

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

relate to a common stock held in the underlying portfolio). This amendment is intended to provide greater protection of downside risk in the eligible funds. The proposed amendments to N.J.A.C. 17:16-45.1 would modify the definition of “covered put option” accordingly, by deleting the word “covered” and by expanding the definition to allow put options to be purchased for any securities, assets or foreign currencies that are permissible for investment in the eligible funds. The proposed amendments would also allow put options to be written as part of a put spread strategy; however, the proposed amendments will not allow the eligible funds to be outright short puts at any time.

N.J.A.C. 17:16-45.2(b) would expand permissible investments to include put spreads (that is, the simultaneous purchase and writing of put options on the same security), which would also provide potential protection of downside risk in the eligible funds at a theoretically lower cost. A definition for put spread is being added to N.J.A.C. 17:16-45.1. Proposed new N.J.A.C. 17:16-45.2(b) provides that the Director may execute and subsequently terminate put spreads provided that the purchased and written put options shall be for the same number of contracts, and 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.

Proposed new N.J.A.C. 17:16-45.2(c) provides that notwithstanding the restriction in the subchapter, the State Investment Council may approve put options on a case-by-case basis, consistent with the provisions of other subchapters.

N.J.A.C. 17:16-45.3 provides a list of the eligible funds. The proposed amendment to N.J.A.C. 17:16-45.3(a) would delete the New Jersey Better Educational Savings Trust, Supplemental Annuity Collective Trust, New Jersey State Employees Deferred Compensation Equity Fund and New Jersey State Employees Deferred Compensation Small Capitalization Equity Fund from the list of eligible funds. The proposed amendment would also add Common Pension Fund B and Common Pension Fund E to the list of eligible funds.

Proposed new N.J.A.C. 17:16-45.4 provides that the difference between the aggregate market value of purchased put options and written put options outstanding at any one time cannot exceed two percent of the market value of all the pension and annuity funds. If, subsequent to purchasing or writing put options, the limitation is exceeded, the Director will be required to sell put options in an amount necessary to comply with the limitation.

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 and new rule shall have a positive social impact, because increased overall the mitigation of downside risk in 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 and new rule shall have a positive economic impact by providing an opportunity to mitigate downside risk in 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 and new rule.

#### Agriculture Industry Impact

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

#### Regulatory Flexibility Statement

A regulatory flexibility analysis is not required since the proposed amendments and new rule 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 and new rule are not anticipated to have an impact on the achievement of smart growth and implementation of the State Development Plan.

#### Housing Affordability Impact

The proposed amendments and new rule will have no impact on the affordability of housing in the State of New Jersey. The proposed amendments and new rule will allow the pension and annuity funds to invest in put options and put spreads.

#### Smart Growth Development Impact

The proposed amendments and new rule 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 and new rule will allow the pension and annuity funds to invest in put options and put spreads.

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

### 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] **Put options**” shall mean put options, including index-based put options, purchased **or written** 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] **securities, assets or foreign currencies permissible for investment in the eligible fund.**

“**Put spreads**” shall mean the purchase of put options on particular underlying securities, assets or foreign currencies permissible for investment in the eligible fund, with the simultaneous writing of put options on the same underlying securities, assets or currencies, at a lower strike price.

#### 17:16-45.2 Permissible transactions

(a) 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.

**(b) Subject to the limitations contained in this subchapter, the Director may execute and subsequently terminate put spreads, provided that the purchased and written put options shall be for the same number of contracts, and 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.**

**(c) Notwithstanding the restrictions in this subchapter, the Council may approve put options or put spreads on a case-by-case basis.**

#### 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.] **1. Common Pension Fund A; [and]  
 2. Common Pension Fund B;  
 [6.] 3. Common Pension Fund D[.]; and  
 4. Common Pension Fund E.**

17:16-45.4 [(Reserved)] **Limitations**

(a) **The difference between the aggregate market value of purchased put options and written put options outstanding at any one time cannot exceed two percent of the market value of all the pension and annuity funds.**

(b) **If subsequent to purchasing or writing put options, the limitation in (a) above is exceeded, the Director shall sell put options in an amount necessary to comply with such limitation.**

## OTHER AGENCIES

### (a)

#### CASINO CONTROL COMMISSION

##### Casino Licensees; Application Requirements

##### Application for Casino License

##### Application for Interim Casino Authorization

##### Request for Statement of Compliance

##### Proposed Amendments: N.J.A.C. 19:43-5.1, 5.2, 5.3 and 5.5

##### Proposed New Rule: N.J.A.C. 19:43-12.1

##### Proposed Repeal: N.J.A.C. 19:43-5.4

Authorized By: Casino Control Commission, Linda M. Kassekert, Chair.

Authority: N.J.S.A. 5:12-63, 69, 80, 81, 82, 84, 85, 85.1, 87, 95.12 and 95.16.

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

Proposal Number: PRN 2011-118.

