

## SUBCHAPTER 69. COMMON PENSION FUND E

N.J.A.C. 17:16-69

### 17:16-69.1 General provisions

(a) Pursuant to P.L. 1970, c. 270, there is hereby created in the Division a common trust fund, to be known as Common Pension Fund E, for the purpose of investing in alternative investments.

(b) The following funds may participate in Common Pension Fund E:

1. Police and Firemen's Retirement System;
2. Public Employees' Retirement System;
3. State Police Retirement System;
4. Teachers' Pension and Annuity Fund; and
5. Judicial Retirement System of New Jersey.

### 17:16-69.2 Permissible investments

The Director may invest the assets of Common Pension Fund E in alternative investments, including any investment permitted under this chapter, the State of New Jersey Cash Management Fund, United States Treasury Obligations and commercial paper.

### 17:16-69.3 Units of participation

(a) Common Pension Fund E shall be composed of units of participation of unlimited quantity. Each unit of participation shall represent an equal beneficial interest in the fund and no unit shall have priority or preference over any other. Each unit of participation shall be valued at the net asset value per unit as provided in N.J.A.C. 17:16-69.5.

(b) All units of participation in Common Pension Fund E, representing net capital contributions to the fund together with any income thereon, shall be evidenced by a certificate prepared by and issued by the Director. Each such certificate may represent one or more units of participation, and shall contain the following information:

1. The number of units purchased;
2. The purchaser;
3. The aggregate principal valuation price for the number of units purchased;
4. The date of purchase;
5. The serial number of the certificate; and
6. The principal valuation price per unit purchased.

(c) All units of participation shall be purchased by cash payments or in kind. All units shall be purchased by the participating fund for the principal valuation price determined by this subchapter. At the outset of said common fund, all initial purchases shall be made for a principal valuation price of \$ 1,000 per unit.

#### 17:16-69.4 Valuation of investments

(a) Upon each valuation date, as provided in (b) below, there shall be a valuation for every investment in the common fund in the method provided for in this section.

(b) The valuation shall be determined at the opening of business of the first business day of each month at the discretion of the Director but in any event such valuation shall be determined no less frequently than once per quarter. The valuation shall be based on market prices and accruals as of the close of the previous business day, in every case converted into United States dollars.

(c) The Director shall use the following method of valuation of investments:

1. The valuation established by an outside entity, including the general partner or manager of an investment, may be used; provided that such entity provides supporting information to the Director, and the valuation is reviewed and approved by the Director.

2. An investment purchased and awaiting payment against delivery shall be included for valuation purposes as a security and the cost thereof recorded as an account payable.

3. An investment sold but not delivered pending receipt of proceeds shall be valued at the net sales price.

4. For the purposes of valuation of an investment, with the exception of investments sold but not delivered, it shall not be necessary to deduct from the value ascertained by this subsection, brokers' commission or other expenses which would be incurred on a sale thereof.

5. For the purposes of valuing securities, all values determined under this section shall be converted into United States dollars at rates shown in the Wall Street Journal on the valuation date, or those established by a recognized pricing service.

(d) Dividends, distributions and interest earned shall be retained within the common fund, but may be distributed in whole or in part to the participating funds, at the direction of the Council.

17:16-69.5 Valuation of units

(a) The following method shall be used in determining the principal value per unit:

1. To the valuation of investments determined as provided in N.J.A.C. 17:16-69.4, there shall be added:

- i. Uninvested cash principal;
- ii. The value of any rights, warrants, distributions or other options which may have been declared but not received as of the valuation date, valued in accordance with the method of valuation provided in N.J.A.C. 17:16-69.4;
- iii. Such portion as shall constitute principal of any extraordinary or liquidating dividend or distributions which may have been declared but which is unpaid as of the valuation date, valued in accordance with the method of valuation provided in N.J.A.C. 17:16-69.4; and
- iv. Temporary investments which shall be valued at cost. The yield on these temporary investments shall not be accrued, but shall be included in income monthly as paid.

2. There shall be deducted from the sum ascertained under (a)1 above all expenses chargeable to principal due or accrued. The net principal value thus determined shall be divided by the number of existing units in order to ascertain the principal value of each unit.

3. All valuations established for items (a)1i through iv above shall be converted into United States dollars at rates shown in the Wall Street Journal on the valuation date, or those established by a recognized pricing service.

