

# OFFICE OF THE STATE TREASURER

on behalf of the

## CASH MANAGEMENT POLICY BOARD

Statutory Authority: 29 Delaware Code, Section 2716 (29 Del.C. §2716)

1 DE Admin. Code 1201

### PROPOSED

### PUBLIC NOTICE

#### 1201 Statement of Objectives and Guidelines for the Investment of State of Delaware Funds

#### NATURE OF PROCEEDINGS; SYNOPSIS OF THE SUBJECT AND SUBSTANCE OF THE PROPOSED REGULATION

In accordance with the procedures set forth in 29 Del. C. Ch. 11, subch. III, and 29 Del. C., ch. 101, the Cash Management Policy Board (the "Board") is proposing to amend previously adopted regulations governing the deposit and investment of State funds, as permitted by 29 Del. C. § 2716.

#### STATUTORY BASIS AND LEGAL AUTHORITY TO ACT

29 Del. C. § 2716.

#### OTHER REGULATIONS AFFECTED

None.

#### HOW TO COMMENT ON THE PROPOSED REGULATION

Members of the public may receive a copy of the proposed regulations at no charge by U.S. mail by writing, emailing or calling Mr. Jordan Seemans at the Office of the State Treasurer ("OST"), 820 N. French St., Suite 201, Wilmington, Delaware 19801, [Jordan.W.Seemans@delaware.gov](mailto:Jordan.W.Seemans@delaware.gov), (302) 577-4211. Members of the public may present written comments on the proposed regulations by submitting such written comments to Mr. Seemans at the address above. Written comments must be received on or before November 1, 2020.

#### SUMMARY OF PROPOSED REGULATION

The Board is authorized to establish policies (a) for the investment of all money belonging to the State or on deposit from its political subdivisions, except money deposited in any State pension fund or the State deferred compensation program, and (b) to determine the terms, conditions, and other matters relating to those investments including the designation of permissible investments. See 29 Del. C. § 2716(a). The Board is required to approve by majority vote all financial institutions that are selected to provide banking and investment services to the State. See 29 Del. C. § 2716(a)(2).

The Board's existing regulations (the "Guidelines"), among other things, establish requirements related to the deposit of State funds in demand deposit accounts and establish permissible investments and percentage limits for State funds held for investment. See 1 Del. Admin. C. § 1201. The proposed Guideline amendments: (1) provide a definition for the capitalized term "Merchant Bank" and require OST to reflect approved Merchant Banks on the list of accounts and cash management banks that OST is required to maintain on its website; (2) extend the reserve account maturity restriction from 10 years to 10 years and one month to permit managers to invest in securities that would otherwise be disqualified because of a technical timing issue; (3) clarify that, where the Guidelines require two or more "NRSRO" ratings, the lowest such rating shall control; (4) clarify the deadline for managers to remove securities that (a) were purchased in violation of the Guidelines, or (b) cease to qualify as permissible investments as the result of a downgrade; and (5) modify the mutual fund exception to require endowment or other managers utilizing a mutual fund to adhere to those specific provisions of the Guidelines that OST, after consultation with the Board's consultant, determines should apply to and govern the account.

The Guidelines apply to and govern the conduct of the State's approved depository banks, custodians and investment managers and will have no direct impact on individuals or businesses that do not serve in such capacity for the State.

The Board believes that it has authority to promulgate deposit and investment policies without complying with the formal regulatory requirements of Delaware's Administrative Procedures Act, 29 Del. C. Ch.101 (the "APA"). The Board is promulgating amended regulations under the APA out of an abundance of caution, consistent with prior practices.

#### 1201 Statement of Objectives and Guidelines for the Investment of State of Delaware Funds

##### 1.0 Statutory Authorization

- 1.1 **Role of the Cash Management Policy Board.** The Cash Management Policy Board ("Board") was created by 63 Del. Laws, ch. 142, to establish policies (a) for the investment of all money belonging to the State or on

deposit from its political subdivisions, other than money deposited in any State Pension Fund or the State Deferred Compensation Program, (“State Funds”) and (b) to determine the terms, conditions, and other matters relating to those investments including the designation of permissible investments.

