16-65.2 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 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 January 2, 2006, 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.
2. 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. 17:16-42. 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. 17:16-42 and which are designated as small capitalization stocks by the Division.

3. The New Jersey State Employees Deferred Compensation Cash Management Fund shall be invested in the State of New Jersey Cash Management Fund or in such other fixed income securities maturing in less than one year as may be permitted by this subchapter.

4. 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 Council, or in the State of New Jersey Cash Management Fund.

5. 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, commingled trust accounts of a trust bank authorized to transact business in the State, 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 January 2, 2006. 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, commingled trust accounts of a trust bank authorized to transact business in the State, 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 (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 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.

Recodified from N.J.A.C. 17:16-65.4 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote the section. Former N.J.A.C. 17:16-65.2, Participation in the New Jersey State Employees Deferred Compensation Plan, partially combined with current N.J.A.C. 17:16-65.1.

17:16-65.3 Units of participation

(a) DCP Funds shall be composed of units of participation of unlimited quantity. 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. 17:16-65.5.

(b) All units of participation in the New Jersey State Employees Deferred Compensation Plan, representing net capital contributions to the DCP Funds together with any income thereon, 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).

(c) All units of participation shall be purchased by cash payments. All units shall be purchased for the principal valuation price determined by 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.2005 d.347, effective October 17, 2005.
See: 37 N.J.R. 2150(a), 37 N.J.R. 4032(a).

Rewrote the section.

Recodified from N.J.A.C. 17:16-65.5 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote the section. Former N.J.A.C. 17:16-65.3, Distribution of income, repealed.

17:16-65.4 Valuation of investments

(a) Upon each valuation date, as provided in (b) below, there shall be a valuation for every investment in the DCP funds in the method provided for in this section.

(b) 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.

(c) The Director shall use the following method of valuation of investments:

1. Securities' prices will be determined by a pricing service or a method which has been approved by the Director.
2. Accrual and amortization procedures will be calculated by procedures and formulas approved by the Director.
3. 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 Director.
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, unless such value is 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 section, brokers' commission or other expenses which would be incurred on a sale thereof.

(d) 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.

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)".
Recodified from N.J.A.C. 17:16-65.6 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Date of valuation". Rewrote the section. Former N.J.A.C. 17:16-65.4, Permissible investments, recodified to N.J.A.C. 17:16-65.2.

17:16-65.5 Valuation of units

(a) 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.

(b) 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.

(c) 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.

(d) 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.

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.

Recodified from N.J.A.C. 17:16-65.7 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Valuation". Rewrote the section. Former N.J.A.C. 17:16-65.5, Units of participation, recodified to N.J.A.C. 17:16-65.3.

17:16-65.6 Admission and withdrawal

(a) Admission to (until January 1, 2006) 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.

(b) 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)."

Recodified from N.J.A.C. 17:16-65.10 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Admission and withdrawal of units of participation". Inserted (a) and (b) designations; and in (a), substituted "January 1, 2006" for "the transition date". Former N.J.A.C. 17:16-65.6, Date of valuation, recodified to N.J.A.C. 17:16-65.4.

17:16-65.7 Amendments

This subchapter may be amended from time to time by the Council. Any amendment adopted by the 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". Recodified from N.J.A.C. 17:16-65.12 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Deleted "State Investment" preceding first occurrence of "Council" and substituted "the" for "such" following "adopted by". Former N.J.A.C. 17:16-65.7, Valuation, was recodified to N.J.A.C. 17:16-65.5.

17:16-65.8 (Reserved)

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

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

Repealed by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Guidelines for valuation of securities".

17:16-65.9 Limitations

(a) 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.

(b) 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 25 percent of any one issue may be purchased at the time of issue.

(c) 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.

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.

Repeal and New Rule, R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Reinvestment of income earned".

17:16-65.10 Liquidation

(a) The Director, upon direction of the New Jersey State Employees Deferred Compensation Board and with the approval of the Council, shall liquidate the aforementioned Common Funds and/or holdings in one or more of the Outside Funds.

(b) In the event of such fund liquidation, the owners of the units shall share proportionately, according to units owned, in each investment held by the liquidated 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 liquidated fund.

(d) Distribution upon fund 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 fund liquidation will be effectuated without the approval by the Council of a plan of distribution of the assets of the liquidated fund.

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".

Recodified from N.J.A.C. 17:16-65.13 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote the section. Former N.J.A.C. 17:16-65.10, Admission and withdrawal of units of participation, was recodified to N.J.A.C. 17:16-65.6.