Submit written comments by July 15, 2011 to:

Dianna W. Fauntleroy, General Counsel  
 Casino Control Commission  
 Arcade Building  
 Tennessee Avenue and the Boardwalk  
 Atlantic City, New Jersey 08401

The agency proposal follows:

#### Summary

The Casino Control Act (the Act), N.J.S.A. 5:12-1 et seq., was amended on February 1, 2011, effectuating significant changes in the structures and procedures for the regulation of casino gaming in New Jersey. P.L. 2011, c. 19. Among other things, the legislation reexamined the allocation of duties and responsibilities between the Casino Control Commission (Commission) and the Department of Law and Public Safety, Division of Gaming Enforcement (Division).

As amended, section 63 of the Act authorizes the Commission to, among other things, hear and decide all applications for a casino license, including applications filed by persons required individually to qualify in connection therewith; applications for interim casino authorization pursuant to N.J.S.A. 5:12-95.12 et seq., including, but not limited to, applications filed by persons required individually to qualify in connection therewith; statements of compliance pursuant to N.J.S.A. 5:12-81; and all applications for a casino key employee license. N.J.S.A. 5:12-63a. Section 69a of the Act specifically authorizes the Commission to adopt, amend or repeal such regulations as may be necessary for the conduct of hearings before the Commission under sections 63 and “for the matters within all other responsibilities and duties of the [C]ommission imposed by P.L. 1977, c.110 (C. 5:12-1 et seq).”

In accordance with that statutory mandate, the Commission is proposing a new rule and amendments, which set forth the procedural requirements for applications for casino licensure and interim casino authorization and requests for statements of compliance. The amended Act provides that no casino license shall issue unless the Commission determines that all persons designated by the Division as persons who must qualify meet all applicable qualification criteria. N.J.S.A. 5:12-85.1a. Each applicant must produce such information and documentation

as may be required to establish by clear and convincing evidence that it meets the qualification criteria set forth in the Act. N.J.S.A. 5:12-84. Pursuant to section 87a, upon the filing of an application for a casino license and such supplemental information as may be required by the Commission or the Division, the Division shall conduct an investigation and report to the Commission, which will conduct a hearing as to the qualification of the applicant. N.J.S.A. 5:12-87a.

All of the sections proposed for amendment, N.J.A.C. 19:43-5.1, 5.2, 5.3 and 5.5, contain updated statutory references reflecting the amendments to the Act. N.J.A.C. 19:43-5.2 is proposed for amendment to reflect the Legislature’s repeal of section 88 of the Act, eliminating casino licenses of specific duration and casino license renewals.

N.J.A.C. 19:43-5.3 is proposed for amendment to update the procedure for filing an application for a casino license, which calls for filing of required documents with the Division, with a copy to be contemporaneously provided to the Commission. N.J.A.C. 19:43-5.3(b)1 calls for the content of the Business Entity Disclosure Form to correspond to Division rules. N.J.A.C. 19:43-5.3(b)5 codifies existing practice requiring the filing of corporate or comparable formation documents. N.J.A.C. 19:43-5.3(b)9 and 10 reflect the Division’s authority to collect casino license fees and the authority of both the Commission and Division to request additional information germane to determining the qualification of an entity or individual, respectively.

New N.J.S.A. 5:12-85.1d provides for waiver of qualification by the Division Director; accordingly, N.J.A.C. 19:43-5.4 (Petitions for waiver) is proposed for repeal.

N.J.A.C. 19:43-5.5 is proposed for amendment to update the procedure for filing a request for a statement of compliance. N.J.A.C. 19:43-5.5(a) allows for an entity or individual to request that the Commission issue a statement of compliance as to the entity’s or individual’s compliance with one or more of the eligibility criteria required by the Act or Commission rules. N.J.A.C. 19:43-5.5(b) allows for such a request to be made by a qualifier who holds securities of a casino licensee or holding or intermediary company thereof.

Finally, new N.J.A.C. 19:43-12.1 sets forth the procedures for filing an application for interim casino authorization, pursuant to N.J.S.A. 5:12-95.12 et seq.

Since a public comment period of 60 days is being provided, this notice of proposal is not required to be referenced in a rulemaking calendar, pursuant to N.J.A.C. 1:30-3.3(a)5.

#### Social Impact

The proposed new rule and amendments will enable the Commission to fulfill its statutory mandate to promulgate regulatory standards for matters within its jurisdiction. N.J.S.A. 5:12-69a. The new rule and amendments will benefit applicants and prospective applicants for casino licensure, interim casino authorization and statements of compliance by establishing clear and comprehensive standards and procedures.

#### Economic Impact

Any request for casino licensure, interim casino authorization or statements of compliance necessarily involves costs associated with the relevant fees, as well as the time and expense involved in filing the requisite petition and related filings. The new rule and amendments do not and are not expected to impose any costs beyond those already incurred under existing procedures, but merely clarify the required processes under the recently amended Casino Control Act.

#### Federal Standards Statement

A Federal standards analysis is not required because the proposed new rule and amendments are mandated by the provisions of the Casino Control Act, N.J.S.A. 5:12-1 et seq., and are not subject to any Federal requirements or standards.

#### Jobs Impact

The proposed new rule and amendments are not anticipated to result in any increase or decrease in the number of jobs in the gaming industry or elsewhere in the State economy.

#### Agriculture Industry Impact

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