

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 regulates only the Director of the Division of Investment.

Smart Growth Impact

The proposed amendment is 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 amendment will have no impact on the affordability of housing in the State of New Jersey. The proposed amendment will permit a higher percentage of pension fund assets to be invested in alternative investments.

Smart Growth Development Impact

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 will permit a higher percentage of pension fund assets to be invested in alternative investments.

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

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, issues convertible into common stock and exchange-traded funds, direct bank loans, and credit default swap transactions) made in Common Pension Fund E, the following shall occur:

1.-3. (No change.)

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] **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)-(c) (No change.)

(d) Not more than [28] **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 Common Pension Fund E. If the market value exceeds [28] **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 [28] **38** percent level, except that the period of grace may

be extended for additional four-month periods with the approval of the Council.

(e)-(f) (No change.)

(a)

STATE INVESTMENT COUNCIL

**Real Assets
Definitions; Limitations**

Proposed Amendments: N.J.A.C. 17:16-71.1 and 71.4

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 2010-309.

Submit comments by February 4, 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. 17:16-71 permits eligible funds to invest in real estate and other real assets, which include infrastructure, oil and gas, timber properties, royalty trusts and commodity-linked investments. The proposed amendment to the definition of "real assets" in N.J.A.C. 17:16-71.1 will expand the definition of real assets to include farmland and precious metals. 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. 17:16-71.4(a)1 provides that not more than seven percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E shall be invested in real estate. The proposed amendment to N.J.A.C. 17:16-71.4(a)1 would increase this limit from seven percent to nine percent in order to provide greater flexibility in making investments in real estate and an opportunity for increased risk-adjusted returns for the State-administered funds.

Within the proposed nine percent cap on real estate, the proposed amendments include: (1) an increase in the cap on investments in real estate outside of the United States from three percent to five percent in N.J.A.C. 17:16-71.4(a)3; (2) an increase in the cap on investments in a single real estate property type from three percent to seven percent in N.J.A.C. 17:16-71.4(a)4; and (3) an increase in the cap on investments in real estate in any one geographic region in the United States from three percent to five percent in N.J.A.C. 17:16-71.4(a)5. These amendments are intended to provide for greater flexibility in making real estate investments and an opportunity for increased risk-adjusted returns for the State-administered funds.

The proposed amendment to N.J.A.C. 17:16-71.4(a)3 also clarifies that the currently proposed five percent limitation on investments in real estate outside of the United States is applied in the aggregate to investments made other than through common and preferred stock, exchange-traded funds and convertible issues.

N.J.A.C. 17:16-71.4(a)7 provides that no 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. The proposed amendment clarifies that this limitation applies to direct investments in publicly traded corporations that primarily invest in real assets pursuant to N.J.A.C. 17:16-71.2(a)3 and does not apply to investments in corporations made through other investment vehicles. The proposed amendment to N.J.A.C. 17:16-71.4(a)8 clarifies that the five percent limitation of the total amount of stock purchased or acquired of any one corporation that entitles the holder to vote, applies to direct investments in publicly traded corporations that primarily invest in real assets

pursuant to N.J.A.C. 17:16-71.2(a)3 and does not apply to investments in corporations made through other investment vehicles.

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. While the proposed amendments will permit pension fund assets to be invested in farmland, it is unlikely that such investments will significantly impact the agriculture industry within the State of New Jersey.

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 expand the scope of permissible real asset investments and permit a higher percentage of pension fund assets to be invested in real estate.

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 expand the scope of permissible real asset investments and permit a higher percentage of pension fund assets to be invested in real estate.

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

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:

...
"Real assets" mean investments in real estate, infrastructure, oil and gas, timber properties, **farmland, precious metals**, 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.
...

17:16-71.4 Limitations

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

1. The aggregate market value of the investment in real estate under this subchapter shall not exceed [seven] **nine** percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E;

2. (No change.)

3. No more than [three] **five** percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E may be invested [in direct investments, co-investments and joint ventures investing] in real estate located outside the United States. This limitation shall not apply to investments in common and preferred stock, exchange-traded funds and convertible issues;

4. No more than [three] **seven** percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E may be invested in a single real estate property type, such types being defined as office, retail, apartment/multi-family, hotel, industrial and specialty use. This limitation shall not apply to investments in common and preferred stock, exchange-traded funds and convertible issues;

5. No more than [three] **five** percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E may be invested in direct investments, co-investments and joint ventures investing in real estate in any one region of the United States, such regions being defined as: East, South, Midwest, and West. This limitation shall not apply to investments in common and preferred stock, exchange-traded funds and convertible issues;

6. (No change.)

7. No 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 **eligible for investment pursuant to N.J.A.C. 17:16-71.2(a)3**. This seven percent limitation shall not apply to Common Pension Fund E;

8. The total amount of stock purchased or acquired of any one corporation **eligible for investment pursuant to N.J.A.C. 17:16-71.2(a)3** 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

9. (No change.)

(b) (No change.)

(a)

STATE INVESTMENT COUNCIL

**Private Equity
Limitations**

Proposed Amendment: N.J.A.C. 17:16-90.4

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 2010-310.

Submit comments by February 4, 2011 to:

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Division of Investment
PO Box 290
Trenton, New Jersey 08625-0290

The agency proposal follows:

Summary

N.J.A.C. 17:16-90 permits eligible funds to invest in private equity investments. N.J.A.C. 17:16-90.4(a)1 provides that the aggregate market value of private equity investments, for any eligible fund, shall not exceed seven percent of the market value of the assets of any Pension and Annuity Fund investing in Common Pension Fund E. The proposed