

modify investment in international government and agency obligations 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]):

17:16-20.1 Definitions

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

...

["Emerging market country" shall mean a country that is not included in the Morgan Stanley Capital International (MSCI) Equity Index Series for developed markets or another similar index selected by the Director and approved by the Council.]

17:16-20.2 Permissible investments

(a)-(b) (No change.)

(c) Notwithstanding (a) above, the Director may only invest and reinvest the moneys of Common Pension Fund B in international government and agency obligations that [are:

1. Denominated in United States dollars; and
2. Have] **have** a credit rating of Baa3 or higher by Moody's Investor Service, Inc., BBB- or higher by Standard & Poor's Corporation, and BBB- or higher by Fitch Ratings, except that two of the three ratings is sufficient and one of the three ratings is sufficient if only one rating is available.

(d) (No change.)

17:16-20.3 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;]
- [6.] **1.** Common Pension Fund B; **and**
- [7. Common Pension Fund D; and]
- [8.] **2.** (No change in text.)

17:16-20.4 Limitations

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

1. Not more than [one] **five** percent of the market value of the assets of any eligible fund[, either directly or through Common Pension Funds B or D.] shall be invested in obligations, whether direct or guaranteed, of any one issuer. The [one] **five** percent limitation shall not apply to Common Pension Fund[s] B [and D].

2. (No change.)

3. [The market value of international government and agency obligations held by an eligible fund (other than Common Pension Fund D), either directly or through Common Pension Fund D, when combined with common and preferred stock and issues convertible into common stock permitted under N.J.A.C. 17:16-44 and 46 and international corporate obligation permitted under N.J.A.C. 17:16-16, cannot exceed 30 percent of the market value of the assets of such fund, subject to such further provisos as are contained in N.J.A.C. 17:16-67.] **Not more than five percent of the combined assets of all of the Pension and Annuity Funds shall be invested in international government and agency obligations.**

[4. The total market value of stock, or securities convertible into stock, of companies in emerging market countries permitted under N.J.A.C. 17:16-46, the shares or interests in global, regional or country funds in emerging market countries permitted under N.J.A.C. 17:16-46, and international government and agency obligations in emerging market countries permitted under this subchapter, held by Common Pension Fund D shall not exceed 1.5 times the percentage derived by dividing the total market capitalization of companies included in the MSCI Emerging Market Index by the total market capitalization of the companies included in the MSCI All-Country World Ex-United States Index of the total market value of the assets held by Common Pension Fund D. In calculating the above percentage, the Director may substitute such other

similar indices as may be selected by the Director and approved by the Council.]

(b) (No change.)

(a)

STATE INVESTMENT COUNCIL

Bank Loans

Definitions; Permissible Investments; Eligible Funds; Limitations

Proposed Amendments: N.J.A.C. 17:16-23.1 through 23.4

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 2012-136.

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. 17:16-23 permits the Director to invest the monies of any eligible fund in bank loans. The heading of the subchapter is proposed to be amended from "Bank Loans" to "Global Diversified Credit Investments" to more accurately describe the contents of the subchapter after incorporation of the proposed amendments. Accordingly, the proposed amendments to N.J.A.C. 17:16-23.2(a)2, 23.2(d), and 23.4(a) include revision of the term bank loan in these provisions to the broader proposed category of global diversified credit investments.

The proposed amendments include the addition of definitions to N.J.A.C. 17:16-23.1 for credit structured products, global diversified credit investments, mezzanine debt, mortgage-backed securities, and whole loans which are proposed to be added as permissible investments in N.J.A.C. 17:16-23.2.

N.J.A.C. 17:16-23.2(a)1i requires that all bank loans must be payable as to both principal and interest in United States dollars. This requirement is proposed to be deleted to allow for investment in international bank loans denominated in foreign currency to provide for expanded investment opportunities and the opportunity for increased risk-adjusted returns.