17:16-69.6 Admission and withdrawal

(a) No admission to or withdrawal from the common fund shall be permitted except on a valuation date or within 15 days thereafter; however, in the event that an admission or withdrawal occurs within the 15-day period aforementioned, it shall be based upon the principal value as of the last valuation date preceding said admission or withdrawal.

(b) All admissions or withdrawals shall be made in cash or in kind.

#### 17:16-69.7 Amendments

This subchapter may be amended from time to time by the Council. Any amendment adopted by the Council shall be binding upon all participating funds, trusts and beneficiaries thereof.

#### 17:16-69.8 Distribution of realized appreciation

(a) Subsequent to the receipt of audited financial statements for the prior fiscal year, the Council may consider the realized appreciation in the common fund per unit. The Council may, in its sole discretion, choose any or all of the following options:

1. Declare as income to the participating funds such percentage of said realized appreciation of principal as it may deem prudent. When such declaration is made, the percentage of such appreciation of principal declared to be income shall be deducted from the total principal in the common fund and added to income in the common fund prior to the next regular monthly valuation. Following such declaration, the amount declared as income shall be treated and distributed as income to the participating funds monthly or quarterly in cash and/or units;

2. Declare as capital gains to the participating funds such percentage of said realized appreciation of principal as it may deem prudent. When such declaration is made, the percentage of such appreciation of principal declared shall be deducted from the total principal in the common fund and distributed monthly or quarterly in cash and/or units; and/or

3. Retain any or all realized appreciation for future investments within the common fund.

#### 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. The Director shall provide the Investment Policy Committee of the Council (Investment Committee) with the requested due diligence information for all investments recommended by the Division and a formal written report for each such investment. Due diligence information shall include but not be limited to, in all cases, information demonstrating that the investment satisfies the limitations and conditions contained in N.J.A.C. 17:16-71, 90 and 100, and a written disclosure submitted by the asset manager summarizing any and all compensation arrangements with consultants and intermediaries, whether direct or indirect, in connection with the proposed investment.

2. On investments of \$50 million or more, prior to any binding commitment, the Investment Committee shall provide a report to the Council, which report shall include a written memorandum by the Director. On a timely basis after receipt of such report, the Council may adopt or otherwise act upon the report.

3. On investments of less than \$50 million, the Director shall provide an informational memorandum to the Council of every investment made, which shall be provided on a regular basis subsequent to the date such investment has been made.

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 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) After the Director has made binding commitments aggregating an amount between \$2 billion and \$5 billion, not more than 10 percent of the market value of the assets of Common Pension Fund E, plus outstanding commitments, may be committed to any one partnership or investment, without the prior written approval of the Council. After the Director has made binding commitments aggregating an amount of \$5 billion or more, not more than five percent of the market value of the assets of Common Pension Fund E, plus outstanding commitments, may be committed to any one partnership or investment, without the prior written approval of the Council.

(c) The investments in Common Pension Fund E cannot comprise more than 20 percent of any one investment manager's total assets.

(d) Not more than 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 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 38 percent level, except that the period of grace may be extended for additional four-month periods with the approval of the Council.

(e) Unless otherwise specifically provided therein, in the event that any subchapter contains a limitation on the percentage of assets of any Pension and Annuity Fund which may be invested in an investment or class of investments, that limitation shall be construed to apply to the percentage of combined assets of all of the Pension and Annuity Funds participating in Common Pension Fund E and shall not restrict the total investment by Common Pension Fund E in such investment or class of investments to the percentage limitations applicable to any individual Pension and Annuity Fund.

(f) Unless otherwise specifically provided therein, in the event that any subchapter contains a limitation on the percentage of an investment or class of investment in which the Director may invest, that limitation shall be construed to exclude investments purchased on behalf of Common Pension Fund E.

#### 17:16-69.10 Liquidation

(a) The Director, subject to the approval of the Council and the Treasurer, may, upon two months' notice, liquidate Common Pension Fund E.

(b) In the event of such liquidation, the owners of the units shall share proportionately, according to units owned, in each investment held by the common fund.

(c) When such proportionate distribution is impracticable in the judgment of the Director, he or she may instead distribute on liquidation, cash or temporary investments held by the common fund.

(d) Distribution upon liquidation shall occur within five days after a valuation date and shall be based upon the principal value per unit determined upon such valuation date.

(e) No liquidation will be effectuated without the approval by the Council of a plan of distribution of the assets of the common fund.

17:16-69.11 (Reserved)

17:16-69.12 (Reserved)

17:16-69.13 (Reserved)