- 1.2 **Role of the Office of the State Treasurer.** The investment of State Funds is to be made by the Office of the State Treasurer (“OST”) in accordance with the objectives and guidelines outlined herein (“Guidelines”); provided, however, that the Board, by majority vote, may authorize OST to depart from the Guidelines.

**21 DE Reg. 968 (06/01/18)**

**23 DE Reg. 584 (01/01/20)**

## **2.0 Accounts**

- 2.1 **Designation of Accounts.** For purposes of these Guidelines, State Funds are to be allocated and held in a variety of accounts as outlined below (“Accounts”):

2.1.1 **Collection and Disbursement Accounts.** Cash required to meet the State’s anticipated near-term operating requirements is to be held in “Collection and Disbursement Accounts.” These accounts will be managed and invested in accordance with the general provisions of these Guidelines and the specific provisions of Section 5.0 below by qualified financial institutions (“Cash Management Banks”) selected by the Board through a competitive bid process.

2.1.2 **Liquidity Accounts.** Cash not required for the State’s near-term operating requirements but readily available for anticipated funding needs of the State will be held in “Liquidity Accounts.” State Funds in these accounts will be managed and invested in accordance with the general provisions of these Guidelines and the specific provisions of Section 6.0 below by qualified investment managers (“Liquidity Managers”) selected by the Board through a competitive bid process.

2.1.3 **Reserve Accounts.** Cash that is not anticipated to be needed for the State’s near-term operating requirements or funding needs, but can be made available for unanticipated needs is to be held in “Reserve Accounts”. State Funds in these accounts will be managed and invested in accordance with the general provisions of these Guidelines and the specific provisions of Section 7.0 below by qualified investment managers (“Reserve Managers”) selected by the Board through a competitive bid process.

2.1.4 **Endowment Accounts.** “Endowment Accounts” consist of State Funds set-aside for specified legislative purposes with the intent of growing the corpus of such funds over time. State Funds in these accounts will be managed and invested in accordance with the general provisions of these Guidelines and the specific provisions of Section 8.0 below by qualified investment managers selected by the Board through a competitive bid process (“Endowment Managers”).

2.1.5 **Operating Accounts.** “Operating Accounts” consist of State Funds set aside for specified purposes to be made available as and when required to meet such purposes. State Funds in these accounts will be managed and invested in accordance with the general provisions of these Guidelines and the specific provisions of Section 9.0 below by Liquidity Managers or such other financial institutions as determined by the Board.

2.1.6 **Settlement Accounts.** “Settlement Accounts” consist of State Funds that have been deposited into a demand deposit account at a Merchant Bank following the processing of a debit or credit card transaction. Cleared amounts deposited to the Settlement Accounts, net of merchant processor and related fees, shall be transmitted via ACH to a Collection and Disbursement Account within two business days after deposit. Settlement Accounts shall be managed and invested in accordance with the general provisions of these Guidelines and the specific provisions of Section 10.0 below. The term “Merchant Bank” means a qualified financial institution approved by the Board to maintain a Settlement Account.

- 2.2 **List of Accounts.** OST shall maintain on its website a current listing of all Accounts and the Cash Management Banks, Merchant Banks, Liquidity Managers, Reserve Managers, and Endowment Managers approved by the Board to manage State Funds in such Accounts.

**23 DE Reg. 584 (01/01/20)**

## **3.0 Allocation of State Funds**

- 3.1 **General Allocation.** The Board is responsible for setting the policy as to the allocation of State Funds among the Accounts (29 Del.C. §2716(a)(2)).

