

RULES OF THE STATE INVESTMENT COUNCIL

Subchapter 43, Mortgage-Backed Securities; Private Pass-Through, was recodified to N.J.A.C. 17:16-58 and Subchapter 43, Covered Call 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, Common and Preferred Stocks and Issues Convertible into Common Stock of International Corporations and International Equity Exchange-Traded Funds, was renamed Common and Preferred Stocks and Issues Convertible into Common Stock of International Corporations and International Exchange-Traded Funds; 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; Subchapter 55, Title II Federal Housing Administration Hospital Mortgages, was renamed Title II Federal Housing Administration Insured Hospital Mortgages; Subchapter 58, Mortgage Backed Securities—Private Pass-through, was renamed Mortgage Backed Senior Debt Securities; Mortgage Backed Passthrough Securities; Subchapter 81, Purchase and Sale of International Currency, was renamed Foreign Exchange Contracts, effective September 5, 2006. See: Source and Effective Date. See also, section annotations.

Subchapter 2, Engagement of External Investment Managers, was adopted as new rules by R.2007 d.164, effective May 21, 2007. See: 39 N.J.R. 179(a), 39 N.J.R. 2137(a).

Subchapter 46, Common and Preferred Stocks and Issues Convertible Into Common Stock of International Corporations and Global, Regional or Country Funds In Emerging Markets, was renamed Common and Preferred Stocks and Issues Convertible Into Common Stock of International Corporations and Exchange-Traded, Global, Regional or Country Funds In Emerging Markets by R.2007 d.259, effective August 20, 2007. See: 39 N.J.R. 1465(a), 39 N.J.R. 3549(a).

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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

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 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. 17:16-12.1, Permissible investments, recodified to N.J.A.C. 17:16-12.2.

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;

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

3. The obligor has a market capitalization of at least \$50 million. Subsequent to purchase, if capitalization falls below \$50 million, the investment does not have to be sold; and

4. 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, finance company debt, bank debentures, international corporate obligations, collateralized notes and mortgages, and mortgage backed passthrough securities that do not meet the minimum credit ratings set forth in this section and N.J.A.C. 17:16-14.2, 15.2, 16.2, 19.2 and 58.2, respectively; 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.

(d) 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".

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 corporation shall not exceed 10 percent of the outstanding long term debt of the company, and not more than 25 percent of the issue at the time of issue.

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 of any one corporation.

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 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.

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".

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 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. 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.

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.

SUBCHAPTER 14. FINANCE COMPANY DEBT

17:16-14.1 Definitions

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

“Finance company debt” shall mean debt securities of any finance company deemed by the Director to be based in the United States. In determining whether a finance company is based in the United States, the Director shall consider factors including, but not limited to, the finance company’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 finance company 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. 17:16-14.1, Permissible investments, recodified to N.J.A.C. 17:16-14.2.

17:16-14.2 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys of any eligible fund in finance company debt 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;
2. The obligor is not in default as to the payment of principal or interest upon any of its outstanding obligations;
3. The obligor has a market capitalization of at least \$200 million. Subsequent to purchase, if capitalization falls below \$200 million, the investment does not have to be sold; and
4. 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 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) Notwithstanding (a) above, the Director may only invest and reinvest the moneys of the State of New Jersey Cash Management Fund in finance company debt 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, finance company debt, bank debentures, international corporate obligations, collateralized notes and mortgages, and mortgage backed passthrough 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. 17:16-15.2, 16.2, 19.2, and 58.2, respectively; 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.

(d) Notwithstanding the restrictions in this subchapter, the Council may approve the purchase of finance company debt on a case-by-case basis.

Recodified from N.J.A.C. 17:16-14.1 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.251, effective August 20, 2007.

See: 39 N.J.R. 1460(a), 39 N.J.R. 3546(c).

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".

17:16-14.3 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.

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".

17:16-14.4 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 company shall not exceed 10 percent of the outstanding long-term debt of the company, and not more than 25 percent of any one issue may be purchased 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 one fund (other than the New Jersey State Employees Deferred Compensation Fixed Income Fund) shall be invested in the debt of any one company maturing more than 12 months from date of purchase; and

3. Not more than 10 percent of the market value of the assets of the New Jersey State Employees Deferred Compensation Fixed Income Fund shall be invested in the debt of any one company.

