

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

**17:16-69.4 Valuation of investments**

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

(b) The valuation shall be determined at the opening of business of the first business day of each month at the discretion of the Director but in any event such valuation shall be determined no less frequently than once per quarter. The valuation shall be based on market prices and accruals as of the close of the previous business day, in every case converted into United States dollars.

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

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

2. An investment purchased and awaiting payment against delivery shall be included for valuation purposes as a security and the cost thereof recorded as an account payable.

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

4. For the purposes of valuation of an investment, with the exception of investments sold but not delivered, it shall not be necessary to deduct from the value ascertained by this subsection, brokers' commission or other expenses which would be incurred on a sale thereof.

5. For the purposes of valuing securities, all values determined under this section shall be converted into United States dollars at rates shown in the Wall Street Journal on the valuation date, or those established by a recognized pricing service.

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

Recodified from N.J.A.C. 17:16-69.5 and amended by R.2006 d.317, effective September 5, 2006.

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

Section was "Valuation". Section combined with former N.J.A.C. 17:16-69.6, Date of valuation, and 17:16-69.7, Method of valuation, and substantially amended. Former N.J.A.C. 17:16-69.4, Units of participation, repealed.

**17:16-69.5 Valuation of units**

(a) The following method shall be used in determining the principal value per unit:

1. To the valuation of investments determined as provided in N.J.A.C. 17:16-69.4, there shall be added:

- i. Uninvested cash principal;
- ii. The value of any rights, warrants, distributions or other options which may have been declared but not received as of the valuation date, valued in accordance with the method of valuation provided in N.J.A.C. 17:16-69.4;

iii. Such portion as shall constitute principal of any extraordinary or liquidating dividend or distributions which may have been declared but which is unpaid as of the valuation date, valued in accordance with the method of valuation provided in N.J.A.C. 17:16-69.4; and

iv. Temporary investments which shall be valued at cost. The yield on these temporary investments shall not be accrued, but shall be included in income monthly as paid.

2. There shall be deducted from the sum ascertained under (a)1 above all expenses chargeable to principal due or accrued. The net principal value thus determined shall be divided by the number of existing units in order to ascertain the principal value of each unit.

3. All valuations established for items (a)1i through iv above shall be converted into United States dollars at rates shown in the Wall Street Journal on the valuation date, or those established by a recognized pricing service.

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

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

In (a)1, (a)1ii and (a)1iii, substituted "69.4" for "69.7"; and recodified existing (b) as (a)3. Former N.J.A.C. 17:16-69.5, Valuation, recodified to N.J.A.C. 17:16-69.4.

**17:16-69.6 Admission and withdrawal**

(a) No admission to or withdrawal from the common fund shall be permitted except on a valuation date or within 15 days thereafter; however, in the event that an admission or withdrawal occurs within the 15-day period aforementioned, it shall be based upon the principal value as of the last valuation date preceding said admission or withdrawal.

(b) All admissions or withdrawals shall be made in cash or in kind.

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

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

Section was "Admission date". Rewrote (a) and (b). Former N.J.A.C. 17:16-69.6, Date of valuation, recodified in part to N.J.A.C. 17:16-69.4.

**17:16-69.7 Amendments**

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

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

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

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

### 17:16-69.8 Distribution of realized appreciation

(a) Subsequent to the receipt of audited financial statements for the prior fiscal year, the Council may consider the realized appreciation in the common fund per unit. The Council may, in its sole discretion, choose any or all of the following options:

1. Declare as income to the participating funds such percentage of said realized appreciation of principal as it may deem prudent. When such declaration is made, the percentage of such appreciation of principal declared to be income shall be deducted from the total principal in the common fund and added to income in the common fund prior to the next regular monthly valuation. Following such declaration, the amount declared as income shall be treated and distributed as income to the participating funds monthly or quarterly in cash and/or units;

2. Declare as capital gains to the participating funds such percentage of said realized appreciation of principal as it may deem prudent. When such declaration is made, the percentage of such appreciation of principal declared shall be deducted from the total principal in the common fund and distributed monthly or quarterly in cash and/or units; and/or

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

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

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

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

### 17:16-69.9 Limitations

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

1. The Director shall provide the Investment Policy Committee of the Council (Investment Committee) with the requested due diligence information for all investments recommended by the Division and a formal written report for each such investment. Due diligence information shall include, but not be limited to, in all cases, information demonstrating that the investment satisfies the limitations and conditions contained in N.J.A.C. 17:16-71, 90 and 100, and a written disclosure submitted by the asset manager summarizing any and all compensation arrangements with consultants and intermediaries, whether direct or indirect, in connection with the proposed investment.

2. On investments of \$50 million or more, prior to any binding commitment, the Investment Committee shall provide a report to the Council, which report shall include a written memorandum by the Director. On a timely basis after receipt of such report, the Council may adopt or otherwise act upon the report.

3. On investments of less than \$50 million, the Director shall provide an informational memorandum to the Council of every investment made, which shall be provided on a regular basis subsequent to the date such investment has been made.

4. In any given calendar year, and at any point within such year, at least 80 percent of the number of investments which are approved and 80 percent of the dollar amount of total investment commitments must be eligible for a report by the Investment Committee to the Council. For investments under \$50 million, so long as such investments constitute no more than 20 percent of the number of investments approved and 20 percent of the total investment dollars committed, the 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.

