

CHAPTER 16

RULES OF THE STATE INVESTMENT COUNCIL

Authority

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

Source and Effective Date

R.2006 d.317, effective August 7, 2006.
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 16, Rules of the State Investment Council, expires on February 3, 2014. See: 45 N.J.R. 1477(a).

Chapter Historical Note

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subchapter 13, Commercial Paper, was recodified to N.J.A.C. 17:16-31 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

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

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

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

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

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

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

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

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

Subchapter 22, Common Stocks and Convertible Securities, was recodified to N.J.A.C. 17:16-42 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subchapter 42, Covered Call Options, was recodified from N.J.A.C. 17:16-43 and Subchapter 42, Common Stocks and Convertible Securities, was recodified from N.J.A.C. 17:16-22 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 43, Mortgage-Backed Securities; Private Pass-Through, was recodified to N.J.A.C. 17:16-58 and Subchapter 43, Covered Call

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Options, was recodified from N.J.A.C. 17:16-42 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 44, Deferred Compensation Plan, was recodified to N.J.A.C. 17:16-65 and Subchapter 44, Common and Preferred Stocks and Issues Convertible into Common Stock of International Corporations, was recodified from N.J.A.C. 17:16-48 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 45, Real Estate Equity, was recodified to N.J.A.C. 17:16-71 and Subchapter 45, Covered Put Options, was recodified from N.J.A.C. 17:16-52 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 46, Common Pension Fund D, was recodified to N.J.A.C. 17:16-67 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 47, International Government and Agency Obligations, was recodified to N.J.A.C. 17:16-20 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 48, Common and Preferred Stock and Issues Convertible into Common Stock of International Corporations, was recodified to N.J.A.C. 17:16-44 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 49, Purchase and Sale of International Currency, was recodified to N.J.A.C. 17:16-81 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

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

Subchapter 52, Covered Put Options, was recodified to N.J.A.C. 17:16-45 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

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

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

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

Subchapter 58, Mortgage-Backed Securities; Private Pass-Through, was recodified from N.J.A.C. 17:16-43 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

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

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

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

Subchapter 65, Deferred Compensation Plan, was recodified from N.J.A.C. 17:16-44 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 67, Common Pension Fund D, was recodified from N.J.A.C. 17:16-46 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 71, Real Estate Equity, was recodified from N.J.A.C. 17:16-45 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 81, Purchase and Sale of International Currency, was recodified from N.J.A.C. 17:16-49 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Pursuant to Executive Order No. 66(1978), Chapter 16, Rules of the State Investment Council, was readopted as R.1991 d.274, effective May 2, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter 36, Guaranteed Income Contracts, was adopted as R.1991 d.387, effective August 5, 1991. See: 23 N.J.R. 1776(a), 23 N.J.R. 2344(b).

Pursuant to Executive Order No. 66(1978), Chapter 16, Rules of the State Investment Council, was readopted as R.1996 d.222, effective April 15, 1996. See: 28 N.J.R. 1366(a), 28 N.J.R. 2397(a).

Subchapter 68, New Jersey Better Educational Savings Trust (NJBEST) Fund, was adopted as R.1998 d.552, effective November 16, 1998. See: 30 N.J.R. 3167(a), 30 N.J.R. 4064(a).

Subchapter 46, Common and Preferred Stocks and Issues Convertible Into Common Stock of International Corporations in Emerging Markets, was adopted as R.2000 d.373, effective September 18, 2000. See: 32 N.J.R. 2584(b), 32 N.J.R. 3455(b).

Pursuant to Executive Order No. 66(1978), Chapter 16, Rules of the State Investment Council, was readopted as R.2001 d.119, effective March 9, 2001, and Subchapter 35, Loan Participation Notes, was repealed by R.2001 d.119, effective April 2, 2001. See: 33 N.J.R. 372(b), 33 N.J.R. 1115(a).

Subchapter 22, Fixed Income Exchange-Traded Funds, was adopted as R.2003 d.330, effective August 4, 2003. See: 35 N.J.R. 1869(a), 35 N.J.R. 3605(b).

Subchapter 37, Money Market Funds, was adopted as R.2003 d.331, effective August 4, 2003. See: 35 N.J.R. 1870(a), 35 N.J.R. 3606(a).

Subchapter 47, Equity Futures Contracts, was adopted as R.2003 d.334, effective August 4, 2003. See: 35 N.J.R. 1872(b), 35 N.J.R. 3607(b).

Subchapter 4, State Investment Council's Policy Concerning Political Contributions and Prohibitions on Investment Management Business, was adopted as new rules by R.2005 d.123, effective April 18, 2005. See: 36 N.J.R. 4695(a), 37 N.J.R. 1223(a).

Subchapter 69, Common Pension Fund E, was adopted as new rules by R.2005 d.201, effective June 20, 2005. See: 37 N.J.R. 575(a), 37 N.J.R. 2217(a).

Subchapter 71, Real Estate Equity, was repealed and Subchapter 71, Real Assets, was adopted as new rules by R.2005 d.202, effective June 20, 2005. See: 37 N.J.R. 577(a), 37 N.J.R. 2220(a).

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

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

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

Chapter 16, Rules of the State Investment Council, was readopted as R.2006 d.317, effective August 7, 2006. As a part of R.2006 d.317, Subchapter 1, General Provisions and Subchapter 13, Interest Rate Swap Transactions, were adopted as new rules; Subchapter 14, Finance Companies—Senior Debt, was renamed Finance Company Debt; Subchapter 16, Canadian Obligations, was renamed International Corporate Obligations; Subchapter 36, Guaranteed Income Contracts, was renamed Guaranteed Income Contracts and Funding Agreements; and Subchapter 41, U.S. Common and Preferred Stocks and Issues Convertible Into Common Stocks and Exchange-Traded Funds, was renamed Common and Preferred Stocks and Issues Convertible Into Common Stock of U.S. Corporations and U.S. Exchange-Traded Funds; Subchapter 44, Com-

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SUBCHAPTER 1. GENERAL PROVISIONS

17:16-1.1 Purpose

It is the purpose of this chapter to establish rules to govern the methods, practices or procedures for investment, reinvestment, purchase, sale or exchange transactions to be followed by the Director of the Division of Investment.

17:16-1.2 Definitions

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

“Council” means the State Investment Council.

“Director” means the Director of the Division of Investment.

“Division” means the Division of Investment, Department of the Treasury of the State of New Jersey.

“State” means the State of New Jersey.

“Treasurer” means the Treasurer of the State of New Jersey.

17:16-1.3 Permissible investments

Notwithstanding the provisions of any law pertaining to legal investments, the Director shall not make any commitment to purchase securities or other investments for any fund unless such securities are of the class of investments in which such fund may be invested pursuant to these regulations.

17:16-1.4 Legal documents

In connection with any permissible investments under this chapter, the Director shall obtain any documents, representations, or opinions that may be required by the Attorney General.

SUBCHAPTER 2. (RESERVED)

SUBCHAPTER 3. CLASSIFICATION OF FUNDS

17:16-3.1 General provisions

(a) Funds having similar investment characteristics and objectives under their respective enabling acts shall be grouped together in any of the following classifications:

1. Pension and Annuity Funds;
2. Static Funds;
3. Demand Funds;

4. Temporary Reserve Funds;
5. Trust Funds;
6. The State of New Jersey Cash Management Fund; and
7. Common Pension Funds.

As amended, R.1982 d.397, effective November 1, 1982.

See: 14 N.J.R. 329(a), 14 N.J.R. 1220(d).

List of classification groups added.

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

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

Stylistic changes.

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), substituted “Funds” for “Group” throughout, deleted “and” at the end of (a)4, added (a)6 and (a)7.

17:16-3.2 Approved list

A list of funds under the supervision of the Council, and the classification of such funds, shall be maintained by the Director.

Amended by R.1982 d.397, effective November 1, 1982.

See: 14 N.J.R. 329(b), 14 N.J.R. 1220(d).

Pension and annuity groups changed to an approved list.

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

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

Reference to Council approval deleted.

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.

17:16-3.3 through 17:16-3.6 (Reserved)

SUBCHAPTER 4. STATE INVESTMENT COUNCIL’S POLICY CONCERNING POLITICAL CONTRIBUTIONS AND PROHIBITIONS ON INVESTMENT MANAGEMENT BUSINESS

17:16-4.1 Purpose

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

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

ingful public scrutiny of the selection of investment management firms.

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

In introductory paragraph of (a), deleted "State Investment" preceding "Council", and substituted "Pension and Annuity Funds" for "pension funds" in two places.

17:16-4.2 Definitions

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

"Control" means the power to exercise a controlling influence over the management or policies of an investment management firm or political action committee.

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

"Investment management professional" means:

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

"Investment management services" means:

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

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

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

1. For the purpose of influencing any election for State office;
2. For the purpose of influencing any election for local office by a person who is also:
 - i. A State official; or
 - ii. An employee or advisor of either the State or a State official;
3. For payment of debt incurred in connection with any such election; or
4. For transition or inaugural expenses incurred by the successful candidate in any such election.

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

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

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

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

Rewrote 4. in "Investment management professional" definition.
Amended by R.2006 d.317, effective September 5, 2006.
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Rewrote definition "Control"; deleted definitions "Council" and "State"; in definition "Investment management services", substituted "Pension and Annuity Fund" for "pension fund" throughout; in definition "Political party", delete quotes preceding and following "independent"; in definition "Third party solicitor", deleted "the state or" following "communication with" and inserted "officer, employee or" preceding "official".

17:16-4.3 Restrictions

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

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

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

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

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

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

Rewrote (a)1 and 4.

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), substituted "Pension and Annuity Funds" for "or its pension funds".

17:16-4.4 Solicitations

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

1. Solicit any person or political action committee to make a political contribution or payment to a political party;
2. Coordinate political contributions or payments to a political party;

3. Fund political contributions or payments to a political party made by third parties, including consultants, attorneys, family members or persons controlling the investment management firm; or

4. Engage in any exchange of political contributions or payments between State officials or political parties to circumvent the intent of this policy.

17:16-4.5 Indirect violations

No investment management firm, investment management professional or third party solicitor shall, directly or indirectly, through or by any other person or any means whatsoever, do any act which would violate the provisions of N.J.A.C. 17:16-4.3 or 4.4.

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

Added "any" preceding "means", "whatsoever" following "means" and "or otherwise circumvent the intent of this policy" following "4.4".
Amended by R.2006 d.317, effective September 5, 2006.

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

Deleted "or otherwise circumvent the intent of this policy" at end of paragraph.

17:16-4.6 Reporting

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

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

1. Any updates to designations pursuant to (a) above;
2. For all political contributions and payments to political parties in the State made by persons described in N.J.A.C. 17:16-4.3(a), excluding any political contribution or payment to a political party made pursuant to N.J.A.C. 17:16-4.3(b) and (c):
 - i. The name and address of the contributor;
 - ii. The name and title of each State official or political party receiving the political contribution or payment;
 - iii. The amount of the political contribution or payment to the political party; and
 - iv. The date of the political contribution or payment to the political party.
3. Whether any political contribution or payment to a political party listed in (b) above is the subject of an exemption pursuant to N.J.A.C. 17:16-4.10, and the date of such exemption; and

4. For any payment made to a third party solicitor: the name and business address of the recipient, the services provided by the recipient, the compensation arrangement between the investment management firm and the recipient, and the total dollar amount of payments made during the report period.

(c) No investment management firm shall be required to report to the Council and the Division any contributions or payments made prior to April 18, 2005.

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

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

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

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

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

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

Rewrote introductory paragraph of (b); and rewrote (c).

17:16-4.7 Public disclosure

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

17:16-4.8 Additional information

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

17:16-4.9 Contract termination

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

17:16-4.10 Exemptions

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

1. The investment management firm demonstrates in writing that:

- i. The firm discovered the political contribution or the payment to a political party that resulted in the prohibition on business within four months of the date of such contribution or payment;
- ii. Such political contribution or payment to a political party did not exceed \$250.00; and
- iii. The contributor obtained a return of the political contribution or payment to the political party within 60 calendar days of the date of discovery of such contribution or payment; or

2. The investment management firm demonstrates in writing that the violation of this subchapter was unintentional and inadvertent, and the Council determines that the beneficiaries of the Pension and Annuity Funds, the State taxpayers, and the public are best served by such an exemption.

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

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

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).

17:16-4.11 Effectiveness

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

Council members, arise only from political contributions, payments to political parties or payments to third party solicitors made or paid on or after April 18, 2005. The reporting requirements found in this subchapter, as applicable, shall take effect upon April 18, 2005.

SUBCHAPTERS 5 THROUGH 10. (RESERVED)

SUBCHAPTER 11. UNITED STATES TREASURY AND GOVERNMENT AGENCY OBLIGATIONS

17:16-11.1 Definitions

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

“Government Agency Obligations” shall mean debt obligations of any United States governmental agency included on a list of such agencies maintained by the Director.

“United States Treasury Obligations” shall mean debt obligations of the United States Treasury.

New Rule, R.2006 d.317, effective September 5, 2006.
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Former N.J.A.C. 17:16-11.1, United States Treasury and Government Agency Obligations, recodified to N.J.A.C. 17:16-11.2.

17:16-11.2 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys of any eligible fund in United States Treasury Obligations and Government Agency Obligations, as well as Treasury receipts, certificates of accrual, collateralized mortgage obligations or similar securities which evidence ownership of interest and/or principal of United States Treasury Obligations or Government Agency Obligations, provided that the Director and a member of his staff certify that the security being considered for purchase is qualitatively substantially identical to the United States Treasury Obligations or Government Agency Obligations which secure or otherwise support it.

(b) Prior to any commitment to purchase a Government Agency Obligation, it shall be ascertained that the issuer is included on a list of government agencies maintained by the Director. The Director shall maintain a memorandum on file in support of the inclusion of any new government agencies on such list, and shall notify the Council of the inclusion at the next regularly scheduled meeting of the Council.

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

As amended, R.1974 d.323, eff. November 20, 1974.
See: 6 N.J.R. 496(a).

As amended, R.1975 d.97, eff. April 8, 1975.
See: 7 N.J.R. 241(a).

Amended by R.1985 d.552, effective November 4, 1985.
See: 17 N.J.R. 2093(a), 17 N.J.R. 2674(b).

Amended (a): added (a)1.-(a)3.
Recodified by R.1991 d.274, effective June 3, 1991.
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

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

Recodified from N.J.A.C. 17:16-11.1 and amended by R.2006 d.317, effective September 5, 2006.

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

Section was “United States Treasury and Government Agency Obligations”. Rewrote the section.

17:16-11.3 Eligible funds

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

1. Pension and Annuity Funds;
2. Static Funds;
3. Demand Funds;
4. Temporary Reserve Funds;
5. Trust Funds;
6. The State of New Jersey Cash Management Fund; and
7. Common Pension Funds.

New Rule, R.2006 d.317, effective September 5, 2006.
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

SUBCHAPTER 12. CORPORATE OBLIGATIONS OF U.S. BASED CORPORATIONS

17:16-12.1 Definitions

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

“Corporate obligations” shall mean debt obligations of any corporation or bank deemed by the Director to be based in the United States. In determining whether a corporation is based in the United States, the Director shall consider factors including, but not limited to, the corporation’s country of incorporation, its main equity trading market, its shareholder base, the geographical distribution of its operations, the location of its headquarters, and the country in which investors consider the corporation to be most appropriately classified.

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

New Rule, R.2006 d.317, effective September 5, 2006.
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Former N.J.A.C. 17:16-12.1, Permissible investments, recodified to N.J.A.C. 17:16-12.2.
Amended by R.2008 d.382, effective December 15, 2008.
See: 40 N.J.R. 4683(a), 40 N.J.R. 6993(a).

In definition "Corporate obligations", inserted "or bank"; and added definition "Private placement".

17:16-12.2 Permissible investments

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

1. The issue has been registered with the Securities and Exchange Commission, or has been issued pursuant to Rule 144A of the Securities and Exchange Commission or through a private placement;

2. The obligor:

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

ii. Has a market capitalization or contributed capital of at least \$100 million. Subsequent to purchase, if capitalization or contributed capital falls below \$100 million, the investment does not have to be sold; and

3. The obligations have a credit rating of Baa3 or higher by Moody's Investors Service, Inc., BBB- or higher by Standard & Poor's Corporation, and BBB- or higher by Fitch Ratings, except that two of the three ratings is sufficient and one of the three ratings is sufficient if only one rating is available. If a rating for the obligations has not been obtained from the above services, the obligations may be purchased if the issuer rating meets the minimum rating criteria. Subsequent to purchase, if the ratings fall below the minimum rating for such obligations, they do not have to be sold, and they may be exchanged with obligations with credit ratings lower than the minimum rating if the obligations received in exchange are, on balance, similarly rated.

(b) Notwithstanding (a) above, the Director may only invest and reinvest the moneys of the State of New Jersey Cash Management Fund in corporate obligations with maturities of 25 months or less.

(c) Notwithstanding the restrictions in (a) above, the Director may invest and reinvest the moneys of Common Pension Fund B in corporate obligations of U.S. based corporations, international corporate obligations, collateralized notes and mortgages, global diversified credit investments, non-convertible preferred stock, and mortgage backed passthrough securities that do not meet the minimum credit ratings set forth in this section and N.J.A.C. 17:16-16.2, 19.2, 23.2, 40.2, and 58.2, respectively; provided, however, the market value of such investments shall not exceed eight percent of the combined assets of all of the Pension and Annuity Funds.

(d) Notwithstanding the restrictions in (a) above, the Director may invest and reinvest the moneys of Common Pension Fund B in corporate obligations of U.S. based corporations, international corporate obligations, and non-convertible preferred stock of companies that do not meet the minimum market capitalization or contributed capital set forth in this section and N.J.A.C. 17:16-16.2 and 40.2, respectively; provided, however, the market value of such investments shall not exceed one percent of the combined assets of all the Pension and Annuity Funds.

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

1. Exercise the rights and conversion privileges of any security acquired under this subchapter; and

2. Retain any distribution received as a result of a corporate action, even if such distribution does not meet the requirements of this subchapter.

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

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

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

As amended, R.1976 d.152, eff. May 19, 1976.

See: 8 N.J.R. 313(a).

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

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

Substantially amended.

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

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

Standards deleted and reference to 12.2 added.

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

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

Substituted "Director" for "director"; deleted "below" from end of sentence.

Recodified from N.J.A.C. 17:16-12.1 and amended by R.2006 d.317, effective September 5, 2006.

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

Rewrote the section. Former N.J.A.C. 17:16-12.2, Pension and annuity group; static group; trust group, recodified to N.J.A.C. 17:16-12.3.

Amended by R.2007 d.250, effective August 20, 2007.

See: 39 N.J.R. 1459(a), 39 N.J.R. 3546(b).

In (c), deleted "up to five percent of" following "reinvest" and inserted "; provided, however, the market value of such investments shall not exceed five percent of the combined assets of all of the Pension and Annuity Funds".

Amended by R.2008 d.382, effective December 15, 2008.

See: 40 N.J.R. 4683(a), 40 N.J.R. 6993(a).

Rewrote (a); and in (c), deleted "finance company debt, bank debentures," preceding "international", and "14.2, 15.2," following "N.J.A.C. 17:16-", and inserted "bank loans, non-convertible preferred stock" and ", 23.2, 40.2".

Amended by R.2009 d.379, effective December 21, 2009.

See: 41 N.J.R. 3211(a), 41 N.J.R. 4824(a).

Added new (d); and recodified former (d) as (e).

Amended by R.2013 d.023, effective February 19, 2013.

See: 44 N.J.R. 2277(a), 45 N.J.R. 346(a).

In (a)2ii and (d), inserted "or contributed capital" throughout; rewrote (c); in (d), inserted "of U.S. based corporations," and inserted a comma following the second occurrence of "obligations"; added new (e); and recodified former (e) as (f).

17:16-12.3 Eligible funds

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

1. Any fund classified as a Pension and Annuity Fund;
2. Any fund classified as a Static Fund;
3. Any fund classified as a Trust Fund;
4. Common Pension Fund B; and
5. The State of New Jersey Cash Management Fund.

Recodified from N.J.A.C. 17:16-12.2 and amended by R.2006 d.317, effective September 5, 2006.

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

Section was "Pension and annuity group; static group; trust group". Rewrote the section. Former N.J.A.C. 17:16-12.3, Legal papers, repealed.

17:16-12.4 Limitations

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

1. The total amount of debt issues purchased or acquired under this subchapter of any one issuer shall not exceed 10 percent of the outstanding long term debt of the issuer, except that these requirements may be waived by the Council;

2. Not more than five percent of the market value of the assets of any fund (other than the New Jersey State Employees Deferred Compensation Fixed Income Fund and the New Jersey Better Educational Savings Trust) shall be invested in the debt and non-convertible preferred stock of any one issuer;

3. Not more than 10 percent of the market value of the assets of the New Jersey State Employees Deferred Compensation Fixed Income Fund or the New Jersey Better Educational Savings Trust shall be invested in the debt of any one issuer; and

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

(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

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

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

Amended by R.2008 d.237, effective August 18, 2008.

See: 40 N.J.R. 2092(a), 40 N.J.R. 4824(a).

In (a)2, inserted "and the New Jersey Better Educational Savings Trust"; and in (a)3, inserted "or the New Jersey Better Educational Savings Trust".

Amended by R.2008 d.382, effective December 15, 2008.

See: 40 N.J.R. 4683(a), 40 N.J.R. 6993(a).