(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.2007 d.251, effective August 20, 2007.

See: 39 N.J.R. 1460(a), 39 N.J.R. 3546(c).

In (a)1, inserted "long-term".

17:16-14.5 Reports to Council

The Director shall report all purchases of finance company debt 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 15. BANK DEBENTURES

17:16-15.1 Definitions

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

"Bank debentures" shall mean debt securities of any bank or bank holding company deemed by the Director to be based in the United States. In determining whether a bank is based in the United States, the Director shall consider factors including, but not limited to, the bank's country of organization, 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 bank 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. 17:16-15.1, Permissible investments, recodified to N.J.A.C. 17:16-15.2.

17:16-15.2 Permissible investments

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

2. The issuer:

i. Is not in default as to the payment of principal or interest upon any of its outstanding obligations;

ii. Has a market capitalization of at least \$200 million. Subsequent to purchase, if capitalization falls below \$200 million, the investment does not have to be sold; and

iii. At the date of its last published balance sheet preceding the date of investment, was in conformance with all capital requirements as stipulated by:

(1) The Federal Reserve Board, in the case of United States banks; and

(2) The appropriate national regulatory body, in the case of foreign-headquartered banks; and

3. 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.

(b) Notwithstanding (a) above, the Director may only invest and reinvest the moneys of the State of New Jersey Cash Management Fund in bank debentures 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, finance company debt, bank debentures, international corporate obligations, collateralized notes and mortgages, 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 14.2, this section, and N.J.A.C. 17:16-16.2, 19.2, and 58.2, respectively; 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.

(d) Notwithstanding the restrictions in this subchapter, the Council may approve the purchase of bank debentures on a case-by-case basis.

Amended by R.1998 d.207, effective May 4, 1998.
See: 30 N.J.R. 804(a), 30 N.J.R. 1635(a).

In (a), substituted "where maturities are less than two years" for "where maturities are less than a year" in the introductory paragraph.
Amended by R.2001 d.322, effective September 4, 2001.

See: 33 N.J.R. 2257(a), 33 N.J.R. 3032(a).

In (a), substituted "25 months or less" for "less than two years" in introductory paragraph, and rewrote 1.
Recodified from N.J.A.C. 17:16-15.1 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.252, effective August 20, 2007.

See: 39 N.J.R. 1460(b), 39 N.J.R. 3547(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".

17:16-15.3 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.

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".

17:16-15.4 Limitations

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

1. The total amount of bank debentures purchased or acquired under this subchapter of any one issuer shall not exceed 10 percent of the outstanding long-term debt of the issuer and not more than 25 percent of any one issue may be purchased 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 fund (other than the New Jersey State Employees Deferred Compensation Fixed Income Fund) shall be invested in debentures of any one bank maturing more than 12 months from the date of purchase; and

3. Not more than 10 percent of the market value of the assets of the New Jersey State Employees Deferred Compensation Fixed Income Fund shall be invested in debentures of any one bank.

(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.2007 d.252, effective August 20, 2007.
See: 39 N.J.R. 1460(b), 39 N.J.R. 3547(a).
In (a)1, inserted "long-term".

17:16-15.5 Reports to Council

The Director shall report all purchases of bank debentures 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 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. All such securities must be payable as to both principal and interest in United States dollars;
2. The obligor is not in default as to the payment of principal or interest upon any of its outstanding obligations;

3. The obligor has a market capitalization of at least \$US 50 million; and

4. 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, finance company debt, bank debentures, international corporate obligations, collateralized notes and mortgages, and mortgage backed passthrough securities that do not meet the minimum credit ratings set forth in N.J.A.C. 17:16-12.2, 14.2, 15.2, this section, and N.J.A.C. 17:16-19.2 and 58.2, respectively; 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.

(c) 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".