17:16-65.11 (Reserved)

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).
 Repealed by R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Section was "Errors and omissions".

17:16-65.12 (Reserved)

Recodified to N.J.A.C. 17:16-65.7 by R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Section was "Amendments".

17:16-65.13 (Reserved)

Recodified to N.J.A.C. 17:16-65.10 by R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Section was "Liquidation".

SUBCHAPTER 66. (RESERVED)

SUBCHAPTER 67. COMMON PENSION FUND D

17:16-67.1 General provisions

(a) Pursuant to P.L. 1970, c. 270, there is hereby created in the Division a common trust fund, to be known as Common Pension Fund D, for the purpose of investing in international debt securities, international stocks or related securities, currencies and currency futures and options.

(b) The following funds may participate in 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.
 Amended by R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Section was "Definition". Rewrote (a) and introductory paragraph of (b).

17:16-67.2 Permissible investments

The Director may invest the assets of Common Pension Fund D in international debt securities, international corporate common stocks or securities convertible into such stock, currencies and currency futures and options, including any investments permitted under this chapter, the State of New

Jersey Cash Management Fund, United States Treasury Obligations and commercial paper.

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. 2585(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".
 Amended by R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Rewrote the section.
 Amended by R.2007 d.263, effective August 20, 2007.
 See: 39 N.J.R. 1468(b), 39 N.J.R. 3550(c).
 Deleted "and in" preceding "the State" and inserted ", United States Treasury Obligations and commercial paper".

17:16-67.3 Units of participation

(a) Common Pension Fund D shall be composed of units of participation of unlimited quantity. 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 provided in N.J.A.C. 17:16-67.5.

(b) All units of participation in Common Pension Fund D, representing net capital contributions to the fund together with any income thereon, shall be evidenced by a certificate prepared by and issued by the Director. Each such certificate may represent one or more units of participation, and 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.

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

Recodified from N.J.A.C. 17:16-67.2, in part, and amended by R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Rewrote the section. Former N.J.A.C. 17:16-67.3, Certificates of ownership, repealed.

17:16-67.4 Valuation of investments

(a) Upon each valuation date, as provided in (b) below, there shall be a valuation for every investment in the common fund in the method provided for in this section.

(b) 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 business day, in every case converted into United States dollars.

(c) The Director shall use the following method of valuation of investments:

1. Where there have been recorded sales of an investment in the common fund on a security exchange, the last recorded sales price 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 recorded bid and asked prices shall be used.

3. For the purpose of this subsection, 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.

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 (c)1 and 2 above, 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 subsection, brokers' commission or other expenses which would be incurred on a sale thereof.

8. For the purposes of valuing securities, all values determined under this subsection 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.

(d) Dividends and interest earned shall be retained within the common fund, but may be distributed in whole or in part to the participating funds, at the direction 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.2001 d.119, effective April 2, 2001.
See: 33 N.J.R. 372(b), 33 N.J.R. 1115(a).

Recodified from N.J.A.C. 17:16-67.5 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Valuation". Section combined with former N.J.A.C. 17:16-67.6, Date of valuation, and 17:16-67.7, Method of valuation, and substantially amended. Former N.J.A.C. 17:16-67.4, Units of participation, repealed.

17:16-67.5 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. 17:16-67.4, 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.

3. 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".

Recodified from N.J.A.C. 17:16-67.8 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

In (a)1, substituted "67.4" for "67.7"; and recodified former (b) as current (a)3. Former N.J.A.C. 17:16-67.5, Valuation, recodified to N.J.A.C. 17:16-67.4.

17:16-67.6 Admission and withdrawal

(a) No admission to or withdrawal from the common fund shall be permitted 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 in cash or in kind.

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).

Recodified from N.J.A.C. 17:16-67.9 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Admission date". Rewrote the section. Former N.J.A.C. 17:16-67.6, Date of valuation, combined with current N.J.A.C. 17:16-67.4.

17:16-67.7 Amendments

This subchapter may be amended from time to time by the Council. Any amendment adopted by the Council shall be binding upon all participating funds, trusts and beneficiaries thereof.

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).

Recodified from N.J.A.C. 17:16-67.10 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote the section. Former N.J.A.C. 17:16-67.7, Method of valuation, combined with current N.J.A.C. 17:16-67.4.

