

**LFN 2017-24R**

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# Local Finance Notice

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## Investment in Certain Municipal Debt Obligations; Local Government Cash Management Plans

[P.L. 2017, c. 310](#), effective January 16, 2018, made several key changes with respect to permissible investments for local governments and school districts. As a result of the new law, this Notice significantly revises Local Finance Notice 2017-24, which in turn repealed prior Local Finance Notice 2015-18.

### Short-Term Notes Issued by Local Governments and School Districts

[N.J.S.A. 40A:5-15.1\(a\)\(5\)](#) of the Local Fiscal Affairs Law has been amended to expressly permit local governments to invest in short-term debt obligations (hereinafter referred to as "municipal notes" or "notes") issued by New Jersey municipalities, counties, local authorities (including fire districts), and school districts; so long as the maturity date is no more than 397 days from the date of purchase. Prior authorization from the Division of Local Government Services is no longer required. [N.J.S.A. 18A:20-37](#) has been amended to give school districts similar investment authority.

The new law also permits local governments and school districts to invest in repurchase agreements collateralized by the above-referenced notes, so long as the maturity date of the note does not exceed 397 days from date of purchase. A repurchase agreement is a type of short-term loan whereby the seller of a security agrees to buy the security back at a specified price and time; the seller would pay an interest rate (called a "repo rate") to the local government or school district when buying back the security.

Although local governments and school districts have been permitted by law to invest in repurchase agreements, the underlying securities were restricted to certain obligations issued, authorized, or guaranteed by the federal government. A master repurchase agreement providing for the

custody and security of the collateral must be executed. N.J.S.A. 40A:5-15.1(a)(8) and 18A:20-37(a)(8) restrict the maturity of repurchase agreements to a 30 day maximum, and further require that the collateral security be purchased from a GUDPA depository with custody of the security transferred to a third party.

The Division of Local Government Services must approve a local government's proposed investment in any other type of short-term note not expressly authorized for investment under the Local Fiscal Affairs Law; similar approval for school districts under N.J.S.A. 18A:20-37 must be granted by the Division of Investment in the Department of Treasury.

Debt obligations from the following local government entities are statutorily authorized to be incorporated into a local government's cash management plan without being subject to a 397-day maturity limit:

- Parking Authorities (N.J.S.A. 40:11A-16)
- Sewerage and Utilities Authorities (N.J.S.A. 40:14A-30 and 40:14B-62)
- County Improvement Authorities (N.J.S.A. 40:37A-84)
- Pollution Control Financing Authority (N.J.S.A. 40:37C-15)
- Water Commissions created under N.J.S.A. 40:62-108 et seq. (N.J.S.A. 40:62-133.12)
- Municipal Port Authorities (N.J.S.A. 40:68A-22)
- Bonds issued pursuant to the Local Redevelopment and Housing Law by housing authorities, redevelopment agencies, municipalities, and counties (N.J.S.A. 40A:12A-35)
- Bonds issued by a county or municipality pursuant to the County and Municipal Water Supply Act (N.J.S.A. 40A:31-22)
- Municipal Shared Service Energy Authority (N.J.S.A. 40A:66-22)

### **Government Money Market Mutual Funds and Local Government Investment Pools**

Subject to such other investment requirements as may be imposed by State or Federal law, P.L. 2017, c. 310 now permits government money market mutual funds and local government investment pools to invest in municipal notes issued by New Jersey municipalities, counties, local authorities, and school districts so long as the maturity date does not exceed 397 days from date of purchase. Repurchase agreements collateralized by such notes are also permitted investments, subject to similar restrictions as those applicable to direct investment by local governments and school districts.

The new law also makes certain changes applicable to government money market mutual funds and local government investment pools. New Jersey local governments and school districts are

now barred from investing in government money market mutual funds that impose liquidity fees (fees for withdrawing funds) or redemption gates (a measure that limits redemptions in a fund for a specific period of time). In addition, local government investment pools must now be managed in accordance with generally accepted accounting and financial principles established by the [Governmental Accounting Standards Board \(GASB\)](#) for such investment pools, rather than in accordance with 17 C.F.R. s.270.2a-7 (the standard for government money market mutual funds); GASB Statement 79 reflects the most recent GASB standards applicable to local government investment pools. The Local Finance Board may regulate local government investment pools with respect to additional disclosure and reporting requirements as well as other provisions deemed necessary to provide for the safety, liquidity, and yield of the investments.