In (a)1, substituted the first occurrence of "issuer" for "corporation", "issuer, and shall not be" for "company, and not", and " , except that these requirements may be waived by the Council;" for a period at the end; in (a)2, inserted "and non-convertible preferred stock", and substituted "issuer;" for "corporation.;" in (a)3, substituted "issuer; and" for "corporation.;" and added (a)4.

Amended by R.2013 d.023, effective February 19, 2013.

See: 44 N.J.R. 2277(a), 45 N.J.R. 346(a).

In (a)1, deleted "and shall not be more than 25 percent of the issue at the time of issue," following "issuer,".

17:16-12.5 Reports to Council

The Director shall report all purchases of corporate obligations under this subchapter at the next regularly scheduled meeting of the Council.

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

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

SUBCHAPTER 13. INTEREST RATE SWAP TRANSACTIONS

17:16-13.1 Definitions

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

"Interest rate swap transactions" shall mean private agreements between two parties to exchange cash flows in the future, according to a prearranged formula.

17:16-13.2 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may enter into interest rate swap transactions on behalf of any eligible fund provided that the counterparty (or any guarantor pledging its full faith and credit to the transaction) has a credit rating of A1 or higher by Moody's Investors Service, Inc., A+ or higher by Standard & Poor's Corporation, and A+ or higher by Fitch Ratings, except that two of the three ratings is sufficient and one of the three ratings is sufficient if only one rating is available. Subsequent to entering into the transaction, if the ratings fall below the minimum rating for such counterparty, the Division does not have to close out the transaction.

(b) Notwithstanding the restrictions in this subchapter, the Council may approve interest rate swap transactions on a case-by-case basis.

Amended by R.2008 d.383, effective December 15, 2008.

See: 40 N.J.R. 4684(a), 40 N.J.R. 6994(a).

In (a), substituted "A1" for "A3", and substituted "A+" for "A-" twice.

17:16-13.3 Eligible funds

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

1. Common Pension Fund B.

17:16-13.4 Limitations

(a) At the time of entering into an interest rate swap transaction, the notional value of net exposure to any one counterparty shall not exceed 10 percent of the market value of the assets of any fund.

(b) If, subsequent to entering into an interest rate swap transaction, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the net exposure below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

SUBCHAPTERS 14 THROUGH 15. (RESERVED)

SUBCHAPTER 16. INTERNATIONAL CORPORATE OBLIGATIONS**17:16-16.1 Definitions**

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

“International corporate obligations” shall mean debt obligations of any corporation deemed by the Director to be not based in the United States. In determining whether or not a corporation is based in the United States, the Director shall consider factors including, but not limited to, the corporation’s country of incorporation, its main equity trading market, its shareholder base, the geographical distribution of its operations, the location of its headquarters, and the country in which investors consider the corporation to be most appropriately classified.

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

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

Former N.J.A.C. 17:16-16.1, Permissible investments, recodified to N.J.A.C. 17:16-16.2.

17:16-16.2 Permissible investments

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

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

2. The obligor has a market capitalization or contributed capital of at least \$US 100 million. Subsequent to purchase, if capitalization or contributed capital falls below

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

3. The obligations have a credit rating of Baa3 or higher by Moody’s Investor Service, Inc., BBB- or higher by Standard & Poor’s Corporation, and BBB- or higher by Fitch Ratings, except that two of the three ratings is sufficient and one of the three ratings is sufficient if only one rating is available. If a rating has not been obtained from the above services, the obligations may be purchased if the publicly issued outstanding debt of the obligor carries the minimum rating or higher. Subsequent to purchase, if ratings fall below the minimum rating for such obligations, they do not have to be sold, and they may be exchanged with obligations with credit ratings lower than the minimum rating if the obligations received in exchange are, on balance, similarly rated.

(b) Notwithstanding the restrictions in (a) above, the Director may invest and reinvest the moneys of Common Pension Fund B in corporate obligations of U.S. based corporations, international corporate obligations, collateralized notes and mortgages, global diversified credit investments, non-convertible preferred stock, and mortgage backed pass-through securities that do not meet the minimum credit ratings set forth in N.J.A.C. 17:16-12.2, this section, and N.J.A.C. 17:16-19.2, 23.2, 40.2, and 58.2, respectively; provided, however, the market value of such investments shall not exceed eight percent of the combined assets of all of the Pension and Annuity Funds.

(c) Notwithstanding the restrictions in (a) above, the Director may invest and reinvest the moneys of Common Pension Fund B in corporate obligations of U.S. based corporations, international corporate obligations, and non-convertible preferred stock of companies that do not meet the minimum market capitalization or contributed capital set forth in N.J.A.C. 17:16-12.2, this section, and N.J.A.C. 17:16-40.2, respectively; provided, however, the market value of such investments shall not exceed one percent of the combined assets of all the Pension and Annuity Funds.

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

1. Exercise the rights and conversion privileges of any security acquired under this subchapter; and
2. Retain any distribution received as a result of a corporate action, even if such distribution does not meet the requirements of this subchapter.

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

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

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

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

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

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

Recodified from N.J.A.C. 17:16-16.1 and amended by R.2006 d.317, effective September 5, 2006.

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

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

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

In (b), deleted "up to five percent of" following "reinvest" and inserted "; provided, however, the market value of such investments shall not exceed five percent of the combined assets of all of the Pension and Annuity Funds".

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

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

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

Amended by R.2009 d.380, effective December 21, 2009.

See: 41 N.J.R. 3212(a), 41 N.J.R. 4824(b).

Added new (c); and recodified former (c) as (d).

Amended by R.2013 d.024, effective February 19, 2013.

See: 44 N.J.R. 2279(a), 45 N.J.R. 347(a).

Deleted (a)1; recodified former (a)2 through (a)4 as (a)1 through (a)3; in (a)2 and (c), inserted "or contributed capital" throughout; in (b) and (c), inserted "of U.S. based corporations"; in (b), substituted "global diversified credit investments" for "bank loans" and "eight" for "five", and inserted a comma following "preferred stock" and "40.2"; in (c), inserted a comma following the second occurrence of "obligations" and following "section"; added new (d); and recodified former (d) as (e).

17:16-16.3 Eligible funds

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

- 1. Common Pension Fund B.

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

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

Section was "Legal papers".

17:16-16.4 Limitations

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

- 1. Not more than 2.5 percent of the market value of the assets of the combined assets of all of the Pension and Annuity Funds shall be invested in international corporate obligations, whether direct or guaranteed;
- 2. The total amount of debt issues purchased or acquired of any one issuer shall not exceed 10 percent of the outstanding debt of the issuer, except that these requirements may be waived by the Council; and
- 3. Not more than five percent of the assets of any eligible fund shall be invested in debt issues and non-convertible preferred stock of any one issuer.

(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

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

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

As amended, R.1976 d.155, effective May 19, 1976.

See: 8 N.J.R. 314(b).

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

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

Stylistic changes.

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

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

In (a) and (b) inserted "book value".

Recodified from N.J.A.C. 17:16-16.2 and amended by R.2006 d.317, effective September 5, 2006.

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

Rewrote the section.

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

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

In (a)4, substituted "30 percent" for "22 percent".

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

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

In (a)3, inserted "and non-convertible preferred stock", and deleted "maturing more than 12 months from date of purchase" following "issuer"; and in (a)4, deleted "held by any fund (other than Common Pension Fund D), either directly or through Common Pension Fund B or D" preceding "when", and inserted "held by any fund (other than Common Pension Funds B or D), either directly or through Common Pension Fund B or D,".

Amended by R.2013 d.024, effective February 19, 2013.

See: 44 N.J.R. 2279(a), 45 N.J.R. 347(a).

In (a)1, substituted "2.5" for "10" and "the combined assets of all of the Pension and Annuity Funds" for "any eligible fund"; in (a)2, deleted "or 25 percent of any one issue may be purchased at the time of issue," preceding "except", and inserted "and" at the end; in (a)3, substituted "eligible" for "one", and substituted a period for "and" at the end; and deleted (a)4.

17:16-16.5 Reports to Council

The Director shall report all purchases of international corporate obligations under this subchapter at the next regularly scheduled meeting of the Council.

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

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

SUBCHAPTER 17. STATE AND MUNICIPAL GENERAL OBLIGATIONS

17:16-17.1 Definitions

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

"State and municipal general obligations" shall mean debt obligations of any state or any municipal or political subdivision thereof that are backed by the full faith and credit of the obligor.

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. 17:16-17.1, Applicable funds, recodified to N.J.A.C. 17:16-17.2.

Amended by R.2009 d.316, effective October 19, 2009.

See: 41 N.J.R. 2635(a), 41 N.J.R. 3959(a).

Substituted definition "State and municipal general obligations" for definition "New Jersey State and municipal general obligations"; and in definition "State and municipal general obligations", substituted "any state" for "the State of New Jersey".

17:16-17.2 Permissible investments

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

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

2. The obligations have a credit rating of A3 or higher by Moody's Investors Service, Inc., A- or higher by Standard & Poor's Corporation, and A- or higher by Fitch Ratings, except that two of the three ratings is sufficient and one of the three ratings is sufficient if only one rating is available. If a rating for the obligations has not been obtained from the above services, the obligations may be purchased if the issuer rating meets the minimum rating criteria. Subsequent to purchase, if ratings fall below the minimum rating for such obligations, they do not have to be sold, and they may be exchanged with obligations with a credit rating lower than the minimum rating if the obligations received in exchange are, on balance, similarly rated.

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

(c) Notwithstanding (a) above, the Director may only invest and reinvest the moneys of a fund classified as a Temporary Reserve Fund, a Demand Fund or a Static Fund in state and municipal general obligations provided that such investment in tax exempt securities is required in order to comply with Federal arbitrage regulations and further provided that such investment qualifies under this subchapter and that the obligations were issued with an unqualified approving opinion of a recognized bond counsel to the effect that the obligations have been duly authorized and issued and are legal, valid and binding obligations of the issuer. If the obligations are guaranteed by the Federal government, the above requirement may be waived.

(d) Notwithstanding the restrictions in this subchapter, the Council may approve the purchase of state and municipal general obligations on a case-by-case basis.

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

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

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

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

Provisions amended to include all funds.

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

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

Recodified from N.J.A.C. 17:16-17.1 and amended by R.2006 d.317, effective September 5, 2006.

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

Section was "Applicable funds". Rewrote the section.

Amended by R.2009 d.316, effective October 19, 2009.

See: 41 N.J.R. 2635(a), 41 N.J.R. 3959(a).

In the introductory paragraph of (a) and in (c), substituted "state" for "New Jersey State"; and in (d), deleted "New Jersey" preceding "state".

17:16-17.3 Eligible funds

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

1. Any fund classified as a Pension and Annuity Fund;
2. Any fund classified as a Static Fund;
3. Any fund classified as a Demand Fund;
4. Any fund classified as a Temporary Reserve Fund;
5. Any funds classified as a Trust Fund; and
6. Common Pension Fund B.

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

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

Section was "Legal papers".

17:16-17.4 Limitations

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

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

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

(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

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

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

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

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

Eligible funds broadened; tax-exempt bond purchase specified; minimum quality standard and maximum level of purchases set.

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

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

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 "Purchases for Temporary Reserve Group, Demand and Static Funds".

17:16-17.5 Reports to Council

The Director shall report all purchases of state and municipal general obligations under this subchapter at the next regularly scheduled meeting of the Council.

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

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

Amended by R.2009 d.316, effective October 19, 2009.
 See: 41 N.J.R. 2635(a), 41 N.J.R. 3959(a).
 Deleted "New Jersey" preceding "state".

SUBCHAPTER 18. PUBLIC AUTHORITY REVENUE OBLIGATIONS

17:16-18.1 Definitions

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

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

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

Recodified by R.1991 d.274, effective June 3, 1991.
 See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

"Enterprise" added to "Revenue obligations".
 Amended by R.2001 d.119, effective April 2, 2001.
 See: 33 N.J.R. 372(b), 33 N.J.R. 1115(a).
 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, inserted "clearly" following "context", substituted ":" for "." at the end; in definition "Public authority", substitute "state" for "State" and "states" for "States".

17:16-18.2 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest moneys of any eligible fund in the revenue obligations of any public authority provided that such obligations are rated A3 or higher by Moody's Investors Service, Inc., A- or higher by Standard & Poor's Corporation, and A- or higher by Fitch Ratings, except that two of the three ratings is sufficient and one of the three ratings is sufficient if only one rating is available. If a rating for the obligations has not been obtained from the above services, the obligations may be purchased if the issuer rating meets the minimum rating criteria. Subsequent to purchase, if ratings fall below the minimum rating for such obligations, they do not have to be sold, and they may be exchanged with obligations with credit ratings lower than the minimum rating if the obligations credits received in exchange are, on balance, similarly rated.

(b) Notwithstanding the restrictions in this subchapter, the Council may approve the purchase of public authority revenue obligations on a case-by-case basis.

Amended by R.1982 d.192, effective June 4, 1982.
 See: 13 N.J.R. 526(b), 14 N.J.R. 663(b).
 (b) added.

Recodified by R.1991 d.274, effective June 3, 1991.
 See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
 Eligible funds broadened; tax-exempt bond purchase specified; minimum quality standard and maximum level of purchases set.
 Amended by R.2001 d.119, effective April 2, 2001.
 See: 33 N.J.R. 372(b), 33 N.J.R. 1115(a).
 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 "Applicable funds".

17:16-18.3 Eligible funds

For purposes of this subchapter, eligible funds shall include:

1. Any fund classified as a Pension and Annuity Fund;
2. Any fund classified as a Static Fund;
3. Any fund classified as a Demand Fund;
4. Any fund classified as a Temporary Reserve Fund;
5. Any fund classified as a Trust Fund; and
6. Common Pension Fund B.

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. 17:16-18.3, Limitations, recodified to N.J.A.C. 17:16-18.4.

17:16-18.4 Limitations

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

1. Not more than two percent of the assets of any fund shall be invested in the obligations of any one public authority; and
2. No more than 10 percent of any one issue, serial note or maturity may be purchased in the aggregate by all eligible funds.

(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

Amended by R.1982 d.192, effective June 4, 1982.
 See: 13 N.J.R. 526(b), 14 N.J.R. 663(b).
 Added "pension and annuity group".
 Recodified by R.1991 d.274, effective June 3, 1991.
 See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
 Definition of eligible funds broadened.
 Recodified from N.J.A.C. 17:16-18.3 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. Former N.J.A.C. 17:16-18.4, Legal papers, repealed.

17:16-18.5 Reports to Council

The Director shall report all purchases of public authority revenue obligations under this subchapter at the next regularly scheduled meeting of the Council.

New Rule, R.2006 d.317, effective September 5, 2006.
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

SUBCHAPTER 19. COLLATERALIZED NOTES AND MORTGAGES
17:16-19.1 Definitions

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

“Collateralized notes and mortgages” shall mean securities fully collateralized by mortgage-backed securities, credit card receivables, automobile loans, home equity loans, bank loans or other forms of receivables originated in the United States.

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. 17:16-19.1, Permissible investments, recodified to N.J.A.C. 17:16-19.2.

17:16-19.2 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest or reinvest the moneys of any eligible fund in collateralized notes and mortgages provided that:

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

2. The collateral must be fully maintained and not under the direct control of the originator of the collateral underlying the obligation, but under the control of a trustee, special purpose vehicle or other independent entity incorporated in the United States; and

3. The issue must be rated Baa3 or higher by Moody’s Investor Service, Inc., BBB- or higher by Standard & Poor’s Corporation, and BBB- or higher by Fitch Ratings, except that two of the three ratings is sufficient and one of the three ratings is sufficient if only one rating is available. Subsequent to purchase, if the rating falls below the minimum rating for such issue, it does not have to be sold, and it may be exchanged with issues with credit ratings lower than the minimum rating if the issues received in exchange are, on balance, similarly rated.

(b) Notwithstanding the restrictions in (a) above, the Director may invest and reinvest the moneys of Common Pension Fund B in corporate obligations of U.S. based corporations, international corporate obligations, collateralized notes and mortgages, global diversified credit investments,

non-convertible preferred stock, and mortgage backed pass-through securities that do not meet the minimum credit ratings set forth in N.J.A.C. 17:16-12.2 and 16.2, this section, and N.J.A.C. 17:16-23.2, 40.2, and 58.2, respectively; provided, however, the market value of such investments shall not exceed eight percent of the combined assets of all of the Pension and Annuity Funds.

(c) Notwithstanding the restrictions in this subchapter, the Council may approve the purchase of collateralized notes and mortgages on a case-by-case basis.

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

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

(a) “debt” added; (a)2i: deleted “be of . . . regulations” and replaced with “consist outstanding”.

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

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

In (a)4, substituted “of” for “or”.

Amended by R.2003 d.329, effective August 4, 2003.

See: 35 N.J.R. 1869(a), 35 N.J.R. 3605(a).

Rewrote the section.

Amended by R.2004 d.32, effective January 20, 2004.

See: 35 N.J.R. 4832(a), 36 N.J.R. 441(a).

In (a), inserted “and the Cash Management Fund” in the introductory paragraph.

Recodified from N.J.A.C. 17:16-19.1 and amended by R.2006 d.317, effective September 5, 2006.

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

Rewrote the section. Former N.J.A.C. 17:16-19.2, Legal papers, repealed.

Amended by R.2007 d.254, effective August 20, 2007.

See: 39 N.J.R. 1462(a), 39 N.J.R. 3547(c).

In (b), deleted “up to five percent of” following “reinvest” and inserted “; provided, however, the market value of such investments shall not exceed five percent of the combined assets of all of the Pension and Annuity Funds”.

Amended by R.2008 d.387, effective December 15, 2008.

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

In (a)1, inserted “. Subsequent to purchase, if the obligor defaults, the obligations do not have to be sold”; and in (b), deleted “finance company debt, bank debentures,” preceding “international”, and “14.2, 15.2” following “N.J.A.C. 17:16-12.2”, and inserted “, bank loans, non-convertible preferred stock”, and “23.2, 40.2 and”.

Amended by R.2013 d.025, effective February 19, 2013.

See: 44 N.J.R. 2280(a), 45 N.J.R. 348(a).

In (b), inserted “of U.S. based corporations”, substituted “global diversified credit investments” for “bank loans” and “eight” for “five”, and inserted a comma following “stock” and “40.2”.

17:16-19.3 Eligible funds

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

1. Any fund classified as a Pension and Annuity Fund;
2. The State of New Jersey Cash Management Fund; and
3. Common Pension Fund B.

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

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

17:16-19.4 Limitations

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

1. No amount in excess of 25 percent of any one issue may be purchased. For the purpose of this limitation, the issue size shall be considered as the principal amount issued pursuant to all classes of securities payable from the returns generated by the underlying collateral;

2. Not more than five percent of the assets of any one fund shall be invested in the obligations of any one issue; and

3. Not more than 10 percent of the assets of any one fund (or 20 percent of the assets of Common Pension Fund B) shall consist of collateralized notes and mortgages purchased pursuant to this subchapter.

(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

New Rule, R.2006 d.317, effective September 5, 2006.
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

17:16-19.5 Reports to Council

The Director shall report all purchases of collateralized notes and mortgages under this subchapter at the next regularly scheduled meeting of the Council.

New Rule, R.2006 d.317, effective September 5, 2006.
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

SUBCHAPTER 20. INTERNATIONAL GOVERNMENT AND AGENCY OBLIGATIONS

17:16-20.1 Definitions

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

“International government and agency obligations” shall mean direct debt obligations of a sovereign government or its political subdivisions, debt obligations of agencies of a sovereign government which are unconditionally guaranteed as to principal and interest by the sovereign government’s full faith and credit, and debt obligations of international agencies that are directly backed by the collective credit of multiple sovereign governments.

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. 17:16-20.1, Permissible investments, recodified to N.J.A.C. 17:16-20.2.
Amended by R.2013 d.026, effective February 19, 2013.
See: 44 N.J.R. 2281(a), 45 N.J.R. 348(b).
Deleted definition “Emerging market country”.

17:16-20.2 Permissible investments

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

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

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

1. Denominated in United States dollars; and
2. Have a credit rating of Aa3 or higher by Moody’s Investor Service, Inc., AA- or higher by Standard & Poor’s Corporation, and AA- or higher by Fitch Ratings, except that two of the three ratings is sufficient and one of the three ratings is sufficient if only one rating is available.

(c) Notwithstanding (a) above, the Director may only invest and reinvest the moneys of Common Pension Fund B in international government and agency obligations that have a credit rating of Baa3 or higher by Moody’s Investor Service, Inc., BBB- or higher by Standard & Poor’s Corporation, and BBB- or higher by Fitch Ratings, except that two of the three ratings is sufficient and one of the three ratings is sufficient if only one rating is available.

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

Amended by R.1991 d.386, effective August 5, 1991.
See: 23 N.J.R. 1775(b), 23 N.J.R. 2344(a).
In (a)2, added Common Pension Fund D.
Amended by R.1992 d.274, effective July 6, 1992.
See: 24 N.J.R. 1690(a), 24 N.J.R. 2464(a).
Revised text.
Amended by R.2004 d.249, effective July 6, 2004.
See: 36 N.J.R. 1739(a), 36 N.J.R. 3269(b).
In (b), deleted “, their subdivisions and their agencies, and international agencies” in the first sentence and deleted “and Agencies” in the second sentence; deleted (c).
Amended by R.2005 d.322, effective September 19, 2005.
See: 37 N.J.R. 2149(a), 37 N.J.R. 3720(a).
In (a), rewrote the introductory paragraph, 1, 3, and 4.
Amended by R.2006 d.257, effective July 17, 2006.
See: 38 N.J.R. 1407(a), 38 N.J.R. 3063(a).
Rewrote the section.
Recodified from N.J.A.C. 17:16-20.1 and amended by R.2006 d.317, effective September 5, 2006.