17:16-67.8 Distribution of realized appreciation

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

Recodified from N.J.A.C. 17:16-67.11 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

In the introductory paragraph of (a), deleted "State Investment" preceding "Council", in the first sentence. Former N.J.A.C. 17:16-67.8, Valuation of units, recodified to N.J.A.C. 17:16-67.5.

17:16-67.9 Limitations

(a) Unless otherwise specifically provided therein, in the event that any subchapter contains a limitation on the percentage of assets of any Pension and Annuity 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 and Annuity Funds participating in Common Pension Fund D and shall not restrict the total investment by Common Fund D in such issue or issues to the percentage limitations applicable to any individual Pension or Annuity 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.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).

Recodified from N.J.A.C. 17:16-67.12 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote the section. Former N.J.A.C. 17:16-67.9, Admission date, recodified to N.J.A.C. 17:16-67.6.

17:16-67.10 Liquidation

(a) The Director, subject to the approval of the Council and the Treasurer, may, upon two months' notice, liquidate Common Pension Fund D.

(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 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).
Recodified from N.J.A.C. 17:16-67.13 and amended by R.2006 d.317, effective September 5, 2006.
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
Rewrote the section. Former N.J.A.C. 17:16-67.10, Amendments, recodified to N.J.A.C. 17:16-67.7.

17:16-67.11 (Reserved)

Recodified to N.J.A.C. 17:16-67.8 by R.2006 d.317, effective September 5, 2006.
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
Section was "Distribution of realized appreciation".

17:16-67.12 (Reserved)

Recodified to N.J.A.C. 17:16-67.9 by R.2006 d.317, effective September 5, 2006.
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
Section was "Limitations".

17:16-67.13 (Reserved)

Recodified to N.J.A.C. 17:16-67.10 by R.2006 d.317, effective September 5, 2006.
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
Section was "Liquidation".

SUBCHAPTER 68. NEW JERSEY BETTER EDUCATIONAL SAVINGS TRUST (NJBEST) FUND

17:16-68.1 General provisions

Pursuant to N.J.S.A. 52:18A-91, there is hereby created in the Division a common trust fund to be known as the New Jersey Better Educational Savings Trust (NJBEST) Fund. The participation of New Jersey residents shall be subject to the NJBEST Plan as established by the New Jersey Higher Education Assistance Authority Board.

Amended by R.2006 d.317, effective September 5, 2006.
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
Section was "Definition". Section combined with former N.J.A.C. 17:16-68.2, Participation in the NJBEST Plan, and substantially amended.

17:16-68.2 Permissible investments

The Director may invest the assets of the NJBEST Fund in fixed income securities and in common and preferred stocks and issues convertible into common stock, including any investments permitted under this chapter, and in the State of New Jersey Cash Management Fund.

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.

Recodified from N.J.A.C. 17:16-68.4 and amended by R.2006 d.317, effective September 5, 2006.
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
Rewrote the section. Former N.J.A.C. 17:16-68.2, Participation in the NJBEST Plan, recodified in part to N.J.A.C. 17:16-68.1.

17:16-68.3 Units of participation

(a) The NJBEST Fund shall be composed of units of participation of unlimited quantity. 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 provided in N.J.A.C. 17:16-68.5.

(b) All units of participation in the NJBEST Fund, 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 Office of Student Assistance, New Jersey Higher Education Assistance Authority, or an agent thereof.

(c) All units of participation shall be purchased by cash payments. All units shall be purchased by the participating fund for the principal valuation price determined by this subchapter.

Recodified from N.J.A.C. 17:16-68.5 and amended by R.2006 d.317, effective September 5, 2006.
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
Rewrote the section. Former N.J.A.C. 17:16-68.3, Distribution of income, repealed.

17:16-68.4 Valuation of investments

(a) Upon each valuation date, as provided in (b) below, there shall be a valuation for every investment in the NJBEST Fund in the method provided for in this section.

(b) The valuation shall be determined at the opening of business on each business day, and shall be based on market prices and income accruals as of the close of the previous business day.

(c) The Director shall use the following method of valuation of investments:

1. Securities prices will be determined by a pricing service or a method which has been approved by the Director.
2. Accrual and amortization procedures will be calculated by procedures and formulas approved by the Director.
3. The method of pricing the fund shall be in accordance with contractual obligations of the custodian bank.
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, unless such value is 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 section, brokers' commission or other expenses which would be incurred on a sale thereof.

(d) 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.