### **Important Notes on Cash Management Plans**

Investment in notes issued by New Jersey municipalities, counties, fire districts and boards of education, as well as the other permitted municipal debt obligations referenced above, must be authorized by a cash management plan adopted or amended by the governing body. Local Finance Notice [CFO-1997-14](#) further discusses cash management plans and local government investment; however, since the issuance of that Notice, [N.J.S.A. 40A:5-14](#) was amended by [P.L. 2018, c. 40](#) to authorize the deposit of funds in deposit accounts (including certificates of deposit) subject to the following conditions:

- The funds are initially invested through a public depository participating in the Governmental Unit Deposit Protection Act (“GUDPA”);
- The designated public depository arranges for the deposit of funds in deposit accounts in one or more federally insured financial institutions, for the account of the local unit;
- 100 percent of the principal and accrued interest of each deposit is insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Share Insurance Fund;
- The designated public depository acts as custodian for the local unit with respect to those deposits; and
- On the same date that the local unit’s funds are deposited in one or more federally insured financial institutions, the designated public depository receives an amount of deposits from other customers of other financial institutions, wherever located, equal to the amount of funds initially invested by the local unit through the designated public depository.

When a cash management plan authorizes investment in bonds (including notes) maturing in more than one year, the maturity of those bonds must approximate the prospective use of the funds invested. The Chief Financial Officer must also provide the governing body a monthly report summarizing:

- all investments made or redeemed over the past month;
- each organization holding local unit funds;
- the amount of securities purchased or sold, class or type of securities purchased, book value, earned income, fees incurred and market value of all investments to date; and
- such other information as may be required by the governing body.

When an individual serves as Chief Finance Officer for multiple local units, and more than one of those local units authorizes investment in bonds or notes issued by local government entities, the potential exists for a conflict of interest to arise.

*Example 1:* The same individual is CFO of Municipalities X and Y. Municipality X issues a note, and Municipality Y's cash management plan permits investment in municipal notes.

*Example 2:* The same individual is CFO of Municipalities X and Y. The cash management plans of both Municipality X and Municipality Y permit investment in municipal notes.

For situations such as these, it is recommended that the Chief Finance Officer seek advice from legal counsel, or request in writing an advisory opinion from the Local Finance Board (or a municipal or county ethics board if one exists) on resolving a potential conflict in a manner compliant with the Local Government Ethics Law (N.J.S.A. 40A:9-22.1 et seq.). Please note that the Local Finance Board's substantial ethics caseload requires local government officers and employees to allow for considerable lead time when requesting an advisory ethics opinion.

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Approved: Timothy J. Cunningham, Director

Document	Internet Address
P.L. 2017, c. 310	<a href="http://www.njleg.state.nj.us/2016/Bills/PL17/310_.PDF">http://www.njleg.state.nj.us/2016/Bills/PL17/310_.PDF</a>
Governmental Accounting Standards Board (GASB)	<a href="http://www.gasb.org/home">http://www.gasb.org/home</a>
LFN CFO-1997-14	<a href="http://www.nj.gov/dca/divisions/dlgs/lfns/pre_98/cfo-1997-14.pdf">http://www.nj.gov/dca/divisions/dlgs/lfns/pre_98/cfo-1997-14.pdf</a>
P.L. 2018, c.40	<a href="http://www.njleg.state.nj.us/2018/Bills/A3500/3122_R3.PDF">http://www.njleg.state.nj.us/2018/Bills/A3500/3122_R3.PDF</a>
NJ Statutes Database: Office of Legislative Services	<a href="http://lis.njleg.state.nj.us/nxt/gateway.dll?f=templates&amp;fn=default.htm&amp;vid=Publish:10.1048/Enu">http://lis.njleg.state.nj.us/nxt/gateway.dll?f=templates&amp;fn=default.htm&amp;vid=Publish:10.1048/Enu</a>