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

In introductory paragraph of (b), inserted "State of New Jersey" preceding "Cash"; in introductory paragraph of (c), substituted "(a)" for "subsection". Former N.J.A.C. 17:16-20.2, Eligible Funds, recodified to N.J.A.C. 17:16-20.3.

Amended by R.2013 d.026, effective February 19, 2013.

See: 44 N.J.R. 2281(a), 45 N.J.R. 348(b).

Rewrote (c).

17:16-20.3 Eligible funds

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

1. Common Pension Fund B; and
2. The State of New Jersey Cash Management Fund.

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

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

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

Recodified from N.J.A.C. 17:16-20.2 and amended by R.2006 d.317, effective September 5, 2006.

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

In (a)8, inserted "State of New Jersey" preceding "Cash". Former N.J.A.C. 17:16-20.3, Limitations, recodified to N.J.A.C. 17:16-20.4.

Amended by R.2013 d.026, effective February 19, 2013.

See: 44 N.J.R. 2281(a), 45 N.J.R. 348(b).

Deleted former (a)1 through (a)5; recodified former (a)6 as (a)1; in (a)1, inserted "and" at the end; deleted (a)7; and recodified former (a)8 as (a)2.

17:16-20.4 Limitations

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

1. Not more than five percent of the market value of the assets of any eligible fund shall be invested in obligations, whether direct or guaranteed, of any one issuer. The five percent limitation shall not apply to Common Pension Fund B.
2. The total amount of debt issues purchased or acquired of any one issuer shall not exceed 25 percent of the outstanding debt of the issuer, and not more than the greater of \$US 10 million or 25 percent of any one issue may be purchased at the time of issue, except that these requirements may be waived by the Council.
3. Not more than five percent of the combined assets of all of the Pension and Annuity Funds shall be invested in international government and agency obligations.

(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation of the fund below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

Amended by R.1991 d.386, effective August 5, 1991.

See: 23 N.J.R. 1775(b), 23 N.J.R. 2344(a).

Deleted prior (a); recodified (b)-(d) as (a)-(c). In (a), added "any one issuer of". In (b), changed rating from "Aaa/AAA" to "Aa/AA".

Amended by R.1994 d.445, effective September 6, 1994.

See: 26 N.J.R. 2751(a), 26 N.J.R. 3742(a).

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

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

Amended by R.2004 d.249, effective July 6, 2004.

See: 36 N.J.R. 1739(a), 36 N.J.R. 3269(b).

In (a), substituted "any one issuer of obligations under this subchapter, whether" for "any one issuer of international government and agency obligations, whether"; rewrote (b); in (c), deleted "on the Approved List".

Amended by R.2005 d.322, effective September 19, 2005.

See: 37 N.J.R. 2149(a), 37 N.J.R. 3720(a).

In (a), added the last sentence, "The one percent limitation shall not apply to Common Pension Funds B and D."

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

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

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

Recodified from N.J.A.C. 17:16-20.3 and amended by R.2006 d.317, effective September 5, 2006.

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

In (a)3, substitute "international corporate" for "Canadian", and added (a)4.

Amended by R.2007 d.255, effective August 20, 2007.

See: 39 N.J.R. 1463(a), 39 N.J.R. 3548(a).

In (a)3, substituted "30 percent" for "22 percent".

Amended by R.2013 d.026, effective February 19, 2013.

See: 44 N.J.R. 2281(a), 45 N.J.R. 348(b).

Rewrote (a)1 and (a)3; and deleted (a)4.

17:16-20.5 Reports to Council

The Director shall report all purchases of international government and agency obligations under this subchapter at the next regularly scheduled meeting of the Council.

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

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

SUBCHAPTER 21. U.S. TREASURY FUTURES CONTRACTS

17:16-21.1 Definitions

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

"U.S. Treasury Futures Contract" shall mean a legal agreement between a buyer and a seller in which the seller agrees to deliver and the buyer agrees to take delivery of a specified quantity of U.S. Treasury securities at a specified price (futures price) at a stated time in the future (delivery date). Prices are determined by competitive bids on the floor of the Chicago Board of Exchange. The terms of the contract are standardized and the Chicago Board of Exchange Clearinghouse takes the opposite side to each cleared transaction.

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

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

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 of U.S. Treasury Futures Contract". Rewrote the section.

17:16-21.2 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys of any eligible fund in U.S. Treasury Futures Contracts listed on an exchange in the United States for the purpose of hedging U.S. Treasury securities held in Common Pension Fund B.

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

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

(d) Notwithstanding the restrictions in this subchapter, the Council may approve the purchase of U.S. Treasury Futures Contracts on a case-by-case basis.

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).

17:16-21.3 Eligible funds

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

1. Common Pension Fund B.

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. 17:16-21.3, Limitations, recodified to N.J.A.C. 17:16-21.4.

17:16-21.4 Limitations

Net purchases of U.S. Treasury Futures Contracts shall not exceed the amount equal to 10 percent of the market value of Common Pension Fund B’s underlying U.S. Treasury Bond holdings, except that this limit may be increased to an amount not to exceed 50 percent by the Director for a fixed period of time after consultation with the Executive Committee of the Council.

Recodified from N.J.A.C. 17:16-21.3 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.

SUBCHAPTER 22. FIXED INCOME EXCHANGE-TRADED FUNDS

17:16-22.1 Definitions

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

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

“Fixed income exchange-traded funds” shall mean exchange-traded funds that invest primarily in fixed income securities.

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. 17:16-22.1, Permissible investments, recodified to N.J.A.C. 17:16-22.2.
Amended by R.2011 d.224, effective August 15, 2011.
See: 43 N.J.R. 1241(a), 43 N.J.R. 2192(c).
In definition “Fixed income exchange-traded fund”, deleted “domestic” preceding “fixed”.

17:16-22.2 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys of any eligible fund in fixed income exchange-traded funds which are traded on a securities exchange in the United States or the over-the-counter markets, provided that the exchange-traded funds are denominated in United States dollars and have a minimum market capitalization of \$100 million. Subsequent to purchase, if capitalization falls below \$100 million, the investment does not have to be sold.

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

Amended by R.2004 d.250, effective July 6, 2004.
See: 36 N.J.R. 1740(a), 36 N.J.R. 3269(c).
Rewrote the section.
Recodified from N.J.A.C. 17:16-22.1 and amended by R.2006 d.317, effective September 5, 2006.
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
Rewrote the section. Former N.J.A.C. 17:16-22.2, Applicable Funds, recodified to N.J.A.C. 17:16-22.3.
Amended by R.2011 d.224, effective August 15, 2011.
See: 43 N.J.R. 1241(a), 43 N.J.R. 2192(c).
In (a), inserted “provided that the exchange-traded funds are denominated in United States dollars”.

17:16-22.3 Eligible funds

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

1. Police and Firemen’s Retirement System;
2. Public Employees’ Retirement System;
3. State Police Retirement System;
4. Teachers’ Pension and Annuity Fund;
5. Judicial Retirement System of New Jersey; and
6. Common Pension Fund B.

Recodified from N.J.A.C. 17:16-22.2 and amended by R.2006 d.317, effective September 5, 2006.
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
Section was “Applicable funds”. Rewrote introductory paragraph of (a), recodified (a)5 as (a)6, added new (a)5, and deleted former (a)6 and (a)7. Former N.J.A.C. 17:16-22.3, Limitations, recodified to N.J.A.C. 17:16-22.4.

17:16-22.4 Limitations

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

1. Not more than four percent of the market value of any fund shall be invested in a single fixed income exchange-traded fund; and
2. The total amount of shares or units purchased or acquired of any one fixed income exchange-traded fund shall not exceed five percent of the shares or units outstanding of any fixed income exchange-traded fund.

(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

Recodified from N.J.A.C. 17:16-22.3 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.

SUBCHAPTER 23. GLOBAL DIVERSIFIED CREDIT INVESTMENTS

17:16-23.1 Definitions

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

“Bank loans” means loans that are originated by commercial and/or investment banks or other lending syndicates. Bank loans are typically comprised of loans to corporations and tend to be the most senior debt in the corporate debt structure.

“Co-investment” means two parties (usually the limited partner and the general partner of a fund) invest alongside each other. If a limited partner in a fund has co-investment rights, it can invest directly in a company that is also backed by a fund. The institution therefore ends up with two separate stakes in the company — one indirectly through the fund; one directly in the company. Co-investment may also include multiple like-minded institutional investors investing in a specific company or portfolio.

“Commingled fund” means pooled investment vehicles formed for the purpose of investing. 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.

“Credit structured products” means securities whose cash flow characteristics depend upon one or more indices or that have embedded forwards or options or securities where the investment return and the issuer’s payment obligations are contingent on, or highly sensitive to, changes in the value of underlying assets, indices, interest rates, or cash flows.

“Funds-of-funds” means funds set up to distribute investments among a selection of fund managers, who in turn invest the capital directly.

“Global diversified credit investments” means investments in bank loans, mezzanine debt, credit structured products, commercial and residential mortgage-backed securities, commercial and residential whole loans, and other similar strategies.

“Joint venture” means a contractual agreement joining two or more parties for the purpose of executing a particular undertaking. All parties agree to share in the profits and losses of the enterprise. Joint ventures are usually private.

“Mezzanine debt” means subordinated debt which may include embedded equity instruments.

“Mortgage-backed securities” mean asset-backed securities that represent a right to receive a portion of the cash flows from mortgage loans. Residential mortgage-backed securities are typically secured by single-family or two- to four-family real estate. Commercial mortgage-backed securities are typically secured by commercial and multi-family properties such as apartment buildings, hotels, schools, retail or office properties, industrial properties, and other commercial sites.

“Separate account” means ownership is segregated and kept in the investor’s name.

“Whole loans” mean mortgage loans obtained through the secondary mortgage market with administration of the loan(s) handled through a third party. Residential whole loans are typically secured by single-family or two- to four-family real estate. Commercial whole loans are typically secured by commercial and multi-family properties such as apartment buildings, hotels, schools, retail or office properties, industrial properties, and other commercial sites.

Amended by R.2013 d.027, effective February 19, 2013.
See: 44 N.J.R. 2282(a), 45 N.J.R. 348(c).

Added definitions “Credit structured products”, “Global diversified credit investments”, “Mezzanine debt”, “Mortgage-backed securities” and “Whole loans”.

17:16-23.2 Permissible investments

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

1. Direct bank loans provided that:
 - i. The borrower:

(1) Is not in default as to the payment of principal or interest upon any of its outstanding obligations. Subsequent to purchase, if the borrower defaults, the loans do not have to be sold; and

(2) Has shareholder's equity of at least \$200 million. Subsequent to purchase, if shareholder's equity falls below \$200 million, the investment does not have to be sold; and

ii. The issue has a credit rating of Baa3 or higher by Moody's Investors Service, Inc., BBB- or higher by Standard & Poor's Corporation, and BBB- or higher by Fitch Ratings, except that two of the three ratings is sufficient and one of the three ratings is sufficient if only one rating is available. If a rating for the issue has not been obtained from the above services, the issue may be purchased if the issuer rating meets the minimum rating criteria. Subsequent to purchase, if ratings fall below the minimum rating for such issues, they do not have to be sold, and they may be exchanged with issues with a credit rating lower than the minimum rating if the issues received in exchange are, on balance, similarly rated; and

2. Separate accounts, funds-of-funds, commingled funds, co-investments, and joint ventures that primarily invest in global diversified credit investments provided that:

i. At the time of purchase or commitment by an eligible fund, the securities included or intended to be included in the investment vehicle shall consist primarily of those with a credit rating of Baa3 or higher by Moody's Investors Service, Inc., BBB- or higher by Standard & Poor's Corporation, and BBB- or higher by Fitch Ratings, except that two of the three ratings is sufficient and one of the three ratings is sufficient if only one rating is available. If a rating for the security has not been obtained from the above services, the issue may be purchased if the issuer rating meets the minimum rating criteria; and

ii. The further provisos contained in N.J.A.C. 17:16-63 have been met.

(b) Notwithstanding the restrictions in (a) above, the Director may invest and reinvest the moneys of Common Pension Fund B in corporate obligations of U.S. based corporations, international corporate obligations, collateralized notes and mortgages, global diversified credit investments, non-convertible preferred stock, and mortgage-backed pass-through securities that do not meet the minimum credit ratings set forth in N.J.A.C. 17:16-12.2, 16.2, 19.2, this section and N.J.A.C. 17:16-40.2 and 58.2, respectively; provided, however, the market value of such investments shall not exceed eight percent of the combined assets of all of the Pension and Annuity Funds.

(c) Notwithstanding the restrictions in (a) above, the Director may:

1. Exercise the rights or conversion privileges of any security acquired under this subchapter; and

2. Retain any distribution received as a result of a corporate action, even if such distribution does not meet the requirements of this subchapter.

(d) Notwithstanding the restrictions in this subchapter, the Council may approve the purchase of global diversified credit investments on a case-by-case basis.

(e) Nothing in this subchapter shall preclude the Director from investing the monies of any eligible fund in individual collateralized notes and mortgages pursuant to N.J.A.C. 17:16-19 and individual mortgage-backed senior debt securities pursuant to N.J.A.C. 17:16-58.

Amended by R.2013 d.027, effective February 19, 2013.
See: 44 N.J.R. 2282(a), 45 N.J.R. 348(c).
Rewrote the section.

17:16-23.3 Eligible funds

For purposes of this subchapter, eligible funds shall include Common Pension Fund B.

Amended by R.2013 d.027, effective February 19, 2013.
See: 44 N.J.R. 2282(a), 45 N.J.R. 348(c).
Rewrote the section.

17:16-23.4 Limitations

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

1. Not more than seven percent of the market value of the combined assets of all of the Pension and Annuity Funds shall be invested in global diversified credit investments, whether directly or through separate accounts, funds-of-funds, commingled funds, co-investments, and joint ventures that primarily invest in global diversified credit investments; and

2. The total amount of direct bank loans purchased or acquired under this subchapter shall not exceed 10 percent of the outstanding long-term debt of the borrower except that these requirements may be waived by the Council.

(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

Amended by R.2013 d.027, effective February 19, 2013.
See: 44 N.J.R. 2282(a), 45 N.J.R. 348(c).

In the introductory paragraph of (a), substituted "global diversified credit investments" for "bank loans"; and rewrote (a)1.

17:16-23.5 Reports to Council

The Director shall report all purchases of bank loans under this subchapter at the next regularly scheduled meeting of the Council.

SUBCHAPTER 24. CREDIT DEFAULT SWAP TRANSACTIONS

17:16-24.1 Definitions

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

“Credit default swap transactions” means a contract between two parties, whereby one makes periodic payments to the other and receives the promise of a payoff if a third party defaults. The former party receives credit protection and is said to be the “buyer” while the other party provides credit protection and is said to be the “seller.” The risk of default is transferred from the buyer of the swap to the seller of the swap.

17:16-24.2 Permissible transactions

(a) Subject to the limitations contained in this subchapter, the Director may enter into credit default swap transactions, including index-based swap transactions, on behalf of any eligible fund, provided that:

1. The credit default swap transaction shall be listed on a securities exchange, traded on an over-the-counter market or be bid/offered on a competitive basis with multiple broker dealers;
2. Credit default swap transactions may only be purchased for fixed income securities held in the pertinent portfolio, except that index-based swaps may be purchased if a significant number of the underlying obligations contained in the index correspond to securities eligible for investment by, and are actually held in the portfolio of, an eligible fund; and
3. The counterparty (or any guarantor pledging its full faith and credit to the transaction) has a credit rating of A1 or higher by Moody’s Investors Service, Inc., A+ or higher by Standard & Poor’s Corporation, and A+ or higher by Fitch Ratings, except that two of the three ratings is sufficient and one of the three ratings is sufficient if only one rating is available. Subsequent to entering into the swap transaction, if the ratings fall below the minimum rating for such counterparty, the Division does not have to close out the transaction.

(b) Notwithstanding the restrictions in this subchapter, the Council may approve credit default swap transactions on a case-by-case basis.

17:16-24.3 Eligible funds

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

1. Common Pension Fund B; and
2. Common Pension Fund E.

17:16-24.4 Limitations

(a) At the time of entering into a credit default swap transaction, the notional value of net exposure to any one counterparty shall not exceed 10 percent of the market value of the assets of any fund.

(b) If, subsequent to entering into a credit default swap transaction, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the net exposure below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

SUBCHAPTERS 25 THROUGH 30. (RESERVED)

SUBCHAPTER 31. COMMERCIAL PAPER

17:16-31.1 Definitions

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

“Commercial paper” shall mean secured or unsecured promissory notes issued by a company deemed by the Director to be based in the United States. In determining whether an obligor is based in the United States, the Director shall consider factors including, but not limited to, the obligor’s country of incorporation, its main equity trading market, its shareholder base, the geographical distribution of its operations, the location of its headquarters, and the country in which investors consider the obligor to be most appropriately classified.

Amended by R.1969 d.32, effective Dec. 19, 1969.

See: 1 N.J.R. 24(b), 2 N.J.R. 44(e).

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 the section.

17:16-31.2 Permissible investments

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

1. The issuer is not in default as to the payment of principal or interest upon any of its outstanding obligations.
2. The maturity of the issue does not exceed 270 days; and
3. The issuer (or any guarantor pledging its full faith and credit to the issue) has a credit rating of P-1 or higher

by Moody's Investors Service, Inc., A-1 or higher by Standard & Poor's Corporation, and F-1 or higher by Fitch Ratings, except that two of the three ratings is sufficient and one of the three ratings is sufficient if only one rating is available. If a rating for the issue has not been obtained from the above services, the issue may be purchased if the issuer rating meets the minimum rating criteria. Subsequent to purchase, if the rating falls below the minimum rating for such issue, it does not have to be sold, and it may be exchanged with an issue with a credit rating lower than the minimum rating if the issue received in exchange is, on balance, similarly rated.

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

As amended, R.1972 d.75, eff. April 19, 1972.
 See: 4 N.J.R. 109(a).
 Amended by R.2001 d.119, effective April 2, 2001.
 See: 33 N.J.R. 372(b), 33 N.J.R. 1115(a).
 Amended by R.2004 d.251, effective July 6, 2004.
 See: 36 N.J.R. 1740(b), 36 N.J.R. 3270(a).
 In (a), added the last sentence; rewrote (b).
 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).

17:16-31.3 Eligible funds

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

1. Any fund classified as a Pension and Annuity Fund;
2. Any fund classified as a Static Fund;
3. Any fund classified as a Demand Fund;
4. Any fund classified as a Temporary Reserve Fund;
5. Any fund classified as a Trust Fund;

6. The State of New Jersey Cash Management Fund; and

7. Any fund classified as a Common Pension Fund.

Repeal and New Rule, R.1991 d.274, effective June 3, 1991.
 See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
 Amended by R.2004 d.251, effective July 6, 2004.
 See: 36 N.J.R. 1740(b), 36 N.J.R. 3270(a).
 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 "Limitations".
 Amended by R.2007 d.256, effective August 20, 2007.
 See: 39 N.J.R. 1463(b), 39 N.J.R. 3548(b).
 In (a)7, inserted "Any fund classified as a" and deleted "B" following "Fund".

17:16-31.4 (Reserved)

17:16-31.5 (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 "Legal papers".

SUBCHAPTER 32. CERTIFICATES OF DEPOSIT

17:16-32.1 Definitions

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

"Certificates of deposit" shall mean a debt instrument issued by a bank or trust company, or by a wholly-owned subsidiary of a bank or trust company where the full faith and credit of the bank or trust company is pledged to the issue.

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. 17:16-32.1, Permissible investments, recodified to N.J.A.C. 17:16-32.2.

17:16-32.2 Permissible investments

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

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

2. The certificate of deposit is in an amount of at least \$1 million;

3. If headquartered in the United States or if a United States subsidiary of a foreign bank:

i. The issuer (or any parent bank or trust company, whose full faith and credit is pledged to the issue) is a member of the Federal Reserve System and the Federal Deposit Insurance Corporation; and

ii. The issuer (or any parent bank or trust company, whose full faith and credit is pledged to the issue) has a rating on its long-term and short-term deposits, respectively, of A3/P-1 or higher by Moody's Investors Service, Inc., A-/A-1 or higher by Standard & Poor's Corporation, and A-/F-1 or higher by Fitch Ratings, except that two of the three agency ratings is sufficient and one of the three agency ratings is sufficient if only one agency rating is available. Subsequent to purchase, if the issuer rating fails to meet the minimum rating criteria, the certificate of deposit does not have to be sold;

4. If headquartered outside of the United States:

i. The issuer (or any parent bank or trust company, whose full faith and credit is pledged to the issue) is headquartered in a country which has agreed to adhere to the international capital standards as stipulated in the Basel Accord; and

ii. The issuer (or any parent bank or trust company, whose full faith and credit is pledged to the issue) has a rating on its long-term and short-term deposits, respectively, of at least Aa3/P-1 or higher by Moody's Investors Service, Inc., AA-/A-1 or higher by Standard & Poor's Corporation, and AA-/F-1 or higher by Fitch Ratings, except that two of the three agency ratings is sufficient and one of the three agency ratings is sufficient if only one agency rating is available. Subsequent to purchase, if the issuer rating fails to meet the minimum rating criteria, the certificate of deposit does not have to be sold; and

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

(b) Prior to any commitment to purchase a certificate of deposit under this subchapter, it shall be ascertained that the

issuer is included on a list of banks which has been certified by the Director as having met the requirements of this subchapter.