(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 28 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 28 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 28 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”.

**17:16-69.10 Liquidation**

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

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

(c) When such proportionate distribution is impracticable in the judgment of the Director, he or she may instead distribute on liquidation, cash or temporary investments held by the common fund.

(d) Distribution upon liquidation shall occur within five days after a valuation date and shall be based upon the principal value per unit determined upon such valuation date.

(e) No liquidation will be effectuated without the approval by the Council of a plan of distribution of the assets of the common fund.

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

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

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

**17:16-69.11 (Reserved)**

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

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

Section was “Distribution of realized appreciation”.

**17:16-69.12 (Reserved)**

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

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

Section was “Limitations”.

**17:16-69.13 (Reserved)**

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

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

Section was “Liquidation”.

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SUBCHAPTER 70. (RESERVED)

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SUBCHAPTER 71. REAL ASSETS

**17:16-71.1 Definitions**

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

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

“Commingled funds” means all open-end and closed-end pooled investment vehicles designed primarily for institutional tax-exempt investors. A commingled fund may be organized as a group trust, partnership, corporation, insurance company separate account, or other multiple ownership entity. An investment in a commingled fund may take the form of an investment in the trustee, general partner, or other managing member of such fund.

“Commodity-linked investments” means investments from which all or a portion of the return is linked to the price of a particular commodity or equity security, or to an index of such prices. These include commodity-indexed deposits, loans, debt issues, and derivative products, such as forwards, options, and swaps. In these transactions, the interest, prin-

cial, or both, or payment streams in the case of swaps, are linked to the price of a commodity.

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

“Core real estate” means equity investments in existing, stabilized (meaning at least 80 percent occupied), well-leased assets.

“Direct investment” means the purchase of an interest in a company or venture directly by an eligible fund, rather than through an investment vehicle.

“East” means Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, New York, Pennsylvania, Delaware, Kentucky, Maryland, North Carolina, South Carolina, Virginia, Washington D.C. and West Virginia.

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

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

“Midwest” means Illinois, Indiana, Michigan, Ohio, Wisconsin, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota and South Dakota.

“Non-core real estate” means equity investments in value-added or opportunistic strategies, including direct property investment with lease-up, development or redevelopment risk. Non-core real estate includes recapitalizations across capital structures and property types and access to niche markets.

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

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

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

“Royalty trust” means equity investments that generate an income stream for investors; these primarily include natural resource assets, and pharmaceuticals and medical devices.

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

“South” means Alabama, Florida, Georgia, Mississippi, Tennessee, Arkansas, Louisiana, Oklahoma and Texas.

“West” means Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, Wyoming, Alaska, California, Hawaii, Oregon and Washington.

Amended by R.2006 d.219, effective June 19, 2006.  
See: 38 N.J.R. 1176(a), 38 N.J.R. 2731(b).

In definition “Co-investment”, inserted “portfolio or property” at the end of the first and third sentences, substituted “portfolio or property in which the fund also invests” for “that is also backed by a fund” in the second sentence, deleted “in the company” following “stakes” in the third sentence and added new fourth sentence; inserted “primarily” in the first sentence of definition “Commingled funds”; in first sentence in definition “Commodity-linked investments”, substituted “from” for “in” following “investments” and “to” for “in” following “linked”; added definitions “Core real estate” and “Non-core real estate”; substituted “directly by Common Pension Fund E, rather than through an investment vehicle” for “that has enough influence to direct the course of the investment. Direct investment usually avoids intermediaries between the buyer and the seller” in definition “Direct investment”; substituted “Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island” for “New England” in definition “East”; deleted last sentence in definition “Joint venture”; and inserted “Indiana” in definition “Midwest”.

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

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

Amended by R.2008 d.242, effective August 18, 2008.  
See: 40 N.J.R. 2095(a), 40 N.J.R. 4825(b).

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

## 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 estate assets through direct investments, separate accounts, commingled funds, co-investments and joint ventures.
2. Investments in real assets other than real estate.
3. 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.
4. 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).

**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 seven 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 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 direct investments, co-investments and joint ventures investing 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 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 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 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 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. 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 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 ex-

(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 "; and" 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 seven percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E;

2. 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 buyout 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 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 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, 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 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 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 debt-related investments, 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 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. 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, 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.

**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".

SUBCHAPTERS 91 THROUGH 99. (RESERVED)

SUBCHAPTER 100. ABSOLUTE RETURN STRATEGY INVESTMENTS

**17:16-100.1 Definitions**

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

"Absolute return strategy" means 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, 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.

"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 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.

"Separate accounts" or "managed accounts" means ownership is segregated and kept in the investor's name.

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'".

### 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 seven percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E;
2. 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 credit oriented funds, and no more than 0.5 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 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 equity oriented funds, and no more than 0.5 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 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 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 opportunistic funds, and no more than 0.5 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 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 Pension and Annuity Fund investing in Common Pension Fund E may be invested in multi-strategy funds, and no more than 0.7 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. 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 shall not exceed five percent of the common stock, or of an other 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.

#### **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".