Proposed N.J.A.C. 17:16-23.2(a)2i will provide that the separate accounts, funds-of-funds, commingled funds, co-investments, and joint ventures, that primarily invest in global diversified credit investments, must primarily consist of investment grade securities at the time of purchase or commitment. N.J.A.C. 17:16-23.2(b), as proposed for amendment, will provide for investment in high yield global diversified credit investments. The requirement that investment in separate accounts, funds-of-funds, commingled funds, co-investments, and joint ventures are subject to the further provisos contained in N.J.A.C. 17:16-63 is recodified from N.J.A.C. 17:16-23.2(a)2 to N.J.A.C. 17:16-23.2(a)2ii.

N.J.A.C. 17:16-23.2(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. 17:16-23.2(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.

Proposed N.J.A.C. 17:16-23.2(c) will provide that the Director may exercise the rights or conversion privileges of any security acquired under the subchapter and retain any distribution received as a result of a corporate action, even if the distribution does not meet the requirements of the subchapter.

Proposed N.J.A.C. 17:16-23.2(e) will provide that nothing in the 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.

The proposed amendment to N.J.A.C. 17:16-23.3 will delete Common Pension Fund E as an eligible fund so that all global diversified credit investments are made through Common Pension Fund B.

N.J.A.C. 17:16-23.4(a)1 provides that not more than 10 percent of the market value of the assets of any eligible fund shall be invested in bank loans. The proposed amendment will provide that not more than seven percent of the market value of the combined assets of all of the Pension and Annuity Funds shall be invested in global diversified credit investments to provide the opportunity for increased risk adjusted returns and state the limitation in a manner which is consistent with the asset allocation plan.

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 expand permissible global diversified credit investments 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 expand permissible global diversified credit investments 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]):

SUBCHAPTER 23. [BANK LOANS] GLOBAL DIVERSIFIED CREDIT INVESTMENTS

17:16-23.1 Definitions

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

...
“Credit structured products” means securities whose cash flow characteristics depend upon one or more indices or that have embedded forwards or options or securities where the investment return and the issuer’s payment obligations are contingent on, or highly sensitive to, changes in the value of underlying assets, indices, interest rates, or cash flows.
 ...

...
“Global diversified credit investments” means investments in bank loans, mezzanine debt, credit structured products, commercial and residential mortgage-backed securities, commercial and residential whole loans, and other similar strategies.
 ...

...
“Mezzanine debt” means subordinated debt which may include embedded equity instruments.

...
“Mortgage-backed securities” mean asset-backed securities that represent a right to receive a portion of the cash flows from mortgage loans. Residential mortgage-backed securities are typically secured by single-family or two- to four-family real estate. Commercial mortgage-backed securities are typically secured by commercial and multi-family properties such as apartment buildings, hotels, schools, retail or office properties, industrial properties, and other commercial sites.
 ...

...
“Whole loans” mean mortgage loans obtained through the secondary mortgage market with administration of the loan(s) handled through a third party. Residential whole loans are typically secured by single-family or two- to four-family real estate. Commercial whole loans are typically secured by commercial and multi-family properties such as apartment buildings, hotels, schools, retail or office properties, industrial properties, and other commercial sites.
 ...

17:16-23.2 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys of any eligible fund in:

1. Direct bank loans provided that:

[i. All such loans must be payable as to both principal and interest in United States dollars;]

Recodify existing ii. and iii. as **i. and ii.** (No change in text.)

2. Separate accounts, funds-of-funds, commingled funds, co-investments, and joint ventures that primarily invest in [bank loans] **global diversified credit investments provided that:**

i. At the time of purchase or commitment by an eligible fund, the securities included or intended to be included in the investment vehicle shall consist primarily of those with a credit rating of Baa3 or higher by Moody’s Investors Service, Inc., BBB- or higher by Standard & Poor’s Corporation, and BBB- or higher by Fitch Ratings, except that two of the three ratings is sufficient and one of the three ratings is sufficient if only one rating is available. If a rating for the security has not been obtained from the above services, the issue may be purchased if the issuer rating meets the minimum rating criteria; and

ii. [subject to such] The further provisos [as are] contained in N.J.A.C. 17:16-63 have been met.

(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, 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]):