(c) Notwithstanding the restrictions contained in this subchapter, the Council may approve the purchase of certificates of deposit on a case-by-case basis.

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

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

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

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

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

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

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

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

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

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

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

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

New Jersey Cash Management Fund added.

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

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

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

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

In (a)2 substituted "primary" for "total".

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

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

Recodified from N.J.A.C. 17:16-32.1 and amended by R.2006 d.317, effective September 5, 2006.

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

Rewrote the section. Former N.J.A.C. 17:16-32.2, Other limitations, repealed.

17:16-32.3 Eligible funds

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

1. Any fund classified as a Pension and Annuity Fund;
2. Any fund classified as a Static Fund;
3. Any fund classified as a Demand Fund;
4. Any fund classified as a Temporary Reserve Fund;
5. Any fund classified as a Trust Fund;
6. The State of New Jersey Cash Management Fund; and
7. Common Pension Fund B.

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

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

Section was "Legal papers".

17:16-32.4 Limitations

(a) At the time of initial purchase, the total investment in the certificate of deposit of any one issuer under this subchapter, combined with the total investment in the bankers acceptances of such issuer under N.J.A.C. 17:16-34, shall not exceed 10 percent of the issuer's primary capital.

(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the

next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

New Rule, R.2006 d.317, effective September 5, 2006.
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

SUBCHAPTER 33. REPURCHASE AGREEMENTS

17:16-33.1 Definitions

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

“Repurchase agreements” shall mean agreements between parties whereby one party sells another a security at a specified price with a commitment to repurchase the security at a later date at a specified price.

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. 17:16-33.1, Permissible investments, recodified to N.J.A.C. 17:16-33.2.
Amended by R.2007 d.257, effective August 20, 2007.
See: 39 N.J.R. 1464(a), 39 N.J.R. 3548(c).
In definition “Repurchase agreements”, deleted “two” preceding “parties” and substituted “another” for “the other”.

17:16-33.2 Permissible investments

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

1. The seller is a bank or trust company or a wholly-owned subsidiary of such bank or trust company which:
 - i. Is headquartered in the United States; and
 - ii. Is a member of the Federal Reserve System; or
2. The seller is a securities broker which:
 - i. Is headquartered in the United States;
 - ii. Is registered with the Securities and Exchange Commission; and
 - iii. Meets the criteria for issuers of Commercial Paper as specified under N.J.A.C. 17:16-31.
3. The seller demonstrates the capacity to wire collateral against payment through the Federal Reserve System to a designated custodian bank;
4. The security and subject to repurchase is:
 - i. An obligation of the United States Government;
 - ii. An obligation of a United States Government agency eligible for investment under N.J.A.C. 17:16-11;

iii. Collateralized notes and mortgages or mortgage-backed securities eligible for investment under N.J.A.C. 17:16-19 or 17:16-58, respectively; or

iv. Corporate obligations with a credit rating of Aa3 or higher by Moody's Investors Service, Inc., AA- or higher by Standard & Poor's Corporation, and AA- or higher by Fitch Ratings, except that two of the three ratings is sufficient and one of the three ratings is sufficient if only one rating is available;

5. The maturity of the repurchase agreement shall not exceed 30 days;

6. At the time of purchase, the market value of the securities delivered pursuant to the repurchase agreement shall be equal to at least 102 percent of the par value of the repurchase agreement and

7. The securities delivered pursuant to the repurchase agreement shall have a maturity not exceeding 10 years from the date of the repurchase agreement.

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

As amended, R.1974 d.264, eff. September 24, 1974.
See: 6 N.J.R. 416(a).
As amended, R.1979 d.95, eff. March 8, 1979.
See: 11 N.J.R. 212(a).
As amended, R.1983 d.282, eff. July 18, 1983.
See: 15 N.J.R. 795(a), 15 N.J.R. 1182(c).
Restrictions on investments limited to banks in U.S. not foreign controlled, ability to wire collateral through Federal Reserve and security is an obligation of U.S. Government.
Amended by R.1986 d.357, effective September 8, 1986.
See: 18 N.J.R. 1353(b), 18 N.J.R. 1838(b).
Added text to (a)1.
Recodified by R.1991 d.274, effective June 3, 1991.
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
New Jersey Cash Management Fund added.
Amended by R.1993 d.188, effective May 3, 1993.
See: 25 N.J.R. 909(a), 25 N.J.R. 1886(a).
Revised text.
Amended by R.1995 d.483, effective September 5, 1995.
See: 27 N.J.R. 2543(b), 27 N.J.R. 3378(b).
Amended by R.2001 d.119, effective April 2, 2001.
See: 33 N.J.R. 372(b), 33 N.J.R. 1115(a).
Amended by R.2004 d.252, effective July 6, 2004.
See: 36 N.J.R. 1741(a), 36 N.J.R. 3270(b).
In (a), rewrote 2iii.
Recodified from N.J.A.C. 17:16-32.1 and amended by R.2006 d.317, effective September 5, 2006.
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
Section was “Limitations”. Rewrote the section.

17:16-33.3 Eligible funds

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

1. Any fund classified as a Pension and Annuity Fund;
2. Any fund classified as a Static Fund;
3. Any fund classified as a Demand Fund;

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

New Rule, R.2006 d.317, effective September 5, 2006.
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

17:16-33.4 (Reserved)

SUBCHAPTERS 34 THROUGH 36. (RESERVED)

SUBCHAPTER 37. MONEY MARKET FUNDS

17:16-37.1 Definitions

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

“Money market funds” shall mean mutual funds that invest in short-term debt instruments and seek to maintain a stable share price of one dollar.

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. 17:16-37.1, Permissible investments, recodified to N.J.A.C. 17:16-37.2.

17:16-37.2 Permissible investments

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

- 1. Invest primarily in money market securities authorized pursuant to N.J.A.C. 17:16-11 and 17:16-31 through 36;

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

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

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

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

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

Rewrote the section.

Recodified from N.J.A.C. 17:16-37.1 and amended by R.2006 d.317, effective September 5, 2006.

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

Rewrote (a). Former N.J.A.C. 17:16-37.2, Other limitations, recodified to N.J.A.C. 17:16-37.4.

17:16-37.3 Eligible funds

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

1. Any fund classified as a Pension and Annuity Fund;
2. Any fund classified as a Static Fund;
3. Any fund classified as a Demand Fund;
4. Any fund classified as a Temporary Reserve Fund;
5. Any fund classified as a Trust Fund;
6. The State of New Jersey Cash Management Fund; and
7. Common Pension Fund B.

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

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

Section was "Legal papers".

17:16-37.4 Limitations

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

1. Not more than 10 percent of the market value of any fund shall be invested in money market funds; and
2. The total amount of shares or units purchased or acquired of any one money market fund shall not exceed five percent of the shares or units outstanding.

(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

Recodified from N.J.A.C. 17:16-37.2 and amended by R.2006 d.317, effective September 5, 2006.

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

Section was "Other limitations". Rewrote the section.

SUBCHAPTERS 38 THROUGH 39. (RESERVED)

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

17:16-40.1 Definitions

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

"Non-convertible preferred stocks" means shares of stock which provide a dividend that is paid before any dividends are paid to holders of common stock and additional rights above and beyond those conferred by common stock. The shares are not convertible into common stock of the corporation.

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

"U.S. corporation" means a corporation deemed by the Director to be based in the United States. In determining whether a corporation is based in the United States, the Director shall consider factors including, but not limited to, the corporation's country of incorporation, its main equity trading market, its shareholder base, the geographical distribution of its operations, the location of its headquarters, and the country in which investors consider the corporation to be most appropriately classified.

17:16-40.2 Permissible investments

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

1. The stock is traded on a securities exchange in the United States or the over-the-counter market or issued through a private placement. If the Director invests in non-convertible preferred stock of a company not incorporated in the United States, but is deemed to be based in the United States, he or she shall prepare a memorandum explaining such determination, and shall inform the Council of his or her determination at its next regularly scheduled meeting;
2. The company has a market capitalization or contributed capital of at least \$100 million. Subsequent to purchase, if capitalization or contributed capital falls below \$100 million, the investment does not have to be sold; and
3. The stock has a credit rating of Baa3 or higher by Moody's Investors Service, Inc., BBB- or higher by Standard & Poor's Corporation, and BBB- or higher by

Fitch Ratings, except that two of the three ratings is sufficient and one of the three ratings is sufficient if only one rating is available. Subsequent to purchase, if the ratings fall below the minimum rating for such securities, they do not have to be sold, and they may be exchanged with securities with credit ratings lower than the minimum rating if the securities received in exchange are, on balance, similarly rated.

(b) Notwithstanding the restrictions in (a) above, the Director may invest and reinvest the moneys of Common Pension Fund B in corporate obligations of U.S. based corporations, international corporate obligations, collateralized notes and mortgages, global diversified credit investments, non-convertible preferred stock, and mortgage backed passthrough securities that do not meet the minimum credit ratings set forth in N.J.A.C. 17:16-12.2, 16.2, 19.2, 23.2, this section, and N.J.A.C. 17:16-58.2, respectively; provided, however, the market value of such investments shall not exceed eight percent of the combined assets of all of the Pension and Annuity Funds.

(c) Notwithstanding the restrictions in (a) above, the Director may invest and reinvest the moneys of Common Pension Fund B in corporate obligations of U.S. based corporations, international corporate obligations, and non-convertible preferred stock of companies that do not meet the minimum market capitalization or contributed capital set forth in N.J.A.C. 17:16-12.2 and 16.2 and this section, respectively; provided, however, the market value of such investments shall not exceed one percent of the combined assets of all the Pension and Annuity Funds.

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

Amended by R.2009 d.381, effective December 21, 2009.
See: 41 N.J.R. 3212(b), 41 N.J.R. 4824(c).

Added new (c); and recodified former (c) as (d).
Amended by R.2013 d.028, effective February 19, 2013.
See: 44 N.J.R. 2284(a), 45 N.J.R. 349(a).

In (a)2 and (c), inserted "or contributed capital" throughout; in (b) and (c), inserted "of U.S. based corporations"; in (b), substituted "global diversified credit investments" for "bank loans" and "eight" for "five", and inserted a comma following "preferred stock" and "this section"; and in (c), inserted a comma following the second occurrence of "obligations".

17:16-40.3 Eligible funds

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

1. Common Pension Fund B.

17:16-40.4 Limitations

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

1. The total amount of non-convertible preferred stock purchased or acquired under this subchapter of any one

corporation shall not exceed 10 percent of the outstanding non-convertible preferred stock or 25 percent of the issue at the time of issue, except that these requirements may be waived by the Council;

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

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

(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

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

17:16-41.1 Definitions

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

"Common stocks" shall mean shares of stock, other than preferred stocks, representing ownership in a corporation.

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

"Convertible preferred stocks" shall mean shares of stock which provide a dividend that is paid before any dividends are paid to holders of common stock and additional rights above and beyond those conferred by common stock. The shares are convertible into common stock of the corporation.

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

"U.S. corporation" shall mean a corporation deemed by the Director to be based in the United States. In determining whether a corporation is based in the United States, the Director shall consider factors including, but not limited to, the corporation's country of incorporation, its main equity trading market, its shareholder base, the geographical distribution of its operations, the location of its headquarters, and the country in which investors consider the corporation to be most appropriately classified.

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

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

Former N.J.A.C. 17:16-41.1, Permissible investments, recodified to N.J.A.C. 17:16-41.2.

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

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

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

17:16-41.2 Permissible investments

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

1. Common stock of a U.S. corporation traded on a securities exchange in the United States or the over-the-counter market. If the Director determines that a company that is not incorporated in the United States is based in the United States, he or she shall prepare a memorandum explaining such determination, and shall inform the Council of his or her determination at its next regularly scheduled meeting; and

2. Exchange-traded funds traded on a securities exchange in the United States or the over-the-counter market. Exchange-traded funds shall have a minimum market capitalization of \$100 million. For the purposes of this subchapter, exchange-traded funds shall be considered as common stock in determining all applicable limitations contained in this subchapter. Subsequent to purchase, if capitalization falls below \$100 million, the investment does not have to be sold.

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

(c) Notwithstanding the restrictions in (a) above, the Director may:

1. Exercise the conversion privileges into the common stock of any security acquired under this subchapter;
2. Purchase the convertible preferred stock of a company, the stock of which qualifies for investment under this subchapter;
3. Purchase the convertible debt issue of a company, the common stock of which qualifies for investment under this subchapter;
4. Purchase a debt issue or non-convertible preferred stock of a company, if the common stock of such company (or its parent company, if the parent company fully guarantees the debt issue) qualifies for investment under this subchapter; for the purpose of this rule all such debt or non-convertible preferred stock purchased shall be considered as common stock in determining all applicable limitations contained herein. Not more than three percent of the total assets held in Common Pension Fund A shall be invested in such debt;
5. Purchase stock in new public offerings of companies without prior approval of the Council provided, however, approval will be sought at the next regularly scheduled Council meeting in the event the security does not subsequently meet the requirements of this subchapter. If approval is not granted, the securities will be sold within three months of the Council's disapproval; and
6. Retain any distribution received as a result of a corporate action, even if the security does not meet the requirements of this subchapter.

Amended by R.1973 d.44, eff. Feb. 8, 1973.
See: 5 N.J.R. 94(b).

Amended by R.1986 d.356, effective September 8, 1986.
See: 18 N.J.R. 1353(a), 18 N.J.R. 1838(a).

Subchapter 8 amended to 7.
Recodified by R.1991 d.274, effective June 3, 1991.
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
Amended by R.1995 d.385, effective July 17, 1995.
See: 27 N.J.R. 1767(a), 27 N.J.R. 2703(b).
Amended by R.2000 d.181, effective May 1, 2000.
See: 32 N.J.R. 743(a), 32 N.J.R. 1526(a).

Added (d)4.
Amended by R.2001 d.119, effective April 2, 2001.
See: 33 N.J.R. 372(b), 33 N.J.R. 1115(a).

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

Amended by R.2003 d.332, effective August 4, 2003.
See: 35 N.J.R. 1871(a), 35 N.J.R. 3606(b).

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

Amended by R.2003 d.356, effective September 2, 2003.
See: 35 N.J.R. 2411(a), 35 N.J.R. 4124(c).

In (e), added a new 4 and recodified former 4 as 5.
Amended by R.2004 d.254, effective July 6, 2004.

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

Rewrote the section.
Recodified from N.J.A.C. 17:16-41.1 and amended by R.2006 d.317, effective September 5, 2006.

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

Rewrote the section. Former N.J.A.C. 17:16-41.2, Applicable funds, recodified to N.J.A.C. 17:16-41.3.

Amended by R.2008 d.391, effective December 15, 2008.
See: 40 N.J.R. 4690(a), 40 N.J.R. 6998(a).

In (a)1, substituted "that a company that is not incorporated in the United States is based" for "to invest in common stock of a U.S. corporation that is not incorporated"; in (c)2, inserted "convertible", and deleted ", whether convertible or not," preceding "of a company"; in (c)3, inserted "debt"; and in (c)4, inserted "or non-convertible preferred stock" twice.

17:16-41.3 Eligible funds

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

1. Police and Firemen's Retirement System;
2. Public Employees' Retirement System;
3. State Police Retirement System;
4. Teachers' Pension and Annuity Fund;
5. Judicial Retirement System of New Jersey; and
6. Common Pension Fund A.

Amended by R.1983 d.107, eff. April 18, 1983.
See: 15 N.J.R. 133(a), 15 N.J.R. 627(a).

Deleted reference to 1837 Surplus Revenue Fund.
Recodified by R.1991 d.274, effective June 3, 1991.
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Deferred Compensation Equity Fund added.
Amended by R.1996 d.222, effective May 6, 1996.
See: 28 N.J.R. 1366(a), 28 N.J.R. 2397(a).

Deleted Consolidated Police and Firemen's Pension Fund.
Amended by R.1998 d.29, effective January 5, 1998.
See: 29 N.J.R. 4409(b), 30 N.J.R. 106(a).

Added (a)9.
Amended by R.2000 d.181, effective May 1, 2000.
See: 32 N.J.R. 743(a), 32 N.J.R. 1526(a).

Added (a)10.
Amended by R.2000 d.249, effective June 19, 2000.
See: 32 N.J.R. 1324(a), 32 N.J.R. 2257(b).

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

Administrative change.

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

Recodified from N.J.A.C. 17:16-41.2 and amended by R.2006 d.317, effective September 5, 2006.

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

Section was "Applicable funds". Rewrote the section. Former N.J.A.C. 17:16-41.3, Limitations, recodified to N.J.A.C. 17:16-41.4.

17:16-41.4 Limitations

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

1. The combined market value of common and convertible preferred stock and debt issues convertible into common stock, both domestic, as permitted in this subchapter, and international, as permitted in N.J.A.C. 17:16-44 and 46, held by an eligible fund (other than Common Pension Fund A), directly or through Common Pension Funds A and D, shall not exceed 70 percent of the market value of the assets of the fund, subject to such further provisos as are contained in N.J.A.C. 17:16-62. When the combined market value of the common and convertible preferred stock and debt issues convertible into common stock, held by a fund, either directly or through Common Pension Funds A and D, reaches or exceeds 68 percent of the total market value of the assets of the fund as of the end of a period used for evaluating unit values of participation, then the Council shall be notified at the next regularly scheduled meeting of the Council. When the combined market value of the common and convertible preferred stock and debt issues convertible into common stock held by a fund, directly or through Common Pension Funds A and D, exceeds 70 percent of the total market value of the assets of the fund, then the Division may have a six-month period of grace to reduce the level of participation of the fund below the 70 percent level, except that the period of grace may be extended for additional four month periods with the approval of the Council;

2. Not more than seven percent of the market value of the assets of any eligible fund shall be invested in the common and convertible preferred stock of any one corporation. This seven percent limitation shall not apply to Common Pension Fund A;

3. The total amount of stock purchased or acquired of any one corporation shall not exceed five percent of the common stock, or of any other class of stock which entitles the holder thereof to vote at all elections of directors, of such corporation; and

4. Not more than seven percent of the market value of the assets of any eligible fund shall be invested in exchange-traded funds that invest in commodities or assets other than corporate equity securities.

(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Divi-

sion may be granted a six-month period of grace to reduce the level of participation below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

Amended by R.1973 d.44, eff. Feb. 8, 1973.

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

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

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

25 percent deleted, replaced by 35 percent in subsection (a).

Amended by R.1985 d.582, effective November 18, 1985.

See: 17 N.J.R. 2239(b), 17 N.J.R. 2784(c).

"40 percent" substituted for "35 percent"; deleted "1837 Surplus Revenue Fund".

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

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

(c) "five" amended to "10".

Amended by R.1989 d.466, effective September 5, 1989.

See: 21 N.J.R. 1821(a), 21 N.J.R. 2808(a).

Exception to equity limitation for Common Pension Fund A added at (a).

Administrative correction to (b).

See: 21 N.J.R. 3556(a).

Amended by R.1990 d.147, effective March 5, 1990.

See: 22 N.J.R. 21(b), 22 N.J.R. 840(a).

Individual stock holdings limited to four percent, except Common Pension Fund A.

Amended by R.1991 d.388, effective August 5, 1991.

See: 23 N.J.R. 1776(b), 23 N.J.R. 2344(b).

In (a), added international stocks and increased market value from 40 to 60 percent. Also added council notification when Common Pension Funds A and D exceed 58 percent. Also added six-month grace period to reduce fund below 60 percent. In (c), reduced from 10 to 5 percent amount of stock permitted to be held in one company.

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

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

In (b) substituted market value for book value.

Amended by R.1996 d.324, effective July 15, 1996.

See: 28 N.J.R. 2514(a), 28 N.J.R. 3615(a).

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

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

In (b), deleted "limitation for the Trustees for the Support of Public Schools shall be 10 percent. This" preceding "four".

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

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

In (a), deleted "or its Executive Committee" in the second sentence.

Recodified from N.J.A.C. 17:16-41.3 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.2008 d.391, effective December 15, 2008.

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

In (a)1, inserted "convertible" preceding "preferred" three times, and inserted "debt" three times; and in (a)2, inserted "convertible".

SUBCHAPTER 42. COMMON STOCKS AND ISSUES CONVERTIBLE INTO COMMON STOCKS (TRUST FUNDS)

17:16-42.1 Definitions

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

"Common stocks" shall mean shares of stock, other than preferred stocks, representing ownership in a corporation.

“Preferred stocks” shall mean 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.

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. 17:16-42.1, Permissible investments, recodified to N.J.A.C. 17:16-42.2.

17:16-42.2 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys of any eligible fund in common stock issued by a company that is traded on a securities exchange in the United States or the over-the-counter market, except that the common stock for the University of Medicine and Dentistry of New Jersey - Endowment Funds shall be issued by a company incorporated within the United States or within the Dominion of Canada, as required by N.J.S.A. 18A:64G-9.

