

PROPOSED SUBCHAPTER 48. GLOBAL EQUITY INVESTMENTS (PENSION
AND ANNUITY FUNDS)

PROPOSED N.J.A.C. 17:16-48

17:16-48.1 Definitions

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

“Closed-end global, regional, or country funds” mean funds that invest in underlying securities that concentrate on a specific industry, geographic market, or sector.

"Common stock" means shares of stock, other than preferred stock, representing ownership in a corporation or other form of legal entity.

“Convertible debt issue” means a debt obligation of any corporation or other form of legal entity that is convertible into the common stock of the entity.

“Convertible preferred stock” means preferred stock of any corporation or other form of legal entity that is convertible into the common stock of the entity.

“Equity investments” mean common stock, convertible and non-convertible preferred stock, rights, convertible debt issues, or any other security representing an ownership interest in a corporation, bank, master limited partnership, limited liability company, limited liability partnership, or other form of legal entity. Equity investments may also include investments in exchange-traded funds and closed-end global, regional, or country funds.

"Exchange-traded funds" mean funds that invest in underlying securities that track a predetermined index or strategy, a commodity, or a basket of assets, and whose shares can be traded like shares of common stock.

“Non-convertible preferred stock” means preferred stock of any corporation or other form of legal entity that is not convertible into the common stock of the entity.

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

“Private placement” means a negotiated sale in which the securities are sold directly to institutional or private investors, rather than through a public offering registered with the U.S. Securities and Exchange Commission or applicable foreign regulatory body. Private placement includes the sale of securities pursuant to Section 4(2), Regulation D, Regulation S, or Rule 144A under the Securities Act of 1933, as amended.

17:16-48.2 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys of any eligible fund in global equity investments traded on a securities exchange or the over-the-counter market, or offered and sold through a private placement.

(b) In addition to (a) above, the Director may:

1. Exercise the rights or conversion privileges of any global equity investment acquired under this subchapter;

2. Purchase the convertible preferred stock or rights of an entity, the common stock of such entity which qualifies for investment under this subchapter;

3. Purchase the convertible debt issue of an entity, the common stock of such entity which qualifies for investment under this subchapter;

4. Purchase stock in new public offerings of entities; and

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

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

17:16-48.3 Eligible funds

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

1. The Police and Firemen's Retirement System;

2. The Public Employees' Retirement System;

3. The State Police Retirement System;

4. The Teachers' Pension and Annuity Fund;

5. The Judicial Retirement System of New Jersey; and

6. Any fund classified as a Common Pension Fund and permitted to invest in global equity investments.

17:16-48.4 Limitations

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

1. The combined market value of global equity investments, excluding exchange traded funds that invest in fixed income assets, strategies or indices, held directly by the eligible funds under this subchapter shall not exceed 70 percent of the total market value of the combined assets of all of the Pension and Annuity Funds. The Council shall be notified at the next regularly scheduled meeting of the Council when the combined market value of the equity investments held by the eligible funds reaches or exceeds 68 percent of the total market value of the combined assets of all of the Pension and Annuity Funds. Subsection (b) below shall apply when the combined market value of

the equity investments held by the eligible funds exceeds 70 percent of the total market value of the combined assets of all of the Pension and Annuity Funds;

2. The total amount directly invested in the equity and fixed income obligations of any one issuer and affiliated entities by the Pension and Annuity Funds and the Common Pension Funds, in the aggregate, shall not exceed five percent of the combined assets of all the Pension and Annuity Funds;

3. The total amount of a particular class of stock directly purchased or acquired of any one entity shall not exceed ten percent of that class of stock outstanding;

4. The total amount of shares or interests directly purchased or acquired of any one exchange-traded fund or closed-end global, regional, or country fund shall not exceed 10 percent of the total shares outstanding or interests of such fund; and

5. The total amount directly invested in equity investments issued through a private placement by the Pension and Annuity Funds and the Common Pension Funds, in the aggregate, shall not exceed two percent of the combined assets of all the Pension and Annuity 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.

PROPOSED SUBCHAPTER 69. COMMON PENSION FUNDS

PROPOSED N.J.A.C. 17:16-69

17:16-69.1 General provisions

(a) Pursuant to P.L. 1970, c. 270, the Council established the following common trust funds:

1. Common Pension Fund A, effective February 1, 1971 (3 N.J.R. 52(b));
2. Common Pension Fund B, effective March 8, 1972 (4 N.J.R. 79(c));
3. Common Pension Fund D, effective January 2, 1990 (22 N.J.R. 60(b));

and

4. Common Pension Fund E, effective June 20, 2005 (37 N.J.R. 2217(a)).

(b) The following funds may participate in the Common Pension Funds:

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.

17:16-69.2 Permissible investments

The Director may invest the assets of any Common Pension Fund in such of the asset classes permitted under this chapter as have been designated by the Director and approved by the Council for such Common Pension Fund.