- 3.2 Allocation among Accounts

3.2.1 **Cash Accounts.** Unless otherwise determined by the Board, OST shall use its discretion to allocate State Funds among the Collection and Disbursement Accounts, Liquidity Accounts, and Reserve Accounts (collectively, “Cash Accounts”) in accordance with the general purposes of such Accounts as described in Section 2.0 of these Guidelines and the investment objectives more particularly described in Sections 5.0

– 7.0 below. In general, OST attempts to minimize the number of transfers of State Funds in and out of both Liquidity Accounts and Reserve Accounts. In the former case, OST maintains balances of funds with the Cash Management Banks sufficient to meet the State’s daily requirements over the near-term, allowing Liquidity Account balances to fluctuate based on the reasonably predictable cyclical pattern of the State’s annual collections and disbursements. In the latter instance, OST allocates State Funds to and from Reserve Accounts only as unforeseen need for, or receipt of, funds occurs that deviates meaningfully from the State’s historical pattern of collections and disbursements. Notwithstanding the foregoing, the Board may express a fixed allocation of State Funds to be held in each of the Cash Accounts to reflect then-prevailing market conditions or other considerations related to the probable income from and/or level of risk related to the investment of State Funds. (29 Del.C. §2716(a)). In such cases, OST may be required to make more frequent allocations among the Cash Accounts.

3.2.2 **Endowment Accounts and Operating Accounts.** Unless otherwise determined by the Board, OST shall allocate State Funds to the Endowment Accounts and Operating Accounts in accordance with the general purposes of such Accounts described in Section 2.0 of these Guidelines and the investment objectives more particularly described in Sections 8.0 and 9.0 below.

### 3.3 Allocation among Banks and Managers

3.3.1 **Cash Management Banks.** Unless otherwise determined by the Board, OST shall further allocate State Funds in the Collection and Disbursement Accounts among the Cash Management Banks in such proportions as OST determines in its discretion are necessary or desirable to meet the State’s anticipated near-term anticipated operating liquidity requirements.

3.3.2 **Liquidity Managers.** Unless otherwise determined by the Board and subject to the provisions of subsection 3.3.5 below, OST shall further allocate State Funds in the Liquidity Accounts pro rata among the Liquidity Managers based on the aggregate amount of State Funds in such Accounts.

3.3.3 **Reserve Managers.** Unless otherwise determined by the Board, OST shall further allocate State Funds in the Reserve Accounts pro rata among the Reserve Managers based on the aggregate amount of State Funds in such Accounts.

3.3.4 **Endowment Managers.** Unless otherwise determined by the Board, OST shall further allocate State Funds in the Endowment Accounts pro rata among the Endowment Managers based on the aggregate amount of State Funds in such Accounts.

3.3.5 **Special Allocation of State Funds in Operating Accounts.** Unless otherwise determined by the Board, OST shall further allocate State Funds in Operating Accounts pro rata among the Liquidity Managers or such other financial institutions as directed by the Board pursuant to subsection 2.1.5.

## 4.0 General Investment Standards and Objectives

4.1 **Standard of Care.** In general, the banks and managers engaged as fiduciaries to manage State Funds shall exercise the judgment and care over the investment of such funds with the care, skill, prudence, and diligence under the circumstances then prevailing that prudent professional investment managers, acting in like capacity and familiar with such matters, would use in the investment of State Funds.

4.2 **General Objectives.** Subject to the more specific policies set out in Sections 5.0, 6.0, 7.0, 8.0, and 9.0 of these Guidelines, State Funds shall be invested in a manner that ensures the safety of, provides liquidity for, and maximizes return on such funds. For purposes of these Guidelines, the foregoing priorities have the following meanings:

4.2.1 **Safety.** Safety is defined as the ability, under ordinary market conditions, to ensure against the loss of the original investment amount of State Funds. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the portfolio.

4.2.2 **Liquidity.** Liquidity is defined as the capacity to realize, convert to cash, an asset in a timely fashion, at or near its value. An asset is said to be liquid when the act of selling has little impact on the asset’s price. State Funds shall remain sufficiently liquid to meet all anticipated operating requirements and funding needs, and should be managed and invested for availability to meet unanticipated needs with minimal losses associated with illiquidity.

4.2.3 **Return.** Return is defined as the gain or loss on an investment over a specified period. Gains on investments are considered to be any income received from the security plus the earnings an asset generates in excess of its initial cost. The State Funds portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints of safety and liquidity set out herein.