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

(c) Notwithstanding the restrictions in (a) above, the Director may:

1. Exercise the conversion privileges into common stock of any security acquired under this Subchapter;
2. Purchase the convertible issue of a company, the common stock of which qualifies for investment under this subchapter;
3. Purchase stock in new public offerings of companies without prior approval of the Council provided, however, approval will be sought at the next regularly scheduled Council meeting in the event the security does not subsequently meet the requirements of this subchapter. If approval is not granted, the securities will be sold within three months of the Council’s disapproval; and
4. Retain any distribution received as a result of a corporate action, even if the security does not meet the requirements of this subchapter.

Recodified from N.J.A.C. 17:16-42.2 and amended by R.2000 d.250, effective June 19, 2000.

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

Rewrote the section. Former N.J.A.C. 17:16-42.1, Definition, repealed.

Amended by R.2004 d.255, effective July 6, 2004.

See: 36 N.J.R. 1744(a), 36 N.J.R. 3271(b).

Rewrote the section.

Recodified from N.J.A.C. 17:16-42.1 and amended by R.2006 d.317, effective September 5, 2006.

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

Rewrote the section. Former N.J.A.C. 17:16-42.2, Applicable funds in the trust group, recodified to N.J.A.C. 17:16-42.3.

Amended by R.2013 d.029, effective February 19, 2013.

See: 44 N.J.R. 2285(a), 45 N.J.R. 350(a).

Rewrote (a).

17:16-42.3 Eligible funds

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

1. University of Medicine and Dentistry of New Jersey—Endowment Funds;
2. Supplemental Annuity Collective Trust;
3. The Deferred Compensation Equity Fund;
4. The Deferred Compensation Small Capitalization Equity Fund; and
5. New Jersey Better Educational Savings Trust.

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

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

Recodified from N.J.A.C. 17:16-42.3 by R.2000 d.250, effective June 19, 2000.

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

Former N.J.A.C. 17:16-42.3, Applicable funds in the trust group, recodified to N.J.A.C. 17:16-42.2. In (a), added 3 through 6.

Recodified from N.J.A.C. 17:16-42.2 and amended by R.2006 d.317, effective September 5, 2006.

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

Section was “Applicable funds in the trust group”. Rewrote (a); deleted (a)3; and recodified (a)4 through (a)6 as (a)3 through (a)5. Former N.J.A.C. 17:16-42.3, Limitations, recodified to N.J.A.C. 17:16-42.4.

17:16-42.4 Limitations

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

1. Not more than 10 percent of the market value of the assets of any eligible fund shall be invested in the common stock and convertible securities of any one corporation; and
2. The total amount of stock purchased or acquired of any one corporation shall not exceed five percent of the common stock, or of any other class of stock which entitles the holder thereof to vote at all the elections of directors, of such corporation.

(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

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

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

In (a) substituted market value for book value.

Recodified from N.J.A.C. 17:16-42.4 by R.2000 d.250, effective June 19, 2000.

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

Former N.J.A.C. 17:16-42.3, Applicable funds in the trust group, recodified to N.J.A.C. 17:16-42.2.

Recodified from N.J.A.C. 17:16-42.3 and amended by R.2006 d.317, effective September 5, 2006.

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

Recodified former (a) and (b) as (a)1 and (a)2; rewrote (a)1; and added new (a) and (b).

17:16-42.5 (Reserved)

Repealed by R.2000 d.250, effective June 19, 2000.
See: 32 N.J.R. 1324(b), 32 N.J.R. 2257(c).
Section was "Legal papers".

17:16-42.6 (Reserved)

Recodified to N.J.A.C. 17:16-42.4 by R.2000 d.250, effective June 19, 2000.
See: 32 N.J.R. 1324(b), 32 N.J.R. 2257(c).

SUBCHAPTER 43. COVERED CALL OPTIONS**17:16-43.1 Definitions**

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

"Covered call options" shall mean call options, including index-based call options sold on common stocks held in the pertinent portfolio, except that index-based call options may be sold and subsequently repurchased if substantially all of the underlying securities contained in the index correspond to securities eligible for investment by, and are actually held in the portfolio of, an eligible fund.

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

In section name, deleted "; covered call options".
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 the section.
Amended by R.2008 d.238, effective August 18, 2008.
See: 40 N.J.R. 2092(b), 40 N.J.R. 4824(b).

In definition "Covered call options", substituted "index-based" for "index-base".

17:16-43.2 Permissible transactions

Subject to the limitations contained in this subchapter, the Director may sell and repurchase covered call options on behalf of any eligible fund, provided that any covered call option purchased or sold shall be listed on a securities exchange, traded on an over-the-counter market or be bid/offered on a competitive basis with multiple broker dealers.

As amended, R.1982 d.193, eff. June 21, 1982.
See: 13 N.J.R. 750(b), 14 N.J.R. 663(d).

(b): Added "the Philadelphia ... Pacific Stock Exchange."
(c) deleted.

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.238, effective August 18, 2008.
See: 40 N.J.R. 2092(b), 40 N.J.R. 4824(b).

Deleted designation (a), substituted "traded on an" for "in the United States or the" and inserted "or be bid/offered on a competitive basis with multiple broker dealers".

17:16-43.3 Eligible funds

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

1. New Jersey Better Educational Savings Trust;
2. Supplemental Annuity Collective Trust;
3. New Jersey State Employees Deferred Compensation Equity Fund;
4. New Jersey State Employees Deferred Compensation Small Capitalization Equity Fund;
5. Common Pension Fund A; and
6. Common Pension Fund D.

As amended, R.1982 d.192, eff. June 4, 1982.
See: 13 N.J.R. 526(b), 14 N.J.R. 663(b).

(a)2 added.
Amended by R.1996 d.222, effective May 6, 1996.
See: 28 N.J.R. 1366(a), 28 N.J.R. 2397(a).

Added Deferred Compensation Plan-Equity Fund.
Amended by R.1998 d.30, effective January 5, 1998.
See: 29 N.J.R. 4410(a), 30 N.J.R. 106(b).

Added (a)4.
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 "Applicable funds". Rewrote (a), (a)1, (a)3 and (a)4; and added (a)5 and (a)6.

17:16-43.4 (Reserved)

As amended, R.1982 d.193, eff. June 21, 1982.
See: 13 N.J.R. 750(b), 14 N.J.R. 663(d).

"10" percent was "5".
Amended by R.1986 d.30, effective February 18, 1986.
See: 17 N.J.R. 2968(a), 18 N.J.R. 428(a).

Added text "except in the ... P.L. 1985, c.308."
Amended by R.1996 d.222, effective May 6, 1996.
See: 28 N.J.R. 1366(a), 28 N.J.R. 2397(a).

Deleted exception for holdings subject to divestment under P.L. 1985, c.308.

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 "Limitations".

SUBCHAPTER 44. COMMON AND PREFERRED STOCKS AND DEBT ISSUES CONVERTIBLE INTO COMMON STOCK OF CORPORATIONS BASED IN INTERNATIONAL DEVELOPED MARKET COUNTRIES AND EXCHANGE-TRADED FUNDS, GLOBAL, REGIONAL, OR COUNTRY FUNDS WHICH INVEST IN INTERNATIONAL DEVELOPED MARKETS

17:16-44.1 Definitions

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

"Common stocks" shall mean shares of stock, other than preferred stocks, representing ownership in a corporation.

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

“Developed market country” shall mean a country, other than the United States, included in the Morgan Stanley Capital International (MSCI) Equity Index Series for developed markets or another similar index selected by the Director and approved by the Council.

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

“International corporation” shall mean a corporation deemed by the Director to be based in a country other than the United States. In determining where a corporation is based, the Director shall consider factors including, but not limited to, the corporation’s country of incorporation, its main equity trading market, its shareholder base, the geographical distribution of its operations, the location of its headquarters, and the country in which investors consider the corporation to be most appropriately classified.

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

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. 17:16-44.1, Permissible investments, recodified to N.J.A.C. 17:16-44.2.
 Amended by R.2008 d.392, effective December 15, 2008.
 See: 40 N.J.R. 4692(a), 40 N.J.R. 6998(b).
 Added definition “Convertible debt issue”; and in definition “Preferred stocks”, deleted “specific” preceding “dividend”.

17:16-44.2 Permissible investments

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

1. Stock issued by an international corporation deemed by the Director to be based in a developed market country and whose stock trades on a securities exchange or over-the-counter market. If the Director determines that a company that is not incorporated in a developed market country is based in a developed market country, he or she shall prepare a memorandum explaining such determination, and shall inform the Council of his or her determination at its next regularly scheduled meeting; and

2. Exchange-traded funds or closed-end global, regional, or country funds that invest in international developed markets and which are traded on a securities exchange or over-the-counter market, and have a minimum market capitalization of \$US 100 million. For the purposes of this subchapter, exchange-traded funds or closed-end global, regional, or country funds shall be considered as common stock in determining all applicable limitations contained within this subchapter. Subsequent to purchase, if capitalization falls below \$US 100 million, the investment does not have to be sold.

(b) Notwithstanding the restrictions contained in (a) above, the Council may approve the purchase of common and preferred stock and debt issues convertible into common stock of international corporations based in international developed market countries or exchange-traded funds or closed-end global, regional, or country funds which invest in international developed markets on a case-by-case basis.

(c) Notwithstanding the restrictions in (a) above, the Director may:

1. Exercise the rights or conversion privileges of any security acquired under this subchapter;
2. Purchase the preferred stock, whether convertible or not, or rights of a company, the common stock of which qualifies for investment under this subchapter;
3. Purchase the convertible debt issue of a company, the common stock of which qualifies for investment under this subchapter;
4. Purchase stock in new public offerings of companies without prior approval of the Council provided, however, approval will be sought at the next regularly scheduled Council meeting in the event the security does not subsequently meet the requirements of this subchapter. If approval is not granted, the securities will be sold within three months of the Council’s disapproval; and
5. Retain any distribution received as a result of a corporate action, even if such distribution does not meet the requirements of this subchapter.

Recodified by R.1991 d.274, effective June 3, 1991.
 See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
 Citations corrected.
 Amended by R.1996 d.222, effective May 6, 1996.
 See: 28 N.J.R. 1366(a), 28 N.J.R. 2397(a).
 Deleted requirements relating to regular dividends, long term debt, and current assets and liabilities.
 Amended by R.2000 d.180, effective May 1, 2000.
 See: 32 N.J.R. 744(b), 32 N.J.R. 1526(c).
 Added (d)4.
 Amended by R.2001 d.119, effective April 2, 2001.
 See: 33 N.J.R. 372(b), 33 N.J.R. 1115(a).
 Administrative correction.
 See: 33 N.J.R. 2280(a).
 Amended by R.2003 d.20, effective January 6, 2003.
 See: 34 N.J.R. 3071(a), 35 N.J.R. 230(b).
 Rewrote (a).
 Amended by R.2003 d.333, effective August 4, 2003.
 See: 35 N.J.R. 1872(a), 35 N.J.R. 3607(a).
 Added new (c); recodified former (c) and (d) as new (d) and (e); in new (d), inserted “or international equity exchange-traded funds from the “Approved List of International Equity Exchange-traded Funds” preceding “to be purchased”.
 Amended by R.2004 d.256, effective July 6, 2004.
 See: 36 N.J.R. 1745(a), 36 N.J.R. 3272(a).
 Rewrote the section.
 Amended by R.2005 d.323, effective September 19, 2005.
 See: 37 N.J.R. 2149(b), 37 N.J.R. 3720(b).
 Rewrote (a).
 Amended by R.2006 d.258, effective July 17, 2006.
 See: 38 N.J.R. 1409(a), 38 N.J.R. 3064(a).
 Rewrote the section.
 Recodified from N.J.A.C. 17:16-44.1 and amended by R.2006 d.317, effective September 5, 2006.

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

Rewrote (a)1 and (a)2. Former N.J.A.C. 17:16-44.2, Eligible funds, recodified to N.J.A.C. 17:16-44.3.

Amended by R.2007 d.258, effective August 20, 2007.

See: 39 N.J.R. 1464(b), 39 N.J.R. 3548(d).

In (a)2, substituted "100 million" for "50 million" two times.

Administrative correction.

See: 39 N.J.R. 3780(a).

Amended by R.2008 d.392, effective December 15, 2008.

See: 40 N.J.R. 4692(a), 40 N.J.R. 6998(b).

In (a)1, substituted "an international corporation" for "a company"; and in (c)3, inserted "debt".

Amended by R.2013 d.030, effective February 19, 2013.

See: 44 N.J.R. 2286(a), 45 N.J.R. 350(b).

In (a)2, substituted "Exchange-traded" for "International exchange-traded", inserted a comma following "regional" twice, and inserted "invest in international developed markets and which"; in (b), inserted "debt", "based in international developed market countries", a comma following "regional", and "which invest in international developed markets", and deleted "international equity" preceding "exchange-traded"; in (c)1, inserted "rights or" and deleted "in the common stock" following "privileges"; in (c)2, inserted "or rights" and "common"; and in (c)5, substituted "such distribution" for "the security".

17:16-44.3 Eligible funds

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

1. Police and Firemen's Retirement System;
2. Public Employees' Retirement System;
3. State Police Retirement System;
4. Teachers' Pension and Annuity Fund;
5. Judicial Retirement System of New Jersey; and
6. Common Pension Fund D.

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

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

Common Pension Fund D added.

Amended by R.2006 d.258, effective July 17, 2006.

See: 38 N.J.R. 1409(a), 38 N.J.R. 3064(a).

Section was "Applicable funds". In (a), rewrote introductory paragraph.

Recodified from N.J.A.C. 17:16-44.2 by R.2006 d.317, effective September 5, 2006.

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

Changes previously implemented at 38 N.J.R. 3064(a). Former N.J.A.C. 17:16-44.3, Limitations, recodified to N.J.A.C. 17:16-44.4.

17:16-44.4 Limitations

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

1. Not more than 1.5 percent of the market value of the assets of any eligible fund, either directly or through Common Pension Fund D, shall be invested in the common and preferred stock of any one corporation. This 1.5 percent limitation shall not apply to Common Pension Fund D.
2. The total amount of stock purchased or acquired of any one corporation shall not exceed five percent of the common stock, or of any other class of stock which entitles the holder thereof to vote at all elections of directors, of such corporation.

3. The combined market value of common and convertible preferred stock and debt issues convertible into common stock, both domestic, as permitted in N.J.A.C. 17:16-41, and international, as permitted in this subchapter and in N.J.A.C. 17:16-46, held by an eligible fund (other than Common Pension Fund D), directly or through Common Pension Funds A and D, cannot exceed 70 percent of the market value of the assets of the fund, subject to such further provisos as are contained in N.J.A.C. 17:16-67. When the combined market value of the common and convertible preferred stock and debt issues convertible into common stock held by a fund, directly or through Common Pension Funds A and D, reaches or exceeds 68 percent of the market value of the assets of the fund as of the end of a period used for evaluating unit values of participation, then the Council shall be notified at the next regularly scheduled meeting of the Council. When the combined market value of the common and convertible preferred stock and debt issues convertible into common stock held by the fund, directly or through Common Pension Funds A and D, exceeds 70 percent of the market value of the assets of the fund, then the Division may have a six-month period of grace to reduce the level of participation of the fund below the 70 percent level, except that the period of grace may be extended for additional four month periods with the approval of the Council.

4. The market value of international common and preferred stock and debt issues convertible into common stock and the shares or interests in international exchange-traded, global, regional, or country funds held by an eligible fund, either directly or through Common Pension Fund D, cannot exceed 30 percent of the market value of the combined assets of all of the Pension and Annuity Funds, subject to such further provisos as are contained in N.J.A.C. 17:16-67.

5. Not more than seven percent of the market value of the assets of any eligible fund shall be invested in international exchange-traded funds that invest in commodities or assets other than corporate equity securities.

(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation of the fund below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

Amended by R.1991 d.389, effective August 5, 1991.

See: 23 N.J.R. 1777(a), 23 N.J.R. 2345(a).

Deleted prior (a); recodified (b) to (c) as (a) to (b); added (c) and (d).

Amended by R.1995 d.484, effective September 5, 1995.

See: 27 N.J.R. 2544(a), 27 N.J.R. 3378(c).

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

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

In (a) substituted market value for book value.

Amended by R.2000 d.251, effective June 19, 2000.

See: 32 N.J.R. 1325(a), 32 N.J.R. 2258(a).

In (a), added a second sentence; and in (c), substituted a reference to 70 percent for a reference to 60 percent, and inserted "with the exception of Common Pension Funds A and D," following "fund."
 Amended by R.2000 d.372, effective September 18, 2000.
 See: 32 N.J.R. 2584(a), 32 N.J.R. 3455(a).

In (d), substituted a reference to 22 percent for a reference to 20 percent.

Amended by R.2006 d.258, effective July 17, 2006.
 See: 38 N.J.R. 1409(a), 38 N.J.R. 3064(a).

Rewrote the section.

Recodified from N.J.A.C. 17:16-44.3 and amended by R.2006 d.317, effective September 5, 2006.

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

In (a)4, substituted "international corporate" for "Canadian"; and added (a)5.

Amended by R.2007 d.258, effective August 20, 2007.

See: 39 N.J.R. 1464(b), 39 N.J.R. 3548(d).

In (a)4, substituted "30 percent" for "22 percent"; and in (b), deleted "1 or 2" following "(a)".

Amended by R.2007 d.385, effective December 17, 2007.

See: 39 N.J.R. 3727(a), 39 N.J.R. 5367(b).

In (a)2, substituted "five" for "10".

Amended by R.2008 d.392, effective December 15, 2008.

See: 40 N.J.R. 4692(a), 40 N.J.R. 6998(b).

In (a)3, inserted "convertible" preceding "preferred" three times, and inserted "debt" three times.

Amended by R.2013 d.030, effective February 19, 2013.

See: 44 N.J.R. 2286(a), 45 N.J.R. 350(b).

Rewrote (a)4.

fund, provided that any put option purchased or sold shall be listed on a securities exchange, traded on an over-the-counter market or be bid/offered on a competitive basis with multiple broker dealers.

(b) Subject to the limitations contained in this subchapter, the Director may execute and subsequently terminate put spreads, provided that the purchased and written put options shall be for the same number of contracts, and shall be listed on a securities exchange, traded on an over-the-counter market or be bid/offered on a competitive basis with multiple broker dealers.

(c) Notwithstanding the restrictions in this subchapter, the Council may approve put options or put spreads on a case-by-case basis.

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.239, effective August 18, 2008.

See: 40 N.J.R. 2093(a), 40 N.J.R. 4824(c).

Deleted designation (a), substituted "traded on an" for "in the United States or the" and inserted "or be bid/offered on a competitive basis with multiple broker dealers".

Amended by R.2011 d.223, effective August 15, 2011.

See: 43 N.J.R. 1242(a), 43 N.J.R. 2193(a).

Inserted designation (a); in (a), deleted "covered" preceding the third occurrence of "put"; and added (b) and (c).

SUBCHAPTER 45. PUT OPTIONS

17:16-45.1 Definitions

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

"Put options" shall mean put options, including index-based put options, purchased or written for securities, assets or foreign currencies permissible for investment in the eligible fund.

"Put spreads" shall mean the purchase of put options on particular underlying securities, assets or foreign currencies permissible for investment in the eligible fund, with the simultaneous writing of put options on the same underlying securities, assets or currencies, at a lower strike price.

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

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

In section name, deleted "covered call options".

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 the section.

Amended by R.2011 d.223, effective August 15, 2011.

See: 43 N.J.R. 1242(a), 43 N.J.R. 2193(a).

Substituted definition "Put options" for definition "Covered put options"; rewrote definition "Put options"; and added definition "Put spreads".

17:16-45.2 Permissible transactions

(a) Subject to the limitations contained in this subchapter, the Director may purchase and subsequently sell put options, including index-based put options, on behalf of any eligible

17:16-45.3 Eligible funds

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

1. Common Pension Fund A;
2. Common Pension Fund B;
3. Common Pension Fund D; and
4. Common Pension Fund E.

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

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

Added Deferred Compensation Plan-Equity Fund.

Amended by R.1998 d.31, effective January 5, 1998.

See: 29 N.J.R. 4410(b), 30 N.J.R. 106(c).

Added (a)4.

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 "Applicable funds". Rewrote the section.

Amended by R.2011 d.223, effective August 15, 2011.

See: 43 N.J.R. 1242(a), 43 N.J.R. 2193(a).

Deleted former (a)1 through (a)4; recodified former (a)5 as (a)1 and (a)6 as (a)3; in (a)1, deleted "and" from the end; added (a)2 and (a)4; and in (a)3, substituted "and" for a period at the end.

17:16-45.4 Limitations

(a) The difference between the aggregate market value of purchased put options and written put options outstanding at any one time cannot exceed two percent of the market value of all the pension and annuity funds.

(b) If subsequent to purchasing or writing put options, the limitation in (a) above is exceeded, the Director shall sell put

options in an amount necessary to comply with such limitation.

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

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

Deleted exception for holdings subject to divestment under P.L. 1985, c.308.

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 "Limitations".

New Rule, R.2011 d.223, effective August 15, 2011.

See: 43 N.J.R. 1242(a), 43 N.J.R. 2193(a).

Section was "Reserved".

SUBCHAPTER 46. COMMON AND PREFERRED STOCKS AND DEBT ISSUES CONVERTIBLE INTO COMMON STOCK OF INTERNATIONAL CORPORATIONS BASED IN EMERGING MARKET COUNTRIES AND EXCHANGE-TRADED, GLOBAL, REGIONAL, OR COUNTRY FUNDS WHICH INVEST IN EMERGING MARKETS

17:16-46.1 Definitions

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

"Common stocks" shall mean shares of stock, other than preferred stocks, representing ownership in a corporation.