17:16-69.3 Units of participation

(a) Each Common Pension Fund shall be composed of units of participation of unlimited quantity. Each unit of participation shall represent an equal beneficial interest in the fund and no unit shall have priority or preference over any other. Each unit of participation shall be valued at the net asset value per unit as provided in N.J.A.C. 17:16-69.5.

(b) All units of participation in each Common Pension Fund, representing net capital contributions to the fund together with any income thereon, shall be evidenced by records maintained by the Division.

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

17:16-69.4 Valuation of investments and net assets

(a) Upon each valuation date, as provided in (b) below, there shall be a valuation for every investment in each Common Pension Fund and the net assets of each Common Pension Fund in the method provided for in this section.

(b) The valuation of investments and net assets shall be determined at the opening of each business day and shall be based on assets and liabilities as of the close of the previous business day; provided, however, that the valuation of investments that are not publicly traded shall be determined at the discretion of the Director but no less frequently than once per quarter. The valuation, in every case, shall be converted into United States dollars.

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

1. The valuation of an investment established by an outside entity, including the general partner or manager of an investment, may be used; provided that such entity provides supporting information to the Director, and the valuation is reviewed and approved by the Director. The valuation of investments shall be made in accordance with applicable accounting standards.

2. Subsequent to the date of the last available investment valuation, and until the next valuation is received from the outside entity, all subsequent cash contributions and distributions will be recorded as of the date of the transaction as an adjustment to the valuation.

3. The valuation of publicly traded securities shall be made in accordance with applicable accounting standards, using recognized industry pricing sources.

4. The valuation of net assets shall be calculated as total assets minus total liabilities, in accordance with applicable accounting standards.

5. All valuations determined under this section shall be converted on the valuation date into United States dollars at rates established by a recognized pricing service.

17:16-69.5 Valuation of units

The net asset value per unit of each Common Pension Fund shall be calculated as the net assets of the fund divided by the total number of units outstanding as of such valuation date.

17:16-69.6 Admission and withdrawal

(a) No admission to or withdrawal from each Common Pension Fund shall be

permitted except on a valuation date and shall be based upon the value of each unit as of that valuation date.

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

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.

17:16-69.8 Distribution of realized gains

(a) Subsequent to the receipt of audited financial statements for the prior fiscal year, the Council may consider the realized gains in each Common Pension Fund per unit. The Council may, in its sole discretion, choose either of the following options with respect to each such Common Pension Fund:

1. Declare as income to the participating funds such percentage of said realized gains as it may deem prudent. When such declaration is made, the percentage of such gains declared to be income shall be deducted from the total net assets of each Common Pension Fund and distributed to the participating funds in proportion to the number of units owned; or

2. Retain any or all realized gains for future investments within each Common Pension Fund.

17:16-69.9 Limitations

(a) For all investments made by or on behalf of any Common Pension Fund through direct investments, separate accounts, funds-of-funds, commingled funds, co-investments, or joint ventures under N.J.A.C. 17:16-23.2(a)2, 71.2(a)1, 90.2(a)1, and 100.2(a)1, the following shall occur:

1. The Director shall provide the Investment Policy Committee of the Council (Investment Committee) with the requested due diligence information for all investments recommended by the Division and a formal written report for each such investment. Due diligence information shall include but not be limited to, in all cases, information demonstrating that the investment satisfies the limitations and conditions contained in N.J.A.C. 17:16-23, 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 on each such investment made, which memorandum shall be provided no later than the first regularly scheduled meeting of the Council after the date such binding commitment 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 and 80 percent of the dollar amount of total investment commitments must be eligible for a report by the Investment Committee to the Council. For investments under \$50 million, so long as such investments constitute no more than 20 percent of the number of investments approved and 20 percent of the total investment dollars committed, the Director shall provide an informational memorandum to the Council pursuant to (a)3 above. Once the Division has exceeded its 20 percent "exemption" in any given year, all proposed investments will be subject to the Investment Committee providing a report to the Council until the number and dollar value of "exempt" investment again falls below the 20 percent threshold.

(b) Not more than five percent of the market value of the assets invested through direct investments, separate accounts, funds-of-funds, commingled funds, co-investments, and joint ventures pursuant to N.J.A.C. 17:16-23.2(a)2, 71.2(a)1, 90.2(a)1, and 100.2(a)1, plus outstanding commitments, may be committed to any one partnership or investment, without the prior written approval of the Council.

(c) The investments made through separate accounts, funds-of-funds, commingled funds, co-investments, and joint ventures pursuant to N.J.A.C. 17:16-23.2(a)2, 71.2(a)1, 90.2(a)1, and 100.2(a)1 cannot comprise more than 20 percent of any one investment manager's total assets.