Recodified from N.J.A.C. 17:16-68.6 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Date of valuation". Rewrote the section. Former N.J.A.C. 17:16-68.4, Permissible investments, recodified to N.J.A.C. 17:16-68.2.

17:16-68.5 Valuation of units

(a) The net asset value of the units of participation of the fund 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. Initial unit values will be \$1.00.

(b) 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.

(c) The aggregate income per unit of participation 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 net income available for distribution. In the reinvestment of aggregate income as described above, fractional units may be issued representing fractions of one dollar.

(d) 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 its agreement with the State of New Jersey.

Recodified from N.J.A.C. 17:16-68.7 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Valuation". Rewrote the section. Former N.J.A.C. 17:16-68.5, Units of participation, recodified to N.J.A.C. 17:16-68.3.

17:16-68.6 Admission and withdrawal

(a) Admission to or withdrawal from the NJBEST Fund shall be permitted as of the end of each business day, subject to the requirements of N.J.A.C. 9:9-8.

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

Recodified from N.J.A.C. 17:16-68.10 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Admission and withdrawal of units of participation". Rewrote the section. Former N.J.A.C. 17:16-68.6, Date of valuation, recodified to N.J.A.C. 17:16-68.4.

17:16-68.7 Amendments

This subchapter may be amended from time to time by the Council. Any amendment adopted by the Council shall be binding upon all participating funds, trusts and beneficiaries thereof.

Recodified from N.J.A.C. 17:16-68.12 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote the section. Former N.J.A.C. 17:16-68.7, Valuation, recodified to N.J.A.C. 17:16-68.5.

17:16-68.8 (Reserved)

Repealed by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Guidelines for valuation of securities".

17:16-68.9 Limitations

(a) The Director may not invest more than 10 percent of the market value of the assets of the NJBEST Fund in common stock, preferred stock and securities convertible into common stock of any one corporation.

(b) The Director may not invest more than 10 percent of the market value of the assets of the NJBEST Fund in the debt of any one corporation, and not more than 25 percent of any one issue may be purchased at the time of issue.

(c) The Director may not invest more than 80 percent of the market value of the assets of the NJBEST Fund in common stocks, preferred stocks and securities convertible into common stock.

(d) The Director may invest up to 100 percent of the market value of the assets of the NJBEST Fund either in permitted fixed income securities or in the State of New Jersey Cash Management Fund.

Repeal and New Rule, R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Reinvestment of income earned".

17:16-68.10 Liquidation

(a) The Director, upon direction of the New Jersey Higher Education Assistance Authority Board and with the approval of the Council, shall liquidate the NJBEST 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 NJBEST 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 NJBEST 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 Council of a plan of distribution of the assets of the NJBEST fund.

Recodified from N.J.A.C. 17:16-68.13 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote the section. Former N.J.A.C. 17:16-68.10, Admission and withdrawal of units of participation, recodified to N.J.A.C. 17:16-68.6.

17:16-68.11 (Reserved)

Repealed by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Errors and omissions".

17:16-68.12 (Reserved)

Recodified to N.J.A.C. 17:16-68.7 by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Amendments".

17:16-68.13 (Reserved)

Recodified to N.J.A.C. 17:16-68.10 by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Liquidation".

17:16-68.14 (Reserved)

Repealed by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Classification of the fund".

SUBCHAPTER 69. COMMON PENSION FUND E

17:16-69.1 General provisions

(a) Pursuant to P.L. 1970, c. 270, there is hereby created in the Division a common trust fund, to be known as Common Pension Fund E, for the purpose of investing in alternative investments.

(b) The following funds may participate in 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.

Amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was "Definition". In (a), deleted "of Investment, Department of the Treasury," following "Division" and added ", for the purpose of investing in alternative investments" at the end; and in (b), deleted "participating" preceding "funds", substituted "participate" for "invest" and deleted "said" preceding "Common".

17:16-69.2 Permissible investments

The Director may invest the assets of Common Pension Fund E in alternative investments, including any investment permitted under this chapter, the State of New Jersey Cash Management Fund, United States Treasury Obligations and commercial paper.

Recodified in part to N.J.A.C. 17:16-69.3 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote the section.

Amended by R.2007 d.264, effective August 20, 2007.

See: 39 N.J.R. 1469(a), 39 N.J.R. 3550(d).

Deleted "and in" preceding "the State" and inserted ", United States Treasury Obligations and commercial paper".

17:16-69.3 Units of participation

(a) Common Pension Fund E shall be composed of units of participation of unlimited quantity. 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 provided in N.J.A.C. 17:16-69.5.

