

credit ratings set forth in N.J.A.C. 17:16-12.2, 16.2, 19.2, this section and N.J.A.C. 17:16-40.2 and 58.2, respectively; provided, however, the market value of such investments shall not exceed [five] **eight** percent of the combined assets of all of the Pension and Annuity Funds.

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

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

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

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

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

17:16-23.3 Eligible funds

[a] For purposes of this subchapter, eligible funds shall include:

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

17:16-23.4 Limitations

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

1. Not more than [10] **seven** percent of the market value of [the assets of any eligible fund] **the combined assets of all of the Pension and Annuity Funds** shall be invested in [bank loans] **global diversified credit investments**, whether directly or through separate accounts, funds-of-funds, commingled funds, co-investments, and joint ventures that primarily invest in [bank loans] **global diversified credit investments**; and

- 2. (No change.)
- (b) (No change.)

(a)

**STATE INVESTMENT COUNCIL
Non-Convertible Preferred Stocks of U.S.
Corporations
Permissible Investments**

Proposed Amendment: N.J.A.C. 17:16-40.2

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 2012-137.

Submit comments by November 30, 2012 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. 17:16-40 permits the Director to invest the monies of any eligible fund in non-convertible preferred stocks of U.S. corporations.

N.J.A.C. 17:16-40.2(a)2 provides that companies must have a market capitalization of at least \$100 million. N.J.A.C. 17:16-40.2(c) stipulates that up to one percent of the combined assets of all the Pension and Annuity Funds may be invested in debt obligations and non-convertible preferred stock of corporations that do not meet the minimum capitalization requirements. The proposed amendments to these

provisions will provide that contributed capital may be considered when evaluating the obligor since non-public companies lack market capitalization. The proposed amendment to N.J.A.C. 17:16-40.2(c) also clarifies that corporate obligations means corporate obligations of U.S. based corporations.

N.J.A.C. 17:16-40.2(b) provides that up to five percent of the combined assets of all of the Pension and Annuity Funds may be invested in corporate obligations, international corporate obligations, collateralized notes and mortgages, bank loans, non-convertible preferred stock, and mortgage backed passthrough securities that do not meet the minimum credit ratings set forth in N.J.A.C. 17:16-12.2, 16.2, 19.2, 23.2, 40.2, and 58.2, respectively. The proposed amendment to N.J.A.C. 17:16-40.2(b), concurrent with the proposed amendments to the other subchapters published elsewhere in this issue of the New Jersey Register, will raise the five percent cap to eight percent and expand the high yield category to include global diversified credit investments to provide the opportunity for increased risk-adjusted returns. The proposed amendment also clarifies that corporate obligations means corporate obligations of U.S. based corporations.

Because the Division is providing a 60-day comment period on this notice of proposal, this notice is exempted 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 the opportunity for 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.

Housing Affordability Impact Analysis

The proposed amendments will have no impact on the affordability of housing in the State of New Jersey. The proposed amendments will modify investment in non-convertible preferred stocks of U.S. corporations thereby providing an opportunity for increased risk-adjusted returns of the State-administered funds.

Smart Growth Development Impact Analysis

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 modify investment in non-convertible preferred stocks of U.S. corporations thereby providing an opportunity for increased risk-adjusted returns of the State-administered funds.

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

17:16-40.2 Permissible investments

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

1. (No change.)
2. The company has a market capitalization **or contributed capital** of at least \$100 million. Subsequent to purchase, if capitalization **or contributed capital** falls below \$100 million, the investment does not have to be sold; and
3. (No change.)

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

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

(d) (No change.)

(a)

**STATE INVESTMENT COUNCIL
Common Stocks and Issues Convertible into
Common Stocks (Trust Funds)
Permissible Investments
Proposed Amendment: N.J.A.C. 17:16-42.2**

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 2012-142.

Submit comments by November 30, 2012 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. 17:16-42 sets forth the permissible investments and limitations for certain trust funds.

The proposed amendment to N.J.A.C. 17:16-42.2(a) deleting paragraph (a)1 is required due to an amendment to N.J.S.A. 52:18A-115, which provides that common stocks and securities purchased for the Supplemental Annuity Collective Trust Fund shall be traded on a securities exchange in the United States or over-the-counter market. See P.L. 2011, c. 78. Paragraph (a)1 reflected the statute's pre-amendment requirement that the common stock for the Supplemental Annuity Collective Trust Fund shall be listed on a securities exchange in the United States. The proposed amendment also corrects a spelling error.

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

Social Impact

The proposed amendment shall have no social impact as it serves only to make the rules of the State Investment Council consistent with N.J.S.A. 52:18A-115.

Economic Impact

The proposed amendment shall have no economic impact as it serves only to make the rules of the State Investment Council consistent with N.J.S.A. 52:18A-115.

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 amendment.

Agriculture Industry Impact

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

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required since the proposed amendment 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.

Housing Affordability Impact Analysis

The proposed amendment will have no impact on the affordability of housing in the State of New Jersey. The proposed amendment serves only to make the rules of the State Investment Council consistent with N.J.S.A. 52:18A-115.

Smart Growth Development Impact Analysis

The proposed amendment is 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 amendment serves only to make the rules of the State Investment Council consistent with N.J.S.A. 52:18A-115.

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

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] **the** common stock for the University of Medicine and Dentistry of New Jersey - Endowment Funds shall be issued by a company incorporated [with in] **within** the United States or within the Dominion of Canada, as required by N.J.S.A. 18A:64G-9.

(b)-(c) (No change.)