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

"Emerging markets" shall mean countries that are not included in the Morgan Stanley Capital International (MSCI) Equity Index Series for developed markets or another similar index selected by the Director and approved by the Council.

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

"International corporation" shall mean a corporation deemed by the Director to be based in a country other than the United States. In determining where a corporation is based, the Director shall consider factors including, but not limited to, the corporation's country of incorporation, its main equity trading market, its shareholder base, the geographical distribution of its operations, the location of its headquarters, and the country in which investors consider the corporation to be most appropriately classified.

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

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. 17:16-46.1, Permissible investments, recodified to N.J.A.C. 17:16-46.2.

Amended by R.2007 d.259, effective August 20, 2007.

See: 39 N.J.R. 1465(a), 39 N.J.R. 3549(a).

Added definition "Exchange-traded funds".

Amended by R.2008 d.393, effective December 15, 2008.

See: 40 N.J.R. 4693(a), 40 N.J.R. 6999(a).

Added definitions "Common stocks", "Convertible debt issue", and "Preferred stocks".

17:16-46.2 Permissible investments

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

1. Stock issued by an international corporation deemed by the Director to be based in an emerging market country and whose stock trades on a securities exchange or over-the-counter market. If the Director determines that a company that is not incorporated in an emerging market country is based in an emerging market country, he or she shall prepare a memorandum explaining such determination and shall inform the Council of his or her determination at its next regularly scheduled meeting; and

2. Exchange-traded funds or closed-end global, regional or country funds which invest in emerging markets and which are traded on a securities exchange or the over-the-counter markets, and which have a minimum market capitalization of \$US 100 million. For purposes of this subchapter, exchange-traded funds or closed-end global, regional or country funds shall be considered as common stock in determining all applicable limitations contained within this subchapter. Subsequent to purchase, if capitalization falls below \$US 100 million, the investment does not have to be sold.

(b) Notwithstanding the restrictions contained in (a) above, the Council may approve the purchase of common and preferred stocks and debt issues convertible into common stock of corporations based in emerging market countries or exchange-traded funds, global, regional, or country funds which invest in emerging markets on a case-by-case basis.

(c) Notwithstanding the restrictions contained in (a) above, the Director may:

1. Exercise the rights or conversion privileges in the common stocks of any security acquired under this subchapter;

2. Purchase the preferred stock, whether convertible or not, or rights of a company, the common stock of which qualifies for investment under this subchapter;

3. Purchase the convertible debt issue of a company, the common stock of which qualifies for investment under this subchapter;

4. Purchase stock in new public offerings of companies in emerging markets without prior approval of the Council provided, however, approval will be sought at the next

regularly scheduled Council meeting in the event the investment does not subsequently meet the requirements of this subchapter. If approval is not granted, the securities shall be sold within three months of the Council's disapproval; and

5. Retain any distribution received as a result of a corporate action, even if such distribution does not meet the requirements of this subchapter.

Amended by R.2004 d.257, effective July 6, 2004.

See: 36 N.J.R. 1747(a), 36 N.J.R. 3272(b).

Rewrote the section.

Recodified from N.J.A.C. 17:16-46.2 and amended by R.2006 d.259, effective July 17, 2006.

See: 38 N.J.R. 1410(a), 38 N.J.R. 3065(a).

Rewrote the section. Former N.J.A.C. 17:16-46.1, Definition of emerging markets, repealed.

Recodified from N.J.A.C. 17:16-46.1 and amended by R.2006 d.317, effective September 5, 2006.

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

Rewrote (a)1; in (a)2, inserted "a securities exchange"; and deleted (d). Former N.J.A.C. 17:16-46.2, Eligible funds, recodified to N.J.A.C. 17:16-46.3.

Amended by R.2007 d.259, effective August 20, 2007.

See: 39 N.J.R. 1465(a), 39 N.J.R. 3549(a).

In (a)2, substituted "Exchange-traded funds or closed-end global" for "Global", substituted "100 million" for "50 million" two times, and added the second sentence.

Amended by R.2008 d.240, effective August 18, 2008.

See: 40 N.J.R. 2094(a), 40 N.J.R. 4824(d).

In (a)1, rewrote the first sentence and inserted the second sentence.

Amended by R.2008 d.393, effective December 15, 2008.

See: 40 N.J.R. 4693(a), 40 N.J.R. 6999(a).

In (c)2 and (c)3, substituted "subchapter" for "Subchapter"; and in (c)3, inserted "debt".

Amended by R.2013 d.031, effective February 19, 2013.

See: 44 N.J.R. 2287(a), 45 N.J.R. 350(c).

In (b), inserted "debt", "based in emerging market countries", "exchange-traded funds", a comma following "regional", and "which invest", and deleted "international" preceding "corporations"; in (c)1, inserted "rights or"; in (c)2, inserted "rights" and "common", and deleted "and" following "investment"; and in (c)5, substituted "such distribution" for "the security".

17:16-46.3 Eligible funds

For purposes of this subchapter, eligible funds shall include Common Pension Fund D.

Recodified from N.J.A.C. 17:16-46.3 and amended by R.2006 d.259, effective July 17, 2006.

See: 38 N.J.R. 1410(a), 38 N.J.R. 3065(a).

Section was "Applicable funds". Rewrote the section. Former N.J.A.C. 17:16-46.2, Permissible investments, recodified to N.J.A.C. 17:16-46.1.

Recodified from N.J.A.C. 17:16-46.2 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. 17:16-46.3, Limitations, recodified to N.J.A.C. 17:16-46.4.

17:16-46.4 Limitations

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

1. Not more than 10 percent of the market value of the emerging markets stocks in Common Pension Fund D shall

be invested in the common and preferred stock of any one corporation;

2. The total amount of stock purchased or acquired under this subchapter of any one corporation shall not exceed five percent of the common stock, or of any other class of stock which entitles the holder thereof to vote at all elections of directors, of such corporation;

3. The total amount of shares or interests in any one emerging market global, regional or country fund shall not exceed 10 percent of the total shares or interests of such fund;

4. The total market value of stock, or securities convertible into stock, of companies based in emerging markets, and the shares or interests in exchange-traded, global, regional, or country funds which invest in emerging markets, held by Common Pension Fund D shall not exceed 50 percent of the percentage derived by dividing the total market capitalization of companies included in the MSCI Emerging Market Index by the total market capitalization of the companies included in the MSCI All-Country World Ex-United States Index of the total market value of the combined assets of all of the Pension and Annuity Funds. In calculating the above percentage, the Director may substitute such other similar indices as may be selected by the Director and approved by the Council;

5. The combined market value of common and convertible preferred stock and debt issues convertible into common stock, both domestic, as permitted in N.J.A.C. 17:16-41, and international, as permitted in this subchapter and in N.J.A.C. 17:16-44, held by an eligible fund (other than Common Pension Fund D), directly or through Common Pension Funds A and D, cannot exceed 70 percent of the market value of the assets of the fund, subject to such further provisos as are contained in N.J.A.C. 17:16-67. When the combined market value of the common and convertible preferred stock and debt issues convertible into common stock held by a fund, directly or through Common Pension Funds A and D, reaches or exceeds 68 percent of the market value of the assets of the fund as of the end of a period used for evaluating unit values of participation, then the Council shall be notified at the next regularly scheduled meeting of the Council. When the combined market value of the common and convertible preferred stock and debt issues convertible into common stock held by the fund, directly or through Common Pension Funds A and D, exceeds 70 percent of the market value of the assets of the fund, then the Division may have a six-month period of grace to reduce the level of participation of the fund below the 70 percent level, except that the period of grace may be extended for additional four month periods with the approval of the Council; and

6. The market value of international common and preferred stock and debt issues convertible into common stock and the shares or interests in exchange-traded, global, regional, or country funds in emerging markets held by an

eligible fund, either directly or through Common Pension Fund D, cannot exceed 30 percent of the market value of the combined assets of all of the Pension and Annuity Funds, subject to such further provisions as are contained in N.J.A.C. 17:16-67.

(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

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

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

Amended by R.2004 d.257, effective July 6, 2004.

See: 36 N.J.R. 1747(a), 36 N.J.R. 3272(b).

Rewrote the section.

Recodified from N.J.A.C. 17:16-46.4 and amended by R.2006 d.259, effective July 17, 2006.

See: 38 N.J.R. 1410(a), 38 N.J.R. 3065(a).

In introductory paragraph of (a), inserted comma; in (a)1 and (a)2, substituted "10" for "five"; in (a)3, inserted "emerging market" and deleted "and" from the end; rewrote (a)4; added (a)5 and (a)6; and rewrote (b). Former N.J.A.C. 17:16-46.3, Applicable funds, recodified to N.J.A.C. 17:16-46.2.

Recodified from N.J.A.C. 17:16-46.3 and amended by R.2006 d.317, effective September 5, 2006.

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

In the introductory paragraph of (a), inserted "the" preceding "time"; in (a)2, inserted "which entitles the holder thereof to vote at all elections of directors"; in (a)6, substituted "international corporate" for "Canadian"; and rewrote (b).

Amended by R.2007 d.259, effective August 20, 2007.

See: 39 N.J.R. 1465(a), 39 N.J.R. 3549(a).

In (a)6, substituted "30 percent" for "22 percent".

Amended by R.2008 d.393, effective December 15, 2008.

See: 40 N.J.R. 4693(a), 40 N.J.R. 6999(a).

In (a)5, inserted "convertible" preceding "preferred" three times, and inserted "debt" three times.

Amended by R.2013 d.031, effective February 19, 2013.

See: 44 N.J.R. 2287(a), 45 N.J.R. 350(c).

Rewrote (a)4 and (a)6.

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 the section.

17:16-47.2 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may enter into equity futures contracts with a minimum average daily trading volume of \$US 1 billion and that trade on a securities exchange or the over-the-counter market.

(b) The Director may accept or deliver equity securities to satisfy contractual obligations pursuant to the purchase and sale of an equity futures contract.

(c) Notwithstanding the restrictions contained in this subchapter, the Council may approve the entering into equity futures contracts on a case-by-case basis.

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. 17:16-47.2, Permissible investments, recodified to N.J.A.C. 17:16-47.3.

Amended by R.2007 d.260, effective August 20, 2007.

See: 39 N.J.R. 1466(a), 39 N.J.R. 3549(b).

In (a), deleted "in connection with securities held in an eligible fund".

17:16-47.3 Eligible funds

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

1. Common Pension Fund A; and
2. Common Pension Fund D.

Amended by R.2004 d.258, effective July 6, 2004.

See: 36 N.J.R. 1748(a), 36 N.J.R. 3273(a).

Rewrote the section.

Recodified from N.J.A.C. 17:16-47.2 and amended by R.2006 d.317, effective September 5, 2006.

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

Section was "Permissible investments". Rewrote the section. Former N.J.A.C. 17:16-47.3, Limitations, recodified to N.J.A.C. 17:16-47.4.

17:16-47.4 Limitations

(a) At the time of initial purchase, net transactions of equity futures contracts shall not exceed the amount equal to 10 percent of the market value of the assets of any eligible fund, except that this limit may be increased to an amount not to exceed 50 percent by the Director for a fixed period of time after consultation with the Executive Committee of the Council.

(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

Recodified from N.J.A.C. 17:16-47.3 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.

SUBCHAPTER 47. EQUITY FUTURES CONTRACTS

17:16-47.1 Definitions

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

"Equity futures contract" means a legal agreement between a buyer and a seller in which the seller agrees to deliver and the buyer agrees to take delivery of a specified quantity of equity securities constituting a recognized equity index at a specified price (futures price) at a stated time in the future (delivery date). Prices are determined by competitive bids on the applicable exchange. The terms of the contract are standardized and the applicable exchange (for example, the Chicago Board of Trade) is the counterparty to each cleared transaction.

SUBCHAPTERS 48 THROUGH 57. (RESERVED)

SUBCHAPTER 58. MORTGAGE BACKED SENIOR DEBT SECURITIES; MORTGAGE BACKED PASSTHROUGH SECURITIES

17:16-58.1 Definitions

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

“Mortgage backed senior debt securities” shall mean senior debt securities that are fully collateralized by mortgage securities.

“Mortgage backed passthrough securities” shall mean passthrough securities that are fully collateralized by residential or commercial mortgage securities and are issued by a sponsor deemed by the Director to be based in the United States. In determining whether a sponsor is based in the United States, the Director shall consider factors including, but not limited to, the sponsor’s country of incorporation, its main equity trading market, its shareholder base, the geographical distribution of its operations, the location of its headquarters, and the country in which investors consider the sponsor to be most appropriately classified.

New Rule, R.2006 d.317, effective September 5, 2006.
See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).

Former N.J.A.C. 17:16-58.1, Permissible investments, recodified to N.J.A.C. 17:16-58.2.

17:16-58.2 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys of any eligible fund in senior debt securities which are fully collateralized by mortgage securities provided that the issue must be \$50,000,000 or more in size.

(b) Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys of any eligible fund in mortgage backed passthrough securities provided that:

1. The issue has been registered with the Securities and Exchange Commission, except that this requirement may be waived by the State Investment Council;
2. The sponsor is not in default as to the payment of principal or interest upon any of its outstanding obligations. If subsequent to purchase, the sponsor defaults, the investment does not have to be sold;
3. The individual mortgage loans serving as collateral have an average loan-to-value ratio of 75 percent or less; and the collateral is at least 90 percent single-family detached residential property and at least 95 percent owner-occupied residential property; and

4. The issue has a credit rating of A3 or higher by Moody’s Investors Service, Inc., A- or higher by Standard & Poor’s Corporation, and A- or higher by Fitch Ratings, except that two of three ratings is sufficient and one of the three ratings is sufficient if only one rating is available. Subsequent to purchase, if the rating falls below the minimum rating for such issue, it does not have to be sold, and it may be exchanged with an issue with a credit rating lower than the minimum rating if the issue received in exchange is, on balance, similarly rated.

(c) Notwithstanding the restrictions in (b) above, the Director may invest and reinvest the moneys of Common Pension Fund B in corporate obligations of U.S. based corporations, international corporate obligations, collateralized notes and mortgages, global diversified credit opportunity investments, non-convertible preferred stock, and mortgage backed passthrough securities that do not meet the minimum credit ratings set forth in N.J.A.C. 17:16-12.2, 16.2, 19.2, 23.2, 40.2, and this section, respectively; provided, however, the market value of such investments shall not exceed eight percent of the combined assets of all of the Pension and Annuity Funds.

(d) Notwithstanding the restrictions contained in this subchapter, the Council may approve the purchase of mortgage-backed securities on a case-by-case basis.

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

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

Substituted “\$50,000,000” for “\$50 million”.

Recodified from N.J.A.C. 17:16-58.1 and amended by R.2006 d.317, effective September 5, 2006.

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

Section combined with former N.J.A.C. 17:16-58.2, Pension and annuity group; static group; trust group, and substantially amended.

Amended by R.2007 d.261, effective August 20, 2007.

See: 39 N.J.R. 1467(a), 39 N.J.R. 3550(a).

In (c), deleted “up to five percent of” following “reinvest” and inserted “; provided, however, the market value of such investments shall not exceed five percent of the combined assets of all of the Pension and Annuity Funds”.

Amended by R.2008 d.394, effective December 15, 2008.

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

In (b)2, inserted the second sentence; and in (c), deleted “finance company debt, bank debentures,” preceding “international” and “14.2, 15.2,” preceding “16.2,” and inserted “bank loans, non-convertible preferred stock” and “23.2, 40.2”.

Amended by R.2013 d.032, effective February 19, 2013.

See: 44 N.J.R. 2288(a), 45 N.J.R. 351(a).

In (c), inserted “of U.S. based corporations”, and a comma following “stock” and “40.2”, and substituted “global diversified credit investments” for “bank loans” and “eight” for “five”.

17:16-58.3 Eligible funds

(a) For purposes of N.J.A.C. 17:16-58.2(a), eligible funds shall include:

1. Any fund classified as a Pension and Annuity Fund;
2. Any fund classified as a Static Fund;
3. Any fund classified as a Demand Fund;
4. Any fund classified as a Temporary Reserve Fund;

5. Any fund classified as a Trust Fund;
6. Any fund classified as a Cash Management Fund;
and
7. Common Pension Fund B.

(b) For purposes of N.J.A.C. 17:16-58.2(b), eligible funds shall include:

1. Any fund classified as a Pension and Annuity Fund;
2. Any fund classified as a Static Fund;
3. Any fund classified as a Trust Fund; and
4. Common Pension Fund B.

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

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

Substituted "subchapter" for "article".

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).

Former N.J.A.C. 17:16-58.3, Legal papers, repealed.

17:16-58.4 Limitations

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

1. Not more than 25 percent of any one issue of senior debt securities which are fully collateralized by mortgage loans may be purchased at the time of issue, except that this requirement may be waived by the Council; and

2. Not more than five percent of the market value of the assets of any fund shall be invested in any one issue.

(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

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

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

SUBCHAPTERS 59 THROUGH 60. (RESERVED)

SUBCHAPTER 61. STATE OF NEW JERSEY CASH MANAGEMENT FUND

17:16-61.1 General provisions

(a) Pursuant to chapter 270, P.L. 1970, as amended and supplemented by chapter 281, P.L. 1977, there is hereby

created in the Division a common trust fund, to be known as the State of New Jersey Cash Management Fund.

(b) The following funds may participate in the State of New Jersey Cash Management Fund:

1. Any fund classified as a Pension and Annuity Fund;
2. Any fund classified as a Static Fund;
3. Any fund classified as a Demand Fund;
4. Any fund classified as a Temporary Reserve Fund;
5. Any fund classified as a Trust Fund; and
6. Any fund classified as a Common Pension Fund.

(c) In addition to the funds listed in (b) above, the surplus moneys of the State (including funds administered by the Division of Pensions and Benefits, and the Division of Budget and Accounting within the Office of Management and Budget), its counties, municipalities and school districts and the agencies or authorities created by any of these entities may be deposited in the State of New Jersey Cash Management Fund. The participation of any fund described in this paragraph is subject to the approval of the Treasurer.

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

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

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

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

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

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 the section.

17:16-61.2 Permissible investments

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

Amended by R.1993 d.425, effective September 7, 1993.

See: 25 N.J.R. 2839(a), 25 N.J.R. 4119(a).

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

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

In last sentence, substituted "25 months" for "two years".

Recodified from N.J.A.C. 17:16-61.5 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. 17:16-61.2, Participation in the State of New Jersey Cash Management Fund, repealed.

17:16-61.3 Units of participation

(a) The State of New Jersey Cash Management 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 is set forth in N.J.A.C. 17:16-61.5.

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

(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.

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

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

Substituted "N.J.A.C. 17:16-61.7" for "section 7 of this subchapter".

Recodified from N.J.A.C. 17:16-61.6 and amended by R.2006 d.317, effective September 5, 2006.

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

Rewrote the section. Former N.J.A.C. 17:16-61.3, Distribution of income, repealed.

17:16-61.4 Valuation of investments

(a) Upon each valuation date, as provided in (b) below, there shall be a valuation for every investment in the State of New Jersey Cash Management Fund.

(b) The valuation shall be determined at the opening of business on each business day, and shall be based on realized gains or losses, accruals, and amortization as of the close of the previous business day.

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

Amended by R.1980 d.235, effective July 1, 1980.

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

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

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

Substituted "N.J.A.C. 17:16-61.9" for "section 9 of this subchapter".

Recodified from N.J.A.C. 17:16-61.7 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". Section combined with former N.J.A.C. 17:16-61.8, Date of valuation, and substantially amended. Former N.J.A.C. 17:16-61.4, Participating funds, repealed.

17:16-61.5 Valuation of units

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

1. Net income available for distribution shall equal the sum of daily interest income, daily discount income, realized gain on sales, and amortized discount, from which sum shall be deducted the sum of realized loss on sales, amortized premium and total daily expenses. Such net income available for distribution shall then be divided by the number of outstanding participating units to determine the daily income per unit of participation.

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

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

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

5. The method of calculation of each of the above terms will be in accordance with an agreement between the Treasurer and the custodian bank.

6. The aggregate of daily income per unit of participation on total units owned by each participant will be

reinvested automatically in additional units at a price of \$1.00 per unit and such new units will be credited to the respective accounts of all of the participants in proportion to their holdings of units of participation immediately prior to the determination of net income available for distribution. In the reinvestment of aggregate daily income as described above, fractional units may be issued representing fractions of a dollar, but no units will be issued representing fractions of one cent, nor will cash dividends be transmitted. Participating funds may obtain cash by redemption of units in accordance with N.J.A.C. 17:16-61.6.

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

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

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

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

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

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

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

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

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

Recodified from N.J.A.C. 17:16-61.9 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 "Calculation of daily income per participating unit". Section combined with former N.J.A.C. 17:16-61.10, Reinvestment of daily income per participating unit, and substantially amended. Former N.J.A.C. 17:16-61.5, Permissible investments, recodified to N.J.A.C. 17:16-61.2.

17:16-61.6 Admission and withdrawal

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

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

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

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

Recodified from 31.12.

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

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

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

Recodified from N.J.A.C. 17:16-61.11 and amended by R.2006 d.317, effective September 5, 2006.

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

Section was "Admission and withdrawal of participating units". In (a), deleted "common" preceding "fund" two times. Former N.J.A.C. 17:16-61.6, Units of participation, recodified to N.J.A.C. 17:16-61.3.

17:16-61.7 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.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 stocks and related securities, 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".

