

concern the use of advanced physical agent modalities by licensed occupational therapy assistants.

Smart Growth Development Impact

The proposed amendment and new rule will have an insignificant impact on smart growth development and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the proposed amendment and new rule concern the use of advanced physical agent modalities by licensed occupational therapy assistants.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

SUBCHAPTER 5. SCOPE OF PRACTICE

13:44K-5.4 Use of physical agent modalities by a licensed occupational therapist; delegation to licensed occupational therapy assistant

(a)-(i) (No change.)

(j) A licensed occupational therapist [shall not] may delegate the application of the advanced physical agent modalities set forth in (c) above to a licensed occupational therapy assistant consistent with the requirements of N.J.A.C. 13:44K-5.5. Delegation of advanced physical agent modalities to anyone other than a licensed occupational therapy assistant who has satisfied the requirements of N.J.A.C. 13:44K-5.5 shall be deemed professional misconduct and may subject a licensee to the penalties set forth in N.J.S.A. 45:1-21 et seq.

(k)-(m) (No change.)

13:44K-5.5 Use of physical agent modalities by a licensed occupational therapy assistant; supervisor responsibilities

(a) A licensed occupational therapy assistant may use the superficial thermal agent and mechanical device modalities set forth in N.J.A.C. 13:44K-5.4(b) under the supervision of a licensed occupational therapist consistent with the requirements of N.J.A.C. 13:44K-5.4.

(b) A licensed occupational therapy assistant may use the advanced physical agent modalities set forth in N.J.A.C. 13:44K-5.4(c) under the supervision of a licensed occupational therapist consistent with the requirements of this section.

(c) Prior to using advanced physical agent modalities, a licensed occupational therapy assistant shall have completed a training course that meets the requirements set forth in N.J.A.C. 13:44K-5.4(e).

(d) A licensed occupational therapy assistant shall use advanced physical agent modalities only under the supervision of a licensed occupational therapist who has:

1. Met the experience requirements of N.J.A.C. 13:44K-6.2(g); and
2. Completed a training course that meets the requirements of N.J.A.C. 13:44K-5.4(e) or who holds a current certification from the Hand Therapy Certification Commission or any other national organization that utilizes substantially similar certification standards consistent with the requirements of N.J.A.C. 13:44K-5.4(f).

(e) A licensed occupational therapist shall supervise the use of advanced physical agent modalities by a licensed occupational therapy assistant consistent with the following:

1. The supervising occupational therapist shall provide close supervision, as defined in N.J.A.C. 13:44K-1.2, of the licensed occupational therapy assistant, during which time the occupational therapist shall directly observe the occupational therapy assistant's application of each type of modality in a patient treatment setting no fewer than five times. Documentation of such supervision shall be maintained by the supervising occupational therapist consistent with the requirements of N.J.A.C. 13:44K-6.2(h) and by the licensed occupational therapy assistant consistent with the requirements of N.J.A.C. 13:44K-6.3(c);

2. Following the five instances of direct observation of the licensed occupational therapy assistant's application of a particular type of modality, the supervising occupational therapist shall determine the

level of supervision required of the occupational therapy assistant, consistent with the requirements of N.J.A.C. 13:44K-6.2(e).

i. Notwithstanding (e)2 above, the occupational therapist shall continue to provide close supervision for any occupational therapy assistant who has been engaged in the practice of occupational therapy for less than one year on a full-time basis, consistent with the requirements of N.J.A.C. 13:44K-6.2(e); and

3. The supervising occupational therapist shall satisfy all supervisor responsibilities set forth in N.J.A.C. 13:44K-6.2.

(f) A supervising occupational therapist shall not delegate the close supervision of an occupational therapy assistant's use of advanced physical agent modalities, including the direct observation of the occupational therapy assistant's application of the modalities, to anyone other than a licensed occupational therapist who has met the requirements of (d) and (e) above.

(g) A licensed occupational therapy assistant shall retain documentation relating to his or her completion of the training course and shall make such documentation available to the Council upon request. The documentation shall include, if applicable:

1. The name and address of the person or organization presenting the course;

2. The name and address of the facility where the course was presented;

3. A copy of the course syllabus, which includes a detailed description of the learning objectives and teaching methods employed in the course and the qualifications of the instructor(s); and

4. A certificate of completion from the course sponsor.

(h) A licensed occupational therapy assistant may apply to the Council for approval of a course in the use of advanced physical agent modalities that has not been pre-approved by the Council. The licensee shall submit the documentation set forth in (g) above to the Council for review.

(i) A licensed occupational therapy assistant who uses advanced physical agent modalities without having satisfied the requirements of this section shall be deemed to have engaged in professional misconduct and may be subject to the penalties set forth in N.J.S.A. 45:1-21 et seq.