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 10 percent of the market value of the assets of any eligible fund 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, 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 assets of any one fund shall be invested in debt issues of any one issuer maturing more than 12 months from date of purchase; and
4. The market value of international corporate obligations held by any fund (other than Common Pension Fund D), either directly or through Common Pension Fund B or D, when combined with common and preferred stock and issues convertible into common stock permitted under N.J.A.C. 17:16-44 and 46 and international government and agency obligations permitted under N.J.A.C. 17:16-20, shall not exceed 30 percent of the market value of the assets of such fund, subject to such further provisos 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.

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".

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. NEW JERSEY 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:

"New Jersey State and municipal general obligations" shall mean debt obligations of the State of New Jersey 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.

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 New Jersey 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 New Jersey 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 New Jersey 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.

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 New Jersey 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).

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;
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 finance company debt, bank debentures, international corporate obligations, collateralized notes and mortgages, and mortgage backed passthrough securities that do not meet the minimum credit ratings set forth in N.J.A.C. 17:16-12.2, 14.2, 15.2 and 16.2, this section, and N.J.A.C. 17:16-58.2, respectively; 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.

(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".

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.

"Emerging market country" shall mean a country that is not included in the Morgan Stanley Capital International (MSCI) Equity Index Series for developed markets or another

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 domestic 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.

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, 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.

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.

SUBCHAPTERS 23. 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.

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: 38 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 40. (RESERVED)

SUBCHAPTER 41. COMMON AND PREFERRED STOCKS AND 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.

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

"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.

"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.

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 to invest in common stock of a U.S. corporation that is not incorporated 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 preferred stock, whether convertible or not, of a company, the 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 a debt issue 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 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.

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 preferred stock and 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 preferred stock and 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 preferred stock and 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 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 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.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.

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:

1. The common stock for the Supplemental Annuity Collective Trust Fund shall be listed on a securities exchange in the United States, as required by N.J.S.A. 52:18A-115; and

2. The common stock for the University of Medicine and Dentistry of New Jersey - Endowment Funds shall be issued by a company incorporated with in 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.

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 ISSUES CONVERTIBLE INTO COMMON STOCK OF INTERNATIONAL CORPORATIONS AND INTERNATIONAL EXCHANGE-TRADED FUNDS

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.

“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 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. 17:16-44.1, Permissible investments, recodified to N.J.A.C. 17:16-44.2.

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 a company 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. International exchange-traded funds or closed-end global, regional or country funds that 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 issues convertible into common stock of international corporations or international equity exchange-traded funds or closed-end global, regional or country funds on a case-by-case basis.

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

1. Exercise the conversion privileges in the common stock of any security acquired under this subchapter;
2. Purchase the preferred stock, whether convertible or not, of a company, the 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, even if the security 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).

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 preferred stock and 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 preferred stock and 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 preferred stock and 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 issues convertible into common stock held by an eligible fund (other than Common Pension Fund D), either directly or through Common Pension Fund D, when combined with the market value of international government and agency obligations permitted under N.J.A.C.

17:16-20 and international corporate obligations permitted under N.J.A.C. 17:16-16, cannot exceed 30 percent of the market value of the assets of such fund, 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".

SUBCHAPTER 45. COVERED 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:

"Covered put options" shall mean put options, including index-based put options purchased for common stocks held in the pertinent portfolio, except that index-based put options may be purchased and subsequently resold 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.

17:16-45.2 Permissible transactions

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 fund, provided that any covered 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.

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”.

17:16-45.3 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.

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.

17:16-45.4 (Reserved)

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 46. COMMON AND PREFERRED STOCKS AND ISSUES CONVERTIBLE INTO COMMON STOCK OF INTERNATIONAL CORPORATIONS AND EXCHANGE-TRADED, GLOBAL, REGIONAL OR COUNTRY FUNDS 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:

“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.

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”.

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 issues convertible into common stock of international corporations or global, regional or country funds in emerging markets on a case-by-case basis.

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

1. Exercise the conversion privileges in the common stocks of any security acquired under this subchapter;
2. Purchase the preferred stock, whether convertible or not, of a company, the stock of which qualifies for investment and 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 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 the security 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.