Amended by R.2012 d.017, effective January 17, 2012.

See: 43 N.J.R. 2279(a), 44 N.J.R. 174(a).

Substituted "stocks and related securities" for "corporate common stocks or securities convertible into such stock".

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 records maintained by the Division.

(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 unit 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.

Amended by R.2012 d.017, effective January 17, 2012.

See: 43 N.J.R. 2279(a), 44 N.J.R. 174(a).

In the introductory paragraph of (b), substituted "records maintained by the Division" for "a certificate prepared by and issued by the Director", and deleted the last sentence; deleted (b)1 through (b)6; and in (c), substituted "unit" for "principal".

17:16-62.4 Valuation of investments and net assets

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

(b) The valuation of investments and net assets shall be determined at the opening of each business day, and shall be based on assets and liabilities as of the close of the previous business day.

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

1. The valuation of investments shall be made in accordance with applicable accounting standards, using recognized industry pricing sources.

2. The valuation of net assets shall be calculated as total assets minus total liabilities, in accordance with applicable accounting standards.

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.

Amended by R.2012 d.017, effective January 17, 2012.

See: 43 N.J.R. 2279(a), 44 N.J.R. 174(a).

Section was "Valuation of investment". In (a), inserted "and the net assets of the common fund"; rewrote (b), (c)1 and (c)2; in the introductory paragraph of (c), inserted "and net assets"; and deleted (c)3 through (c)7.

17:16-62.5 Valuation of units

The net asset value per unit shall be calculated as the net assets of the fund divided by the total number of units outstanding as of such valuation date.

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.

Repeal and New Rule, R.2012 d.017, effective January 17, 2012.

See: 43 N.J.R. 2279(a), 44 N.J.R. 174(a).

Section was "Valuation of units".

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 and shall be based upon the value of each unit as of that valuation date.

(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.
 Amended by R.2012 d.017, effective January 17, 2012.
 See: 43 N.J.R. 2279(a), 44 N.J.R. 174(a).
 Rewrote (a).

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 either 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 net assets of the common fund and distributed to the participating funds in proportion to the number of units owned; or
2. 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.
 Amended by R.2012 d.017, effective January 17, 2012.
 See: 43 N.J.R. 2279(a), 44 N.J.R. 174(a).
 In the introductory paragraph of (a), substituted "either" for "any or all"; rewrote (a)1; deleted (a)2; and recodified (a)3 as (a)2.

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 net asset 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.
 Amended by R.2012 d.017, effective January 17, 2012.
 See: 43 N.J.R. 2279(a), 44 N.J.R. 174(a).
 In (d), substituted "net asset" for "principal".

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 records maintained by the Division.

(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 unit valuation price determined by this subchapter.

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.2012 d.018, effective January 17, 2012.
See: 43 N.J.R. 2282(a), 44 N.J.R. 175(a).

In the introductory paragraph of (b), substituted "records maintained by the Division" for "a certificate prepared by and issued by the Director", and deleted the last sentence; deleted (b)1 through (b)6; and in (c), substituted "unit" for "principal", and deleted the last sentence.

17:16-63.4 Valuation of investments and net assets

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

(b) The valuation of investments and net assets shall be determined at the opening of each business day, and shall be based on assets and liabilities as of the close of the previous business day.

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

1. The valuation of investments shall be made in accordance with applicable accounting standards, using recognized pricing sources.

2. The valuation of net assets shall be calculated as total assets minus total liabilities, in accordance with applicable accounting standards.

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.

Amended by R.2012 d.018, effective January 17, 2012.

See: 43 N.J.R. 2282(a), 44 N.J.R. 175(a).

Section was "Valuation of investments". In (a), inserted "and the net assets of the common fund"; rewrote (b), (c)1 and (c)2; in the introductory paragraph of (c), inserted "and net assets"; and deleted (c)3 and (c)4.

17:16-63.5 Valuation of units

The net asset value per unit shall be calculated as the net assets of the fund divided by the total number of units outstanding as of such valuation date.

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. Repeal and New Rule, R.2012 d.018, effective January 17, 2012.

See: 43 N.J.R. 2282(a), 44 N.J.R. 175(a).

Section was "Valuation of units".

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 and shall be based upon the value of each unit as of that valuation date.

(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.

Amended by R.2012 d.018, effective January 17, 2012.

See: 43 N.J.R. 2282(a), 44 N.J.R. 175(a).

Rewrote (a).

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 either 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 net assets of the common fund and distributed to the participating funds in proportion to the number of units owned; or

2. 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.

Amended by R.2012 d.018, effective January 17, 2012.

See: 43 N.J.R. 2282(a), 44 N.J.R. 175(a).

In the introductory paragraph of (b), substituted "either" for "any or all"; rewrote (b)1; deleted (b)2; and recodified (b)3 as (b)2.

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 net asset 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.

Amended by R.2012 d.018, effective January 17, 2012.

See: 43 N.J.R. 2282(a), 44 N.J.R. 175(a).

In (d), substituted "net asset" for "principal".

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 Compensation Equity Fund, the New Jersey State Employees Deferred Compensation Small Capitalization Equity Fund, the New Jersey State Employees Deferred Compensation Fixed Income Fund and the New Jersey State Employees Deferred Compensation Cash Management Fund (collectively, the Common Funds).

(b) At the election of participants in the New Jersey State Employees Deferred Compensation Plan (the DCP), moneys from salary deductions shall be deposited in the Common Funds or in approved investment options offered and man-

aged by outside vendors (collectively, the Outside Funds) pursuant to the procedures described in this subchapter. Collectively, the Common Funds and the Outside Funds shall be referred to as the DCP Funds.

(c) The participation of State employees in the DCP is subject to the rules of the DCP 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.

Amended by R.2012 d.194, effective December 3, 2012.
See: 44 N.J.R. 1966(a), 44 N.J.R. 2999(b).

Rewrote (b); in (c), inserted "in the DCP", and substituted "rules of the DCP" for "Plan".

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 (DCP Board) to invest plan assets (collectively, the Portfolio Manager) shall invest the assets of the New Jersey State Employees Deferred Compensation Plan (DCP) in investment options 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, and selected pursuant to the procedures described in this subchapter, which investment options may include the Common Funds and shall include 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 stocks and issues convertible into common stock as are permitted under N.J.A.C. 17:16-42; provided that, in the case of the New Jersey State Employees Deferred Compensation Small Capitalization Equity Fund, investments will be made in common stocks and issues convertible into common stock, 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 permitted by the rules of the Council.

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.

(c) Moneys in the Outside Funds shall be invested as follows:

1. 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").

2. The DCP 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 DCP 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.

(d) The DCP Board, in consultation with the Director, will determine which DCP Funds shall accept ongoing deposits or transfers from participants as of a specified effective date.

(e) To the extent that a DCP Fund is closed to ongoing deposits or transfers, the DCP Board, in consultation with the Director, will determine whether its participants may maintain any balances in that fund, or whether balances must be transferred to other DCP Funds.

(f) The Director shall prepare a report to the Council at least one time per year which shall include:

1. A description of the DCP Funds available for investment; and

2. A summary of any DCP Fund which was added or discontinued as an investment option for participants since

the date of the last report and the rationale for adding or deleting such DCP 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.

Amended by R.2012 d.194, effective December 3, 2012.

See: 44 N.J.R. 1966(a), 44 N.J.R. 2999(b).

Rewrote the section.

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 (DCP), 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 unit 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.

Amended by R.2012 d.194, effective December 3, 2012.

See: 44 N.J.R. 1966(a), 44 N.J.R. 2999(b).

In (b), inserted "(DCP)"; and in (c), substituted "unit" for "principal".

17:16-65.4 Valuation of investments and net assets

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

(b) For the Common Funds, the valuation of investments and net assets 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 values as of the close of business on such day. For the Outside Funds, the valuation of investments and net assets 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 values as of the close of business on such day.

(c) The following method shall be utilized for the valuation of investments and net assets:

1. The valuation of investments shall be made in accordance with applicable accounting standards, using recognized industry pricing sources. In the case of stable value funds, the total value of the fund's investments shall equal the aggregate amount of principal deposited in the fund, plus the amount of interest provided in any synthetic guaranteed investment contract.

2. The valuation of net assets shall be calculated as total assets minus total liabilities, in accordance with applicable accounting standards.

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.

(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.

Amended by R.2012 d.194, effective December 3, 2012.
See: 44 N.J.R. 1966(a), 44 N.J.R. 2999(b).

Section was "Valuation of investments". In (a), inserted "and the net assets of" and substituted "Funds" for "funds"; in (b), inserted "of investments and net assets" twice and substituted "values" for "market prices and accruals" twice; rewrote the introductory paragraph of (c), and (c)1 and (c)2; and deleted (c)4 through (c)7.

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. 17:16-65.4(b) shall be determined by dividing the net assets of the fund by the total outstanding units of participation in the fund.

(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.

Amended by R.2012 d.194, effective December 3, 2012.

See: 44 N.J.R. 1966(a), 44 N.J.R. 2999(b).

In (a), updated the N.J.A.C. reference, substituted "net assets of the fund" for "total value of the fund's securities and other assets, less any administrative expenses or other liabilities," and deleted the last sentence.

17:16-65.6 Admission and withdrawal

(a) Admission to 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.

Amended by R.2012 d.194, effective December 3, 2012.

See: 44 N.J.R. 1966(a), 44 N.J.R. 2999(b).

In (a), deleted "(until January 1, 2006)" following "Admission to".

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 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 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".

Amended by R.2012 d.194, effective December 3, 2012.

See: 44 N.J.R. 1966(a), 44 N.J.R. 2999(b).

In (a) and (c), deleted "preferred stocks" following "common stocks"; and in (c), substituted "Fund" for "fund".

17:16-65.10 (Reserved)

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.

Repealed by R.2012 d.194, effective December 3, 2012.

See: 44 N.J.R. 1966(a), 44 N.J.R. 2999(b).

Section was "Liquidation".

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 records maintained by the Division.

(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 unit valuation price determined by this subchapter.

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.

Amended by R.2012 d.019, effective January 17, 2012.

See: 43 N.J.R. 2284(a), 44 N.J.R. 175(b).

In (b), substituted "records maintained by the Division" for "a certificate prepared by and issued by the Director", and deleted the last sentence; deleted (b)1 through (b)6; and in (c), substituted "unit" for "principal", and deleted the last sentence.

17:16-67.4 Valuation of investments and net assets

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

(b) The valuation of investments and net assets shall be determined at the opening of each business day, and shall be based on assets and liabilities 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 and net assets:

1. The valuation of investments shall be made in accordance with applicable accounting standards, using recognized industry prices sources.

2. The valuation of net assets shall be calculated as total assets minus total liabilities, in accordance with applicable accounting standards.

3. All valuations determined under this subsection shall be converted on the valuation date into United States dollars at rates 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.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.

Amended by R.2012 d.019, effective January 17, 2012.

See: 43 N.J.R. 2284(a), 44 N.J.R. 175(b).

Section was "Valuation of investments". In (a), inserted "and the net assets of the common fund"; rewrote (b), (c)1 and (c)2; in the introductory paragraph of (c), inserted "and net assets"; deleted (c)3 through (c)7; recodified (c)8 as (c)3; rewrote (c)3; and deleted (d).

17:16-67.5 Valuation of units

The net asset value per unit shall be calculated as the net assets of the fund divided by the total number of units outstanding as of such valuation date.

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.

Repeal and New Rule, R.2012 d.019, effective January 17, 2012.

See: 43 N.J.R. 2284(a), 44 N.J.R. 175(b).

Section was "Valuation of units".

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 and shall be based upon the value of each unit as of that valuation date.

(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.

Amended by R.2012 d.019, effective January 17, 2012.

See: 43 N.J.R. 2284(a), 44 N.J.R. 175(b).

Rewrote (a).

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 either 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 net assets of the common fund and distributed to the participating funds in proportion to the number of units owned; or

2. 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. 17:16-67.5, Valuation of units, recodified to N.J.A.C. 17:16-67.5.

Amended by R.2012 d.019, effective January 17, 2012.

See: 43 N.J.R. 2284(a), 44 N.J.R. 175(b).

In the introductory paragraph of (a), substituted "either" for "any or all"; rewrote (a)1; deleted (a)2; and recodified (a)3 as (a)2.

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 net asset 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.

Amended by R.2012 d.019, effective January 17, 2012.

See: 43 N.J.R. 2284(a), 44 N.J.R. 175(b).

In (d), substituted "net asset" for "principal".

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 records maintained by the Division.

(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 unit valuation price determined by this subchapter.

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".
Amended by R.2012 d.020, effective January 17, 2012.
See: 43 N.J.R. 2286(a), 44 N.J.R. 176(a).

In (b), substituted "records maintained by the Division" for "a certificate prepared by and issued by the Director", and deleted the last sentence; deleted (b)1 through (b)6; and in (c), substituted "unit" for "principal", and deleted the last sentence.

17:16-69.4 Valuation of investments and net assets

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

(b) The valuation of investments and net assets shall be determined at the opening of each business day at the discretion of the Director but in any event such valuation of investments shall be determined no less frequently than once per quarter. The valuation shall be based on assets and liabilities 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 and net assets:

1. The valuation of an investment 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. The valuation of investments shall be made in accordance with applicable accounting standards.
2. Subsequent to the date of the last available investment valuation, and until the next valuation is received from the outside entity, all subsequent cash contributions and distributions will be recorded as of the date of the transaction as an adjustment to the valuation.
3. The valuation of publicly traded securities shall be made in accordance with applicable accounting standards, using recognized industry pricing sources.
4. The valuation of net assets shall be calculated as total assets minus total liabilities, in accordance with applicable accounting standards.

5. All valuations determined under this section shall be converted on the valuation date into United States dollars at rates established by a recognized pricing service.

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.

Amended by R.2012 d.020, effective January 17, 2012.

See: 43 N.J.R. 2286(a), 44 N.J.R. 176(a).

Section was "Valuation of investments". In (a), inserted "and the net assets of the common fund"; rewrote (b) and (c)2 through (c)5; in the introductory paragraph of (c), inserted "and net assets"; in (c)1, inserted "of an investment", and the last sentence; and deleted (d).

17:16-69.5 Valuation of units

The net asset value per unit shall be calculated as the net assets of the fund divided by the total number of units outstanding as of such valuation date.

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.

Repeal and New Rule, R.2012 d.020, effective January 17, 2012.

See: 43 N.J.R. 2286(a), 44 N.J.R. 176(a).

Section was "Valuation of units".

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 and shall be based upon the value of each unit as of that valuation date.

(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.

Amended by R.2012 d.020, effective January 17, 2012.

See: 43 N.J.R. 2286(a), 44 N.J.R. 176(a).

Rewrote (a).

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 either 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 net assets of the common fund and distributed to the participating funds in proportion to the number of units owned; or

2. 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.

Amended by R.2012 d.020, effective January 17, 2012.

See: 43 N.J.R. 2286(a), 44 N.J.R. 176(a).

In the introductory paragraph of (a), substituted "either" for "any or all"; rewrote (a)1; deleted (a)2; and recodified (a)3 as (a)2.

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, and forward, option, and 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.

Amended by R.2012 d.020, effective January 17, 2012.

See: 43 N.J.R. 2286(a), 44 N.J.R. 176(a).

In the introductory paragraph of (a), substituted "forward, option and" for "credit default".

Amended by R.2013 d.033, effective February 19, 2013.

See: 44 N.J.R. 2289(a), 45 N.J.R. 351(b).

In the introductory paragraph of (a), deleted "direct bank loans," following "funds," and inserted a comma following "option".

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 net asset 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.

Amended by R.2012 d.020, effective January 17, 2012.

See: 43 N.J.R. 2286(a), 44 N.J.R. 176(a).

In (d), substituted “net asset” for “principal”.

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 equity or debt 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, futures, 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.

“Commodity-related investments” mean equity or debt investments in the exploration, production, processing, transportation, storage, or trading of commodities, or other similar activities.

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

“Core real estate” means 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 funds that invest in underlying securities that track a predetermined index, a commodity, or a basket of assets like an index fund, 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 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 asset investments” mean equity or debt investments in real estate, infrastructure, energy, utilities, water, timber, agriculture, metals, mining and royalty trusts, and commodity-related and commodity-linked investments. Real asset investments include investments in products, services, and technology related to the above.

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

“Royalty trusts” mean 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.”.
Amended by R.2012 d.120, effective June 18, 2012.
See: 44 N.J.R. 217(a), 44 N.J.R. 1784(b).

In definition “Commodity-linked investments”, inserted “equity or debt” and “futures,”; added definition “Commodity-related investments”; in definition “Core real estate” deleted “equity” preceding “investments”; rewrote definition “Exchange-traded funds”; in definition “Non-core real estate”, deleted “equity investments in” following “means” and inserted a comma following “development”; substituted definition “Real asset investments” for definition “Real assets” and definition “Royalty trusts” for definition “Royalty trust”; rewrote definition “Real asset investments”; and in definition “Royalty trusts”, substituted “mean” for “means equity”.

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:

1. Investment in real assets through direct investments, separate accounts, commingled funds, co-investments, and joint ventures.

2. Purchase the common stock of a U.S. or international corporation that primarily invests in real assets and whose stock is traded on a securities exchange or over-the-counter market.

3. Purchase exchange-traded funds traded on a securities exchange or the over-the-counter market that primarily invest in real assets. Exchange-traded funds shall have a minimum market capitalization of \$100 million. For the purposes of this subchapter, exchange-traded funds shall be considered as common stock in determining all applicable limitations contained in this subchapter. Subsequent to purchase, if capitalization falls below \$100 million, the investment does not have to be sold.

(b) Notwithstanding the restrictions contained in (a) above, the Council may approve the purchase of real assets on a case-by-case basis.

(c) Notwithstanding the restrictions in (a) above, the Director may:

1. Exercise the conversion privileges into the common stock of any security acquired under this subchapter;

2. Purchase the preferred stock, whether convertible or not, of a company, the common stock of which qualifies for investment under this subchapter;

3. Purchase the convertible issue of a company, the common stock of which qualifies for investment under this subchapter;

4. Purchase stock in new public offerings of companies without prior approval of the Council, provided, however, approval will be sought at the next regularly scheduled Council meeting in the event the security does not subsequently meet the requirements of this subchapter. If approval is not granted, the securities will be sold within three months of the Council’s disapproval; and

5. Retain any distribution received as a result of a corporate action or distribution by a fund, even if the security does not meet the requirements of this subchapter.

Amended by R.2006 d.219, effective June 19, 2006.
See: 38 N.J.R. 1176(a), 38 N.J.R. 2731(b).

Rewrote (a)1i; and added (b).

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.265, effective August 20, 2007.
See: 39 N.J.R. 1469(b), 39 N.J.R. 3551(a).

Added (b).

Amended by R.2008 d.242, effective August 18, 2008.
See: 40 N.J.R. 2095(a), 40 N.J.R. 4825(b).

In (a)2, substituted “other than real estate” for “such as oil and gas, timber, royalty trusts and commodity-linked investment vehicles”; and added (a)3, (a)4 and (c).

Amended by R.2012 d.120, effective June 18, 2012.
See: 44 N.J.R. 217(a), 44 N.J.R. 1784(b).

In (a)1, deleted “estate” following “real”; deleted former (a)2; and recodified (a)3 and (a)4 as (a)2 and (a)3.

17:16-71.3 Eligible funds

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

1. Police and Firemen's Retirement System;
2. Public Employees' Retirement System;
3. State Police Retirement System;
4. Teachers' Pension and Annuity Fund;
5. Judicial Retirement System of New Jersey; and
6. Common Pension Fund E.

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 "Eligible funds". Rewrote introductory paragraph of (a); in (a)4, deleted "and" from end; in (a)5, substituted "; and" for a period at the end; and added (a)6.

17:16-71.4 Limitations

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

1. The aggregate market value of the investment in real estate under this subchapter shall not exceed nine percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E;

2. The maximum consolidated principal amount of leverage within the real estate portfolio of Common Pension Fund E shall not exceed 50 percent and 75 percent of Common Pension Fund E's share of the gross market value of Common Pension Fund E's investment in core real estate and non-core real estate, respectively. This limitation shall not apply to investments in common and preferred stock, exchange-traded funds and convertible issues;

3. No more than five percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E may be invested in real estate located outside the United States. This limitation shall not apply to investments in common and preferred stock, exchange-traded funds and convertible issues;

4. No more than seven percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E may be invested in a single real estate property type, such types being defined as office, retail, apartment/multi-family, hotel, industrial and specialty use. This limitation shall not apply to investments in common and preferred stock, exchange-traded funds and convertible issues;

5. No more than five percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E may be invested in direct investments, co-investments and joint ventures investing in real estate in any one region of the United States, such regions being defined as: East, South, Midwest, and West. This limitation shall not apply to investments in common and

preferred stock, exchange-traded funds and convertible issues;

6. No more than seven percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E may be invested in real assets other than real estate;

7. No more than seven percent of the market value of the assets of any eligible fund shall be invested in the common and preferred stock of any one corporation eligible for investment pursuant to N.J.A.C. 17:16-71.2(a)3. This seven percent limitation shall not apply to Common Pension Fund E;

8. The total amount of stock purchased or acquired of any one corporation eligible for investment pursuant to N.J.A.C. 17:16-71.2(a)3 shall not exceed five percent of the common stock, or of any other class of stock which entitles the holder thereof to vote at all elections of directors, of such corporation; and

9. No more than seven percent of the market value of the assets of any eligible fund shall be invested in exchange-traded funds that invest in commodities or assets other than corporate equity securities.