(b) All units of participation in Common Pension Fund E, representing net capital contributions to the fund together with any income thereon, shall be evidenced by a certificate prepared by and issued by the Director. Each such certificate may represent one or more units of participation, and 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.

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

Repeal and New Rule, R.2006 d.317, effective September 5, 2006.
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
Section was "Certificates of ownership".

17:16-69.4 Valuation of investments

(a) Upon each valuation date, as provided in (b) below, there shall be a valuation for every investment in the common fund in the method provided for in this section.

(b) 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 business day, in every case converted into United States dollars.

(c) The Director shall use the following method of valuation of investments:

1. The valuation established by an outside entity, including the general partner or manager of an investment, may be used; provided that such entity provides supporting information to the Director, and the valuation is reviewed and approved by the Director.

2. 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.

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

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

5. 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.

(d) Dividends, distributions and interest earned shall be retained within the common fund, but may be distributed in whole or in part to the participating funds, at the direction of the Council.

Recodified from N.J.A.C. 17:16-69.5 and amended by R.2006 d.317, effective September 5, 2006.
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
Section was "Valuation". Section combined with former N.J.A.C. 17:16-69.6, Date of valuation, and 17:16-69.7, Method of valuation, and substantially amended. Former N.J.A.C. 17:16-69.4, Units of participation, repealed.

17:16-69.5 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. 17:16-69.4, 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. 17:16-69.4;

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. 17:16-69.4; 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.

3. 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 from N.J.A.C. 17:16-69.8 and amended by R.2006 d.317, effective September 5, 2006.
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
In (a)1, (a)1ii and (a)1iii, substituted "69.4" for "69.7"; and recodified existing (b) as (a)3. Former N.J.A.C. 17:16-69.5, Valuation, recodified to N.J.A.C. 17:16-69.4.

17:16-69.6 Admission and withdrawal

(a) No admission to or withdrawal from the common fund shall be permitted 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 in cash or in kind.

Recodified from N.J.A.C. 17:16-69.9 and amended by R.2006 d.317, effective September 5, 2006.
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
Section was "Admission date". Rewrote (a) and (b). Former N.J.A.C. 17:16-69.6, Date of valuation, recodified in part to N.J.A.C. 17:16-69.4.

17:16-69.7 Amendments

This subchapter may be amended from time to time by the Council. Any amendment adopted by the Council shall be binding upon all participating funds, trusts and beneficiaries thereof.

Recodified from N.J.A.C. 17:16-69.10 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote the section. Former N.J.A.C. 17:16-69.7, Method of valuation, recodified in part to N.J.A.C. 17:16-69.4.

17:16-69.8 Distribution of realized appreciation

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

Recodified from N.J.A.C. 17:16-69.11 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

In introductory paragraph of (a), deleted "State Investment" preceding "Council". Former N.J.A.C. 17:16-69.8, Valuation of units, recodified to N.J.A.C. 17:16-69.5.

17:16-69.9 Limitations

(a) For all investments (other than the State of New Jersey Cash Management Fund, United States Treasury Obligations, commercial paper, common and preferred stocks, issues convertible into common stock and exchange-traded funds, direct bank loans, and credit default swap transactions) made in Common Pension Fund E, the following shall occur:

1. The Director shall provide the Investment Policy Committee of the Council (Investment Committee) with the requested due diligence information for all investments recommended by the Division and a formal written 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 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 Council, which report shall include a written memorandum 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 memorandum to the 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 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 Director shall provide an informational memorandum to the Council pursuant to (a)3 above. 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 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 between \$2 billion and \$5 billion, not more than 10 percent of the market value of the assets of Common Pension Fund E, plus outstanding commitments, may be committed to any one partnership or investment, without the prior written approval of the Council. After the Director has made binding commitments aggregating an amount of \$5 billion or more, not more than five percent of the market value of the assets of Common Pension Fund E, plus outstanding commitments, may be committed to any one partnership or investment, without the prior written approval of the Council.

(c) 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 38 percent of the market value of the assets of any 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 fund or through Common Pension Fund E. If the market value exceeds 38 percent, 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 38 percent level, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

(e) Unless otherwise specifically provided therein, in the event that any subchapter contains a limitation on the percentage of assets of any Pension and Annuity Fund which may be invested in an investment or class of investments, that limitation shall be construed to apply to the percentage of combined assets of all of the Pension and Annuity Funds participating in Common Pension Fund E and shall not restrict the total investment by Common Pension Fund E in such investment or class of investments to the percentage limitations applicable to any individual Pension and Annuity Fund.