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 in emerging markets, the shares or interests in global, regional or country funds in emerging markets, and international government and agency obligations in emerging markets permitted under N.J.A.C. 17:16-20, held by Common Pension Fund D shall not exceed 1.5 times 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 assets held by Common Pension Fund D. 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 preferred stock and 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 preferred stock and 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 preferred stock and 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 issues convertible into common stock held by an eligible fund (other than Common Pension Fund D), either directly or through Common Pension Fund D, when combined with the market value of international government and agency obligations permitted under N.J.A.C. 17:16-20 and international corporate obligations permitted under N.J.A.C. 17:16-16, cannot exceed 30 percent of the market value of the assets of such fund, 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".

"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.

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

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:

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.

SUBCHAPTERS 48 THROUGH 52. (RESERVED)

SUBCHAPTER 53. TITLE II FEDERAL HOUSING
ADMINISTRATION INSURED MORTGAGES—
MULTI-FAMILY

17:16-53.1 Definitions

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

“Federal Housing Administration Insured Multi-Family Mortgage” or “mortgage” shall mean a mortgage on a multi-family dwelling insured or to be insured by the Federal Housing Administration as authorized under Title II of the National Housing Act and more specifically described under sections 207, 220, 221(d)(3), 221(d)(4), and 236 of such Act.

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”. Rewrote the section.

17:16-53.2 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys of any eligible fund in Federal Housing Administration Insured Multi-Family Mortgages provided that:

- 1. Any investment in any mortgage shall be not less than \$1,000,000 nor more than \$10,000,000;

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". Rewrote the section.

17:16-55.2 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys of any eligible fund in Federal Housing Administration Insured Hospital Mortgages provided that:

1. Any investment in any hospital mortgage shall be not less than \$1,000,000 nor more than \$15,000,000; and
2. The hospital mortgage must be on a hospital located in the State and the hospital mortgage must be serviced by the Division.

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

Amended by R.1970 d.137, effective November 13, 1970.
 See: 2 N.J.R. 86(e), 2 N.J.R. 102(d).
 Amended by R.1972 d.52, eff. March 10, 1972.
 See: 4 N.J.R. 108(a).
 Amended by R.1991 d.274, effective June 3, 1991.
 See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
 Citations corrected in (b).
 Amended by R.1996 d.222, effective May 6, 1996.
 See: 28 N.J.R. 1366(a), 28 N.J.R. 2397(a).
 Rewrote (d).
 Amended by R.2001 d.119, effective April 2, 2001.
 See: 32 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". Section combined with former N.J.A.C. 17:16-55.3, Limitations, and substantially amended.

17:16-55.3 Eligible funds

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

1. Any fund classified as a Pension and Annuity Fund; and
2. 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. 17:16-55.3, Limitations, combined with N.J.A.C. 17:16-55.2.

17:16-55.4 Limitations

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

1. The market value of hospital mortgages purchased under this subchapter, combined with mortgages purchased under N.J.A.C. 17:16-53 and construction mortgages purchased under N.J.A.C. 17:16-54, shall not exceed 20 percent of the assets of any fund; 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.

Amended by R.1972 d.182, effective September 18, 1972.
 See: 4 N.J.R. 249(b).
 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 "Legal papers".

SUBCHAPTERS 56. 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 pass-through 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;

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, finance company debt, bank debentures, international corporate obligations, collateralized notes and mortgages, and mortgage backed passthrough securities that do not meet the minimum credit ratings set forth in N.J.A.C. 17:16-12.2, 14.2, 15.2, 16.2, 19.2, and this section, respectively; 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.

(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".

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

1. To the valuation of investments determined as provided in N.J.A.C. 17:16-62.4, there shall be added:

- i. Uninvested cash principal;
- ii. The value of any rights or stock dividends which may have been declared but not received as of the valuation date when the security has been valued ex-right and ex-dividend;
- iii. Such portion as shall constitute principal of any extraordinary or liquidating dividend which may have been declared but which is unpaid as of the valuation date when the particular security has been valued ex-dividend; and
- iv. Temporary investments which shall be valued at cost. The yield on these temporary investments shall not be accrued, but shall be included in income monthly as paid.