## 5.0 Collection and Disbursement Accounts

- 5.1 **Investment Objectives.** The funds in the Collection and Disbursement Accounts must be immediately available to support the State's daily governmental programs and activities. The primary investment objectives are therefore safety and liquidity of such funds; return is a secondary priority. OST may, consistent with these investment objectives, minimize credit risk associated with demand deposit account balances at Cash Management Banks through same-day money market mutual fund sweep products in accordance with subsection 5.2.2 and/or banking services arrangements offering "daylight overdraft" or similar privileges. End-of-day ledger balances shall be secured as provided in subsection 5.2.
- 5.2 **Permissible Investments.** Cash Management Banks shall maintain State Funds in either collateralized demand deposit accounts or open-end money market mutual funds, in each case, subject to the provisions of subsections 5.2.1 and 5.2.2, respectively, in order to mitigate the risk of State Funds being exposed to the credit risk of such financial institution.
- 5.2.1 **Demand Deposit Accounts.** State Funds held by Cash Management Banks in demand deposit accounts shall be collateralized with one or more of following approved methods: (a) pledges of government securities that meet the definitions set out in subsections 6.3.1.1 and 6.3.2.1 to a custody account held for the benefit of the State at a Federal Reserve Bank, or held by an independent trust company, bank or similar financial institution rated in the highest rating category by at least one Nationally Recognized Statistical Rating Organizations approved by OST ("NRSRO"); (b) irrevocable standby letters of credit ("LOCs") issued by a Federal Home Loan Bank or financial institution rated in the highest rating category by at least one NRSRO; and (c) surety bonds issued by insurance companies rated in the highest rating category by at least one NRSRO (collectively, "Eligible Collateral"). The terms of any pledge or custody agreement, LOC, or surety bond shall be reviewed and approved by OST. The aggregate value of Eligible Collateral shall equal or exceed the total average monthly closing ledger balances of State Funds held or expected to be held by Cash Management Banks during the prior month, plus such additional amount of Eligible Collateral as OST may require Cash Management Banks to provide to protect against volatility and ensure that all uninsured ledger balances are fully secured at the close of each business day. Eligible Collateral in the form of government securities shall be marked to market at the close of each business day using an independent pricing service. A Cash Management Bank may substitute or reduce Eligible Collateral provided that Eligible Collateral levels meet or exceed the foregoing requirements. OST shall be provided with same-day notice of any such substitutions or reductions of Eligible Collateral. In addition, a Cash Management Bank shall provide OST with a detailed report of Eligible Collateral held in a custody account as requested by OST.
- 5.2.2 **Money Market Mutual Funds.** State Funds held by Cash Management Banks in money market mutual funds shall be invested solely in government securities that meet the definitions set out in subsections 6.3.1 and 6.3.2 and which are rated in the highest rating category by at least one NRSRO.
- 5.3 **Call Reports.** Each Cash Management Bank shall provide OST with a consolidated report of condition and income, generally referred to as a "call report," with respect to such financial institution on a quarterly basis unless such report is available publicly from the Federal Financial Institutions Examination Council's web site or a successor agency's website.

21 DE Reg. 968 (06/01/18)

23 DE Reg. 584 (01/01/20)

## 6.0 Liquidity Accounts

- 6.1 **Investment Objectives.** The primary investment objectives of the Liquidity Accounts are to maintain the safety of State Funds while ensuring the liquidity of such funds to be drawn down to the Cash Management Banks for the support of the anticipated funding needs of the State. As variations in the State's otherwise predictable pattern of annual collections and disbursements do occur and can be material, Liquidity Managers must be prepared to meet unanticipated liquidity demands of the State in addition to those anticipated by OST. After the achievement of those goals, the State seeks to maximize the return on such investments.
- 6.2 **Maturity Restrictions.** The maximum maturity for any investment of State Funds in the Liquidity Accounts shall be two years from the date of settlement. Notwithstanding the foregoing, securities identified in subsections 6.3.4, 6.3.9, 6.3.10, and 6.3.11 that are subject to periodic reset of coupon or interest rate may have an average life not to exceed three years as measured from the date of settlement.
- 6.3 **Permissible Investments and Percentage of Account Limitations.** State Funds held in Liquidity Accounts can be invested solely in the types of securities set out in this subsection 6.3. Each Liquidity Manager is further subject to limit the aggregate value of State Funds invested in each type of security held in the account under such manager's discretion to the "Percentage Limit" of such security type identified in this subsection 6.3, measured as a percentage of the total Liquidity Account value of State Funds under such manager's discretion.