(j) Notwithstanding the fact that a licensed occupational therapy assistant is permitted to use advanced physical agent modalities because he or she has satisfied the training requirements of this section, a licensed occupational therapy assistant shall not use a specific advanced physical agent modality that he or she has not been trained to use until he or she is familiar with the device's proper use and contraindications, and until he or she has been directly observed under close supervision by a supervising occupational therapist in the application of the modality at least five times in a patient treatment setting. Following such direct observation, the licensed occupational therapy assistant may use the modality under the supervision of a licensed occupational therapist consistent with the requirements of (e)2 above. Failure to comply with this section shall be deemed professional misconduct and may subject a licensed occupational therapy assistant to the penalties set forth in N.J.S.A. 45:1-21 et seq.

TREASURY — GENERAL

(a)

STATE INVESTMENT COUNCIL

Fixed Income Exchange-Traded Funds

Proposed Amendments: N.J.A.C. 17:16-22.1 and 22.2

Authorized By: State Investment Council, Timothy M. Walsh,

Director, Division of Investment.

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

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2011-120.

Submit comments by July 15, 2011 to:

Timothy M. Walsh
 Administrative Practice Officer
 Division of Investment
 PO Box 290
 Trenton, New Jersey 08625-0290

The agency proposal follows:

Summary

N.J.A.C. 17:16-22 permits eligible funds to invest in fixed income exchange-traded funds that are traded on a securities exchange in the United States or on the over-the-counter markets. The definition of “fixed income exchange-traded funds” in N.J.A.C. 17:16-22.1 limits investments to exchange-traded funds that invest primarily in domestic fixed income securities. The proposed amendment to the definition will delete the requirement that the underlying fixed income securities be domestic, thereby expanding the ability to invest in exchange-traded funds that also invest in international fixed income securities. Investments in these assets will provide further diversification for the State-administered funds and provide an opportunity for improved risk-adjusted returns for such funds.

N.J.A.C. 17:16-22.2(a) requires that the fixed income exchange-traded funds be traded on a securities exchange in the United States or the over-the-counter market. The proposed amendment to this section clarifies that investments in exchange-traded funds must be denominated in U.S. dollars.

Because the Division is providing a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendments shall have a positive social impact because increased overall risk-adjusted returns for the State-administered funds will benefit the funds’ beneficiaries and will lessen the long-term burden on the State’s taxpayers.

Economic Impact

The proposed amendments shall have a positive economic impact by providing an opportunity for increased risk-adjusted returns of the State-administered funds.

Federal Standards Statement

A Federal standards analysis is not required because the investment policy rules of the State Investment Council are not subject to any Federal requirements or standards.

Jobs Impact

The State Investment Council and the Division of Investment do not anticipate that any jobs will be generated or lost by virtue of the proposed amendments.

Agriculture Industry Impact

The proposed amendments will have no impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required since the proposed amendments will have no effect on small businesses as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., but regulate only the Director of the Division of Investment.

Smart Growth Impact

The proposed amendments are not anticipated to have an impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The proposed amendments will have no impact on the affordability of housing in the State of New Jersey. The proposed amendments will permit investment in exchange-traded funds that invest in international securities denominated in U.S. dollars.

Smart Growth Development Impact

The proposed amendments are not anticipated to have an impact on the availability of affordable housing or housing production within Planning

Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey. The proposed amendments will permit investment in exchange-traded funds that invest in international securities denominated in U.S. dollars.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

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:

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

17:16-22.2 Permissible investments

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

(b) (No change.)

(a)

STATE INVESTMENT COUNCIL

Put Options

Definitions; Permissible Transactions; Eligible Funds; Limitations

Proposed Amendments: N.J.A.C. 17:16-45.1, 45.2 and 45.3

Proposed New Rule: N.J.A.C. 17:16-45.4

Authorized By: State Investment Council, Timothy M. Walsh,

Director, Division of Investment.

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

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2011-121.

Submit comments by July 15, 2011 to:

Timothy M. Walsh
 Administrative Practice Officer
 Division of Investment
 PO Box 290
 Trenton, New Jersey 08625-0290

The agency proposal follows:

Summary

N.J.A.C. 17:16-45 currently permits the Director to purchase covered put options on behalf of certain eligible funds. The proposed amendments and new rule would modify the eligible funds that can purchase put options to include all of the common pension funds, but to exclude all other funds. The proposed amendments and new rule would expand the use of put options to provide further protection against potential market losses in the common pension funds and provide the ability to utilize standard market conventions to hedge downside risk without having to sell individual securities.

The heading of the subchapter is being amended to “Put Options” from “Covered Put Options” to more accurately describe the contents of the subchapter after giving effect to the proposed amendments and new rule. The proposed amendment to N.J.A.C. 17:16-45.2(a) would delete the requirement that a put option must be “covered” (that is, the option must