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

(b) The following method shall be used in determining the income value per unit:

- 1. Income shall include all moneys received or accrued which are not included in or defined as principal in this section.
- 2. From such income on hand and accrued there shall be deducted the expenses and liabilities due and accrued which are chargeable to income.
- 3. The amount of net income thus determined shall be divided by the number of existing units in order to ascertain the income value per unit.
- 4. Such income value per unit shall be disbursed, monthly or quarterly and in cash, to each participating fund according to ownership of units.
- 5. Adjustments to income in the amount of \$50,000 or more in any one month shall be adjusted according to the participating fund's holdings as of the month in which the error occurred. Adjustments under \$50,000 shall be included in the current month's income.

Amended by R.1972 d.229, effective November 16, 1972.
 See: 4 N.J.R. 311(a).
 Amended by R.1974 d.35, effective February 14, 1974.
 See: 6 N.J.R. 124(d).
 Amended by R.1977 d.125, effective April 11, 1977.
 See: 9 N.J.R. 244(c).
 Recodified from N.J.A.C. 17:16-62.8 and amended by R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Rewrote the section. Former N.J.A.C. 17:16-62.5, Valuation, recodified to N.J.A.C. 17:16-62.4.

17:16-62.6 Admission and withdrawal

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

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

Amended by R.1974 d.35, effective February 14, 1974.
 See: 6 N.J.R. 124(d).
 Amended by R.1979 d.97, effective March 8, 1979.
 See: 11 N.J.R. 212(c).
 Recodified from N.J.A.C. 17:16-62.9 and amended by R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Section was "Admission date". Rewrote the section. Former N.J.A.C. 17:16-62.6, Valuation, combined with N.J.A.C. 17:16-62.4.

17:16-62.7 Amendments

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

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

17:16-62.8 Distribution of realized appreciation

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

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

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

Amended by R.1987 d.86, effective February 2, 1987.

See: 18 N.J.R. 2377(b), 19 N.J.R. 304(b).

Amended by R.1994 d.326, effective July 5, 1994.

See: 26 N.J.R. 1771(b), 26 N.J.R. 2798(b).

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

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

In (a)1, inserted "declared" following "principal".

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

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

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

17:16-62.9 Limitations

(a) Unless otherwise specifically provided therein, in the event that any subchapter contains a limitation of the assets of any Pension and Annuity Fund which may be invested either in one issue or a class of issues, that limitation shall be construed to apply to the combined assets of all of the Pension and Annuity Funds and shall not restrict the total common pension fund investment in such issue or issues to those limitations for any individual Pension and Annuity Fund.

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

See: 4 N.J.R. 311(a).

Amended by R.1988 d.248, effective June 6, 1988.

See: 20 N.J.R. 741(b), 20 N.J.R. 1208(d).

Added the Cash Management Fund and the State Investment Council.

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

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

Citation corrected; "and conditions" added.

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

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

In (a), updated N.J.A.C. references.

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

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

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

17:16-62.10 Liquidation

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

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

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

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

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

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

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

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

17:16-62.11 (Reserved)

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

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

Section was "Distribution of realized appreciation".

17:16-62.12 (Reserved)

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

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

Section was "Limitations".

17:16-62.13 (Reserved)

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

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

Section was "Liquidation".

SUBCHAPTER 63. COMMON PENSION FUND B

17:16-63.1 General provisions

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

(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.

17:16-63.2 Permissible investments

The Director may invest the assets of Common Pension Fund B in fixed income and debt securities, 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.

17:16-63.3 Units of participation

(a) Common Pension Fund B shall be composed of units of participation of unlimited quantity. Each unit of participation shall represent an equal beneficial interest in the fund and no unit shall have priority or preference over any other. Each unit of participation shall be valued at the net asset value per unit as provided in N.J.A.C. 17:16-63.5.

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

1. The number of units purchased;
2. The purchaser;
3. The aggregate principal valuation price for the number of units purchased;
4. The date of purchase;
5. The serial number of the certificate;
6. The principal valuation price per unit purchased.