(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

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.242, effective August 18, 2008.

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

In (a)1, deleted a comma following "subchapter"; in (a)1, (a)3, (a)4, and (a)5, inserted the second occurrence of "Pension"; in (a)2 through (a)5, inserted the last sentence; in (a)4, inserted "hotel," a period at the end of the first sentence, and the last sentence, and substituted "specialty" for "mixed"; in (a)5, in the region list, deleted the Roman numeral designations, substituted commas for the semicolons and substituted a period for "; and" following "West"; in (a)6, substituted "other than real estate;" for "such as oil and gas, timber, royalty trusts and commodity-linked investment vehicles.;" and added (a)7 through (a)9.

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

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

In (a)1, substituted "nine" for "seven"; in (a)3 and (a)5, substituted "five" for "three"; in (a)4, substituted "seven" for "three"; and in (a)7 and (a)8, inserted "eligible for investment pursuant to N.J.A.C. 17:16-71.2(a)3".

17:16-71.5 (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 "Legal papers".

SUBCHAPTERS 72 THROUGH 80. (RESERVED)

SUBCHAPTER 81. FOREIGN EXCHANGE CONTRACTS

17:16-81.1 Definitions

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

“Foreign exchange contracts” mean forward contracts to sell or buy a specified amount of a specified foreign currency at a rate fixed at the time of the transaction but with delivery at a specified future time, entered into with any commercial bank chartered in the United States or Canada having total assets of at least \$US 2 billion; any United States broker-dealer (or subsidiary or affiliate thereof) having a net capital of at least \$100 million; or any other foreign exchange counterparty approved by the Council.

“Hedging” means combining a long position in an asset denominated in a currency other than United States dollars with a short position in the international currency in which the asset is denominated in order to offset fluctuations in the value of the underlying asset attributable to international currency fluctuations.

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. 17:16-81.1, Permissible investments, recodified to N.J.A.C. 17:16-81.2.

17:16-81.2 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may enter into foreign exchange contracts for the purpose of hedging a fund’s international portfolio. Such foreign exchange contracts may involve the purchase or sale of international currency.

(b) Notwithstanding the restrictions contained in (a) above, the Council may approve the entering into foreign exchange contracts on a case-by-case basis.

Amended by R.2006 d.260, effective July 17, 2006.

See: 38 N.J.R. 1412(a), 38 N.J.R. 3066(a).

Added designation (a); rewrote (a); and added (b) and (c).

Recodified from N.J.A.C. 17:16-81.1 and amended by R.2006 d.317, effective September 5, 2006.

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

Deleted former (b); and recodified former (c) as present (b).

17:16-81.3 Limitations

With respect to international stocks, the portfolio should be unhedged, except in such instances in which the Director believes that unusual circumstances exist in which hedging would serve to improve and protect the inherent returns of the international portfolio.

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

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

Citations corrected.

Amended by R.1991 d.391, effective August 5, 1991.

See: 23 N.J.R. 1778(a), 23 N.J.R. 2345(c).

In (a) deleted 2 requiring 75 percent of portfolio be hedged.

Recodified from N.J.A.C. 17:16-81.2 by R.1997 d.457, effective November 3, 1997.
 See: 29 N.J.R. 3778(a), 29 N.J.R. 4714(a).
 Former N.J.A.C. 17:16-81.3 "Definitions", recodified to N.J.A.C. 17:16-81.4.
 Amended by R.2006 d.260, effective July 17, 2006.
 See: 38 N.J.R. 1412(a), 38 N.J.R. 3066(a).
 Rewrote the section.

17:16-81.4 (Reserved)

Recodified from N.J.A.C. 17:16-81.3 by R.1997 d.457, effective November 3, 1997.
 See: 29 N.J.R. 3778(a), 29 N.J.R. 4714(a).
 Repealed by R.2006 d.260, effective July 17, 2006.
 See: 38 N.J.R. 1412(a), 38 N.J.R. 3066(a).
 Section was "Definitions".

SUBCHAPTERS 82 THROUGH 89. (RESERVED)

SUBCHAPTER 90. PRIVATE EQUITY

17:16-90.1 Definitions

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

"Buyout investment" means the acquisition of an established company. The transaction may or may not be leveraged.

"Co-investment" means two parties (usually the limited partner and the general partner of a fund) invest alongside each other in the same company. If a limited partner in a fund has co-investment rights, it can invest directly in a company that is also backed by a fund. The institution therefore ends up with two separate stakes in the company—one indirectly through the fund; one directly in the company. Co-investment may also include multiple like-minded institutional investors investing in a specific company or portfolio.

"Commingled fund" means pooled investment vehicles formed for the purpose of investing in private equity. 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.

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

"Debt related investment" means the purchase of investments in debt instruments which may include equity participation.

"Direct investment" means the purchase of an interest in a company or venture directly by an eligible fund, rather than through an investment vehicle.

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

"Funds-of-funds" means funds set up to distribute investments among a selection of fund managers, who in turn invest the capital directly.

"Joint venture" means a contractual agreement joining two or more parties for the purpose of executing a particular undertaking. All parties agree to share in the profits and losses of the enterprise. Joint ventures are usually private.

"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.

"Private equity" means investments in companies or entire business units with the intention of exercising control in order to either restructure the target company's reserve capital, management and/or organizational structure or facilitate ongoing growth of the firm. Private equity firms generally receive a return on their investment through an initial public offering, sale or merger of the company they control, or a recapitalization. Private equity may consist of buyout funds, venture capital funds and debt-related investments.

"Separate account" means ownership is segregated and kept in the investor's name.

"Venture capital investment" means investment in the equity of a small, privately-owned, high-growth company during its early or expansion stages.

Amended by R.2008 d.243, effective August 18, 2008.
 See: 40 N.J.R. 2097(a), 40 N.J.R. 4827(a).

Substituted definition "Buyout investment" for definition "Buy-out fund"; in definition "Buyout investment", deleted "a fund that invests in" following "means"; in definition "Co-investment", inserted the last sentence; added definitions "Commingled fund", "Common stocks", "Debt related investment", "Exchange-traded funds" and "Preferred stocks"; in definition "Direct investment", substituted "directly by an eligible fund, rather than through an investment vehicle" for "that has enough influence to direct the course of the investment" and deleted the last sentence; deleted definition "Limited partnership"; rewrote definition "Private equity"; substituted definition "Venture capital investment" for definition "Venture capital fund"; and in definition "Venture capital investment", substituted "investment" for "a fund that invests".

17:16-90.2 Permissible investments

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

1. Investment in buyout investments, venture capital investments and debt related investments through separate accounts, funds-of-funds, commingled funds, direct investments, co-investments and joint ventures.

2. Purchase the common stock of a U.S. or international corporation that primarily invests in private equity and whose stock is traded on a securities exchange or over-the-counter market.

3. Purchase exchange-traded funds traded on a securities exchange or the over-the-counter market that primarily invest in private equity. Exchange-traded funds shall have a minimum market capitalization of \$100 million. For the purposes of this subchapter, exchange-traded funds shall be considered as common stock in determining all applicable limitations contained in this subchapter. Subsequent to purchase, if capitalization falls below \$100 million, the investment does not have to be sold.

(b) Notwithstanding the restrictions contained in (a) above, the Council may approve the purchase of private equity on a case-by-case basis.

(c) Notwithstanding the restrictions in (a) above, the Director may:

1. Exercise the conversion privileges into the common stock of any security acquired under this subchapter;
2. Purchase the preferred stock, whether convertible or not, of a company, the common stock of which qualifies for investment under this subchapter;
3. Purchase the convertible issue of a company, the common stock of which qualifies for investment under this subchapter;
4. Purchase stock in new public offerings of companies without prior approval of the Council, provided, however, approval will be sought at the next regularly scheduled Council meeting in the event the security does not subsequently meet the requirements of this subchapter. If approval is not granted, the securities will be sold within three months of the Council's disapproval; and
5. Retain any distribution received as a result of a corporate action or distribution by a fund, even if the security does not meet the requirements of this subchapter.

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), inserted "and reinvest the moneys of any eligible fund"; and rewrote (a)1 through (a)3.

Amended by R.2007 d.266, effective August 20, 2007.

See: 39 N.J.R. 1470(a), 39 N.J.R. 3551(b).

Added (b).

Amended by R.2008 d.243, effective August 18, 2008.

See: 40 N.J.R. 2097(a), 40 N.J.R. 4827(a).

In the introductory paragraph of (a), deleted "through separate accounts, funds-of-funds, limited partnerships, direct investments, co-investments and joint ventures" following "equity"; rewrote (a)1 through (a)3; and added (c).

17:16-90.3 Eligible funds

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

1. Police and Firemen's Retirement System;
2. Public Employees' Retirement System;
3. State Police Retirement System;
4. Teachers' Pension and Annuity Fund;
5. Judicial Retirement System of New Jersey; and
6. Common Pension Fund E.

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 "Applicable funds". Rewrote introductory paragraph of (a); in (a)4, deleted "and" from the end; in (a)5, substituted ";" for a period at the end; and added (a)6.

17:16-90.4 Limitations

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

1. The aggregate market value of private equity investments under this subchapter, for any eligible fund, shall not exceed 12 percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E;
2. No more than 12 percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E may be invested in buyout investments, and no more than seven percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E may be invested in buyout investments outside of the United States. This limitation shall not apply to investments in common and preferred stock, exchange-traded funds and convertible issues;
3. No more than five percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E may be invested in venture capital investments, and no more than three percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E may be invested in venture capital investments outside of the United States. This limitation shall not apply to investments in common and preferred stock, exchange-traded funds and convertible issues;

4. No more than 12 percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E may be invested in debt-related investments, and no more than seven percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E may be invested in debt-related investments outside of the United States. This limitation shall not apply to investments in common and preferred stock, exchange-traded funds and convertible issues;

5. No more than seven percent of the market value of the assets of any eligible fund shall be invested in the common and preferred stock of any one corporation eligible for investment pursuant to N.J.A.C. 17:16-90.2(a)2. This seven percent limitation shall not apply to Common Pension Fund E;

6. The total amount of stock purchased or acquired of any one corporation shall not exceed five percent of the common stock eligible for investment pursuant to N.J.A.C. 17:16-90.2(a)2, or of any other class of stock which entitles the holder thereof to vote at all elections of directors, of such corporation; and

7. No more than seven percent of the market value of the assets of any eligible fund shall be invested in exchange-traded funds that invest in private equity other than corporate equity securities.

(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

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.243, effective August 18, 2008.
See: 40 N.J.R. 2097(a), 40 N.J.R. 4827(a).

Inserted "Pension" preceding "Fund" throughout; in (a)2 thru (a)4, inserted the second sentence; in (a)3, deleted "and" from the end; and added (a)5 through (a)7.

Amended by R.2011 d.125, effective April 18, 2011.
See: 42 N.J.R. 2935(a), 43 N.J.R. 1040(a).

In (a)1, substituted "12" for "seven"; in (a)2, substituted "12" for "five" and "seven" for "three"; in (a)3, substituted "five" for "three" and "three" for "two"; in (a)4, substituted "12" for "three" and "seven" for "two"; and in (a)5 and (a)6, inserted "eligible for investment pursuant to N.J.A.C. 17:16-90.2(a)2".

17:16-90.5 (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 "Legal papers".

SUBCHAPTER 100. ABSOLUTE RETURN STRATEGY INVESTMENTS

17:16-100.1 Definitions

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

"Absolute return strategy" means an investment strategy with the goal of achieving positive returns with less correlation than long-only strategies to traditional performance benchmarks.

"Commingled fund" means pooled investment vehicles formed for the purpose of investing in absolute return strategy funds. 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 trading advisor fund" means a fund trading commodities, currencies and financial futures using mostly trend-following systems but sometimes discretionary/fundamental models.

"Common stocks" shall mean shares of stock, other than preferred stocks, representing ownership in a corporation.

"Credit oriented fund" means a fund investing in convertible bond arbitrage, fixed income arbitrage, credit instruments, securities of companies under distress (in bankruptcy or close to bankruptcy), or other similar strategies primarily involving investment in fixed income securities.

"Direct investment" means the purchase of an interest in a company or venture directly by an eligible fund, rather than through an investment vehicle.

"Equity long/short strategy" means holding a combination of long and short positions primarily in publicly traded equities, with a net market exposure less than that of the overall equity market.

"Equity market neutral strategy" means holding a combination of long and short positions primarily in publicly traded equities, with minimal net market exposure to the overall equity market.

"Equity oriented fund" means a fund investing primarily in publicly traded positions employing equity long/short, quantitative, equity market neutral, event driven or other similar strategies.

"Event driven strategy" means merger arbitrage, capital structure arbitrage, relative value, activist or other similar strategies.

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

“Funds-of-funds” means funds set up to distribute investments among a selection of fund managers, who in turn invest the capital directly.

“Global macro fund” means a fund investing in top-down, fundamental investments on global price movements in all markets, countries and currencies.

“Multi-strategy fund” means a fund that employs a combination of strategies including credit oriented strategies, equity oriented strategies, and opportunistic strategies.

“Opportunistic fund” means a fund investing in speculative opportunities with high net market exposure across varied markets. Opportunistic funds include global macro funds, commodity trading advisor funds, tail risk hedging funds and funds employing other similar strategies.

“Preferred stocks” shall mean 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.

“Quantitative strategy” means the use of mathematical techniques to identify profit opportunities arising from relationships affecting the prices of various securities.

“Separate accounts” or “managed accounts” means ownership is segregated and kept in the investor’s name.

“Tail risk hedging fund” means a fund that hedges the risk that a rare event will significantly and adversely affect the value of an asset or portfolio.

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

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

Rewrote definition “Absolute return strategy”; in definition “Equity long/short fund” substituted “fund” for “funds” and inserted “primarily”; in definition “Fund-of-funds” substituted “Fund” for “Funds”; in definition “Low volatility funds” substituted “fund” for “funds” two times and inserted “a” following “means”; added definition “Multi-strategy fund”; in definition “Opportunistic fund”, substituted “fund” for “funds” two times and inserted “a” preceding “fund”.

Amended by R.2008 d.244, effective August 18, 2008.

See: 40 N.J.R. 2099(a), 40 N.J.R. 4828(a).

Added definitions “Commingled fund”, “Commodity trading advisor fund”, “Common stocks”, “Credit oriented fund”, “Direct investment”, “Equity market neutral strategy”, “Equity oriented fund”, “Event driven strategy”, “Exchange-traded funds”, “Global macro fund” and “Preferred stocks”; substituted definition “Equity long/short strategy” for definition “Equity long/short fund”; in definition “Equity long/short strategy”, deleted “a fund primarily” following “means” and inserted “primarily”; substituted definition “Funds-of-funds” for definition “Fund-of-funds”; in definition “Funds-of-funds”, substituted “funds” for “a fund”; deleted definition “Low volatility fund”; in definition “Multi-strategy fund”, substituted “including credit oriented strategies,” for “used by” and “oriented strategies, and opportunistic similar strategies” for “long/short funds, opportunistic funds and low volatility funds”; in definition “Opportunistic fund”, inserted the last sentence; and in definition “Separate accounts”, inserted “or ‘managed accounts’”.

Amended by R.2011 d.126, effective April 18, 2011.

See: 42 N.J.R. 2937(a), 43 N.J.R. 1041(a).

In definition “Equity oriented fund”, inserted “quantitative,”; in definition “Opportunistic fund”, inserted “, tail risk hedging funds”; and added definitions “Quantitative strategy” and “Tail risk hedging fund”.

17:16-100.2 Permissible investments

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

1. Investment in credit oriented funds, equity oriented funds, opportunistic funds or multi-strategy funds through commingled funds, funds-of-funds, separate accounts, managed accounts and direct investments in individual funds.

2. Purchase the common stock of a U.S. or international corporation that primarily invests in absolute return strategy investments and whose stock is traded on a securities exchange or over-the-counter market.

3. Purchase exchange-traded funds traded on a securities exchange or the over-the-counter market that primarily invests in absolute return strategy investments. Exchange-traded funds shall have a minimum market capitalization of \$100 million. For the purposes of this subchapter, exchange-traded funds shall be considered as common stock in determining all applicable limitations contained in this subchapter. Subsequent to purchase, if capitalization falls below \$100 million, the investment does not have to be sold.

(b) Notwithstanding the restrictions contained in (a) above, the Council may approve the purchase of absolute return strategy investments on a case-by-case basis.

(c) Notwithstanding the restrictions in (a) above, the Director may:

1. Exercise the conversion privileges into the common stock of any security acquired under this subchapter;

2. Purchase the preferred stock, whether convertible or not, of a company, the common stock of which qualifies for investment under this subchapter;

3. Purchase the convertible issue of a company, the common stock of which qualifies for investment under this subchapter;

4. Purchase stock in new public offerings of companies without prior approval of the Council, provided, however, approval will be sought at the next regularly scheduled Council meeting in the event the security does not subsequently meet the requirements of this subchapter. If approval is not granted, the securities will be sold within three months of the Council’s disapproval; and

5. Retain any distribution received as a result of a corporate action or distribution by a fund, even if the security does not meet the requirements of this subchapter.

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), inserted "and reinvest the moneys of any eligible fund"; and rewrote (a)1 through (a)3.

Amended by R.2007 d.267, effective August 20, 2007.

See: 39 N.J.R. 1470(b), 39 N.J.R. 3551(c).

Added (b).

Amended by R.2008 d.244, effective August 18, 2008.

See: 40 N.J.R. 2099(a), 40 N.J.R. 4828(a).

In the introductory paragraph of (a), deleted "through funds-of-funds, separate accounts and direct investments in individual funds (all generally through limited partnerships" following the first occurrence of "investments"; rewrote (a)1 through (a)3; and added (c).

17:16-100.3 Eligible funds

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

1. Police and Firemen’s Retirement System;
2. Public Employees’ Retirement System;
3. State Police Retirement System;
4. Teachers’ Pension and Annuity Fund;
5. Judicial Retirement System of New Jersey; and
6. Common Pension Fund E.

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 "Applicable funds". Rewrote (a); in (a)4, deleted "and" from the end; in (a)5, added "; and" to the end; and added (a)6.

17:16-100.4 Limitations

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

1. The aggregate market value of absolute return strategy investments under this subchapter, for any eligible fund, shall not exceed 15 percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E;

2. No more than 10 percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E may be invested in credit oriented funds, and no more than one percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E may be invested directly in any individual credit oriented fund. This limitation shall not apply to investments in common and preferred stock, exchange-traded funds and convertible issues;

3. No more than 10 percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E may be invested in equity oriented funds, and no more than one percent of the market value of the assets of any Pension and Annuity Fund investing in Common Fund E may be invested directly in any individual equity oriented fund. This limitation shall not apply to investments in common and preferred stock, exchange-traded funds and convertible issues;

4. No more than 12 percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E may be invested in opportunistic funds, and no more than two percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E may be invested directly in any individual opportunistic fund. This limitation shall not apply to investments in common and preferred stock, exchange-traded funds, and convertible issues;

5. No more than 15 percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E may be invested in multi-strategy funds, and no more than 2.5 percent of the market value of the assets of any Pension and Annuity Fund investing in Common Fund E may be invested directly in any individual multi-strategy fund. This limitation shall not apply to investments in common and preferred stock, exchange-traded funds, and convertible issues;

6. No more than seven percent of the market value of the assets of any eligible fund shall be invested in the common and preferred stock of any one corporation eligible for investment pursuant to N.J.A.C. 17:16-100.2(a)2. This seven percent limitation shall not apply to Common Pension Fund E;

7. The total amount of stock purchased or acquired of any one corporation eligible for investment pursuant to N.J.A.C. 17:16-100.2(a)2 shall not exceed five percent of the common stock, or of another class of stock which entitles the holder thereof to vote at all elections of directors, of such corporation; and

8. No more than seven percent of the market value of the assets of any eligible fund shall be invested in exchange-traded funds that invest in absolute return strategy funds other than corporate equity securities.

(b) If, subsequent to initial purchase, the limitations in (a) above are exceeded, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation below the maximum levels, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

(c) For investments in funds-of-funds, the limitations in (a) above shall apply to the underlying investments, and not to the funds-of-funds themselves.

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.244, effective August 18, 2008.

See: 40 N.J.R. 2099(a), 40 N.J.R. 4828(a).

In (a)1, (a)2 and (a)4, inserted "Pension" preceding "Fund E" throughout; in (a)3 and (a)5, inserted "Pension" preceding the first occurrence of "Fund E"; in (a)2 thru (a)5, inserted the second sentence; in (a)2, substituted "five" for "3.5" and "credit oriented" for "low volatility" twice; in (a)3, substituted "five" for "4.5" and "oriented" for "long/short" twice; in (a)4, substituted "three" for "3.5" and deleted "and" from the end; and added (a)6 through (a)8.

Amended by R.2011 d.126, effective April 18, 2011.

See: 42 N.J.R. 2937(a), 43 N.J.R. 1041(a).

In (a)1, substituted "15" for "seven"; in (a)2 and (a)3, substituted "10" for "five" and "one" for "0.5"; in (a)4, substituted "12" for "three" and "two" for "0.5"; in (a)5, substituted "15" for "seven" and "2.5" for "0.7"; and in (a)6 and (a)7, inserted "eligible for investment pursuant to N.J.A.C. 17:16-100.2(a)2".

17:16-100.5 (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 "Legal papers".