(d) Not more than 38 percent of the market value of the assets of any fund shall be represented by the market value of investments as permitted by N.J.A.C. 17:16-71, 90, and 100, whether held directly by such fund or through the Common Pension Funds. If the market value exceeds 38 percent, then the Council shall be notified at the next regularly scheduled meeting of the Council. The Division may be granted a six-month period of grace to reduce the level of participation of the fund below the 38 percent level, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

(e) Unless otherwise specifically provided therein, in the event that any subchapter contains a limitation on the percentage of assets of any Pension and Annuity Fund which may be invested in an investment or class of investments, that limitation shall be construed to apply to the percentage of combined assets of all of the Pension and Annuity Funds participating in a Common Pension Fund and shall not restrict the total investment by that Common Pension Fund 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 made through separate accounts, funds-of-funds, commingled funds, co-investments, and joint ventures pursuant to N.J.A.C. 17:16-23, 71, 90, and 100 on behalf of the Common Pension Funds.

17:16-69.10 Liquidation

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

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

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

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

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

17:16-69.11 (Reserved)

17:16-69.12 (Reserved)

17:16-69.13 (Reserved)

PROPOSED SUBCHAPTER 81. FOREIGN CURRENCY TRANSACTIONS

PROPOSED N.J.A.C. 17:16-81

17:16-81.1 Definitions

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

“Foreign currency transactions” mean agreements between two parties to exchange two currencies at a specific time in the future. Foreign currency transactions include both spot and forward contracts.

"Forward contracts" mean agreements to sell or buy a specified amount of a specified foreign currency at a rate fixed at the time of the transaction but with delivery at a specified future time. These contracts take place on a date after the date that a spot contract settles. Forward exchange contracts may involve the purchase or sale of foreign currency.

"Hedging" means combining a long position in an asset denominated in a currency other than United States dollars with a short position in the international currency in which the asset is denominated in order to offset fluctuations in the value of the underlying asset attributable to international currency fluctuations.

“Spot contracts” mean agreements to sell or buy a specified amount of a specified foreign currency at a rate fixed at the time of the transaction but with settlement (payment and delivery) on the spot date. The settlement cycle of spot contracts is generally related to the settlement cycle of the related security transaction.

17:16-81.2 Permissible investments

(a) Subject to the limitations in this subchapter, the Director may enter into spot contracts for the purpose of settling investment transactions denominated in foreign currency.

(b) Subject to the limitations contained in this subchapter, the Director may enter into forward contracts for the purpose of hedging an eligible fund's international portfolio.

(c) Counterparties to foreign currency transactions shall be approved by and included on a list maintained by the Director. At the time of each transaction, the counterparty (or any guarantor pledging its full faith and credit to the transaction) shall have a long term credit rating of Baa2 or higher by Moody’s Investors Service, Inc, BBB or higher by Standard & Poor’s Corporation, and BBB or higher by Fitch Ratings, or the counterparty must be approved by the Council, except that two of the three ratings are sufficient and one of the three ratings is sufficient if only one rating is available.

(d) Notwithstanding the restrictions in this subchapter, the Council may approve the entering into foreign currency transactions on a case-by-case basis.

17:16-81.3 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. Any fund classified as a Common Pension Fund and permitted to invest in foreign exchange contracts.

17:16-81.4 Limitations

With respect to international securities, the portfolio should be unhedged, except in such instances in which the Director believes that unusual circumstances exist in which hedging would serve to improve and protect the inherent returns of the international portfolio.

PROPOSED SUBCHAPTER 82. FUTURES CONTRACTS

PROPOSED N.J.A.C. 17:16-82

17:16-82.1 Definitions

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

"Futures contract" means an agreement between a buyer and a seller that is based on a referenced item, such as financial indices or interest rates, or a financial instrument, such as equity or fixed income securities, physical commodities, or currencies. Futures contracts may call for physical delivery of a specified quantity of the underlying asset at a specified price (futures or strike price) and date, or be settled in cash. Prices are determined by competitive bids on the applicable exchange. The terms of the contract are standardized and the applicable exchange is the counterparty to each cleared transaction.

17:16-82.2 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys of any eligible fund in futures contracts provided that the futures contracts trade on a securities exchange or the over-the-counter market.

(b) The Director may deliver securities to satisfy contractual obligations pursuant to the Division's purchase and sale of a futures contract.

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

17:16-82.3 Eligible funds

For purposes of this subchapter, eligible funds shall include any fund classified as a Common Pension Fund and permitted to invest in futures contracts.

17:16-82.4 Limitations

(a) At the time of each transaction, the following conditions shall be met:

1. Each transaction shall be subject to applicable market or other regulatory position limits;

2. The aggregate market value of each asset class, together with the notional value of any futures contract obligations should be within the asset allocation range for the respective asset class; and

3. The total aggregate notional value of all futures contracts shall not exceed an amount equal to five percent of the combined assets of all of the Pension and Annuity Funds, except that this limit may be increased to an amount not to exceed 10 percent by the Director for a fixed period of time after consultation with the Investment Policy Committee of the Council. Long and short positions shall not be netted when computing total aggregate notional value.

(b) If, subsequent to the initial 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 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.