(c) All units of participation shall be purchased by cash payments or in kind. All units shall be purchased by the participating fund for the principal valuation price determined by this subchapter. At the outset of said common fund, all initial purchases shall be made for a principal valuation price of \$1,000 per unit.

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

17:16-63.4 Valuation of investments

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

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

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

1. The Director shall use a recognized pricing service approved prior to use by the Director.

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

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

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

As amended, R.1974 d.265, effective September 24, 1974.
 See: 6 N.J.R. 416(b).
 Amended by R.1991 d.478, effective September 16, 1991.
 See: 23 N.J.R. 2103(a), 23 N.J.R. 2868(a).
 Market price and accruals based on previous day's close.
 Recodified from N.J.A.C. 17:16-63.5 and amended by R.2006 d.317, effective September 5, 2006.
 See: 38 N.J.R. 2039(a), 38 N.J.R. 3632(a).
 Section was "Valuation". Section combined with former N.J.A.C. 17:16-63.6, Date of valuation and 17:16-63.7, Method of valuation, and substantially amended. Former N.J.A.C. 17:16-63.4, Units of participation, repealed.

17:16-63.5 Valuation of units

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

1. To the valuation of investments determined as provided in N.J.A.C. 17:16-63.4, there shall be added:
 - i. Uninvested cash principal;
 - ii. Rights, warrants, or other options;
 - iii. Temporary investments which shall be valued at cost. The yield on these temporary investments shall not be accrued, but shall be included in income monthly as paid.

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

(b) The income value per unit shall be determined by the following method:

1. Income shall include all interest accrued and accrual of discount;
2. From such income on hand and accrued there shall be deducted amortization of premium and the expenses and liabilities due and accrued, which are chargeable to income;

3. The amount of net income thus determined shall be divided by the number of existing units in order to ascertain the income value per unit;

4. Such income value per unit shall be disbursed, monthly or quarterly and in cash, to each participating fund according to ownership of units;

5. Adjustments to income in the amount of \$50,000 or more in any one month shall be adjusted according to the participants' holdings as of the month in which the error occurred;

6. Adjustments under \$50,000 shall be included in the current month's income.

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

See: 4 N.J.R. 311(a).

As amended, R.1974 d.265, effective September 24, 1974.

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

As amended, R.1977 d.126, effective April 11, 1977.

See: 9 N.J.R. 244(d).

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

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

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

17:16-63.6 Admission and withdrawal

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

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

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

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

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

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

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

17:16-63.7 Amendments

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

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

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

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

17:16-63.8 Distribution of realized appreciation

(a) Subsequent to the receipt of audited financial statements for the proper fiscal year, the Council may consider the realized appreciation in the common fund per unit.

(b) The Council may, in its sole discretion, choose any or all of the following options:

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

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

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

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

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

Amended by R.1987 d.87, effective February 2, 1987.

See: 18 N.J.R. 2378(a), 19 N.J.R. 304(b).

(c) added.

Amended by R.1994 d.327, effective July 5, 1994.

See: 26 N.J.R. 1772(a), 26 N.J.R. 2798(c).

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

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

Recodified (c) as (b)3.

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

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

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

17:16-63.9 Limitations

(a) Unless otherwise specifically provided therein, in the event that any subchapter contains a limitation of the assets of any Pension and Annuity Fund which may be invested either in one issue or a class of issues, that limitation shall be construed to apply to the combined assets of all of the Pension and Annuity Funds and shall not restrict the total common pension fund investment in such issue or issues to those limitations for any individual Pension or Annuity Fund.

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.

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 and issues convertible into common stock and exchange-traded funds) 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 per-

centage 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.

17:16-69.10 Liquidation

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

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

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

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

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

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

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

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

17:16-69.11 (Reserved)

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

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

Section was “Distribution of realized appreciation”.

17:16-69.12 (Reserved)

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

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

Section was “Limitations”.

17:16-69.13 (Reserved)

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

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

Section was “Liquidation”.

SUBCHAPTER 70. (RESERVED)

SUBCHAPTER 71. REAL ASSETS

17:16-71.1 Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

“Real assets” mean investments in real estate, infrastructure, oil and gas, timber properties, 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.