(f) Unless otherwise specifically provided therein, in the event that any subchapter contains a limitation on the percentage of an investment or class of investment in which the Director may invest, that limitation shall be construed to exclude investments purchased on behalf of Common Pension Fund E.

Recodified from N.J.A.C. 17:16-69.12 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote the section. Former N.J.A.C. 17:16-69.9, Admission date, recodified to N.J.A.C. 17:16-69.6.

Amended by R.2007 d.264, effective August 20, 2007.

See: 39 N.J.R. 1469(a), 39 N.J.R. 3550(d).

In the introductory paragraph of (a), inserted “(other than the State of New Jersey Cash Management Fund, United States Treasury Obligations and commercial paper)”.

Amended by R.2008 d.241, effective August 18, 2008.

See: 40 N.J.R. 2094(b), 40 N.J.R. 4825(a).

In the introductory paragraph of (a), substituted a comma for “and” following “Obligations” and inserted “, common and preferred stocks and issues convertible into common stock and exchange-traded funds”; in (a)1, deleted “due diligence” preceding “report for each such” and inserted a comma following “include”; in (a)2 and (a)3, substituted “memorandum” for “due diligence report”; and in (d), substituted “28” for “18” three times.

Amended by R.2008 d.396, effective December 15, 2008.

See: 40 N.J.R. 4695(a), 40 N.J.R. 7001(a).

In the introductory paragraph of (a), substituted a comma for “and” following “stocks”, and inserted “, direct bank loans, and credit default swap transactions”.

Amended by R.2011 d.123, effective April 18, 2011.

See: 42 N.J.R. 2933(a), 43 N.J.R. 1037(a).

In (a)4, substituted “the Director shall provide an informational memorandum to the Council pursuant to (a)3 above” for “the Investment Committee will not issue a report to the Council”; and in (d), substituted “38” for “28” throughout.

17:16-69.10 Liquidation

(a) The Director, subject to the approval of the Council and the Treasurer, may, upon two months’ notice, liquidate Common Pension Fund E.

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

Recodified from N.J.A.C. 17:16-69.13 and amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote (a); and in (e), deleted “State Investment” preceding “Council”. Former N.J.A.C. 17:16-69.10, Amendments, recodified to N.J.A.C. 17:16-69.7.

17:16-69.11 (Reserved)

Recodified to N.J.A.C. 17:16-69.8 by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was “Distribution of realized appreciation”.

17:16-69.12 (Reserved)

Recodified to N.J.A.C. 17:16-69.9 by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was “Limitations”.

17:16-69.13 (Reserved)

Recodified to N.J.A.C. 17:16-69.10 by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Section was “Liquidation”.

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. An investment in a commingled fund may take the form of an investment in the trustee, general partner, or other managing member of such fund.

“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.

“Common stocks” means shares of stock, other than preferred stocks, representing ownership in a corporation.

“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 an eligible fund, 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.

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

“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.

“Preferred stocks” means shares of stock which provide a specific dividend that is paid before any dividends are paid to holders of common stock and additional rights above and beyond those conferred by common stock.

“Real assets” mean investments in real estate, infrastructure, oil and gas, timber properties, farmland, precious metals, royalty trusts and commodity-linked investments. Real assets include the common and preferred stocks and issues convertible into common stock of U.S. and international corporations and U.S. and international exchange-traded funds that primarily invest in real assets.

“Real estate” includes core real estate and non-core real estate.

“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”.

Amended by R.2006 d.317, effective September 5, 2006.

See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

In definition “Real assets” deleted “(excluding publicly traded real estate investment trusts)” following “real estate”; and added definition “Real estate”.

Amended by R.2008 d.242, effective August 18, 2008.

See: 40 N.J.R. 2095(a), 40 N.J.R. 4825(b).

In definition “Commingled funds”, inserted the last sentence; added definitions “Common stocks”, “Exchange-traded funds” and “Preferred stocks”; in definition “Direct investment”, substituted “an eligible fund” for “Common Pension Fund E”; and in definition “Real assets”, inserted “infrastructure,” and inserted the last sentence.

Amended by R.2011 d.124, effective April 18, 2011.

See: 42 N.J.R. 2934(a), 43 N.J.R. 1038(a).

In definition “Real assets”, inserted “farmland, precious metals,”.

17:16-71.2 Permissible investments

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