### **6.3.1 United States Treasury Obligations**

6.3.1.1 Definition: Bills, bonds, and notes issued by the U.S. Treasury.

6.3.1.2 Percentage Limit: No limit.

### **6.3.2 United States Government Agency Obligations**

6.3.2.1 Definition: Any obligation of, or obligation that is insured as to principal and interest by, the U.S. or any agency or corporation thereof (excluding bills, bonds and notes issued by the U.S. Treasury), and any obligation and security of U.S.-sponsored enterprises, limited to the Export-Import Bank of the United States, Farmers Home Administration, Federal Farm Credit Banks, Federal Home Loan Banks, Federal Home Loan Mortgage Corporation, Federal Land Banks, Government National Mortgage Association, and the Federal National Mortgage Association.

6.3.2.2 Percentage Limit: 50% in total; 20% in any one issuer.

### **6.3.3 Certificates of Deposit and Time Deposits**

6.3.3.1 Definition: Certificates of deposit and time deposits denominated in U.S. dollars and issued or endorsed by either (i) a bank or a savings and loan association organized and supervised under federal or any state laws and regulated by the Federal Reserve or a trust company which is a member of the Federal Reserve system or (ii) a bank organized and supervised under the laws of Japan, Canada, United Kingdom, the Netherlands, Germany, France, Switzerland, Australia, New Zealand, Sweden, or Norway. Any such banking institution must have assets of not less than \$100 billion and be rated not lower than A1/P-1/F1 Short Term by at least two NRSROs.

6.3.3.2 Percentage Limit: 50% in total (domestic & non-domestic combined); 25% in all non-domestic banking institutions; 5% in any one issuer.

### **6.3.4 Corporate Debt Instruments**

6.3.4.1 Definition: Commercial paper, variable rate notes, and non-convertible bonds and debentures denominated in U.S. dollars and issued by a U.S. corporation or a non-domestic corporation subject to the laws of Japan, Canada, United Kingdom, the Netherlands, Germany, France, Switzerland, Australia, New Zealand, Sweden, or Norway. Such securities must be rated by at least two NRSROs and (i) in the case of commercial paper, must be rated not lower than "A-2" by S&P, "P-2" by Moody's and "F2" by Fitch and the senior long-term debt of the issuer must be rated not lower than "A-" by S&P, "A3" by Moody's and "A-" by Fitch (excluding asset-backed commercial paper that is rated A1 or better) and (ii) in the case of notes, bonds and debentures, must be rated not lower than "A-" by S&P, "A3" by Moody's and "A-" by Fitch; provided that, any security that meets the foregoing rating standards and is backed fully by an irrevocable, unconditional letter of credit issued by a banking institution shall not be permissible hereunder unless such banking institution meets the definition of subsection 6.3.3.1 (in which case, any such securities will be deemed to be securities of both the corporate issuer and the banking institution for purposes of calculating the Percentage Limits set forth in subsections 6.3.4.2 and 6.3.3.2, respectively).

6.3.4.2 Percentage Limit: 50% in total; 25% in all non-domestic corporations; 25% in any one industry; 5% in any one issuer.

### **6.3.5 Repurchase Agreements**

6.3.5.1 Definition: Securities permissible pursuant to subsections 6.3.1 and 6.3.2 acquired from a primary dealer designated by the NY Federal Reserve Bank, or a domestic bank which meets the definition set out in subsection 6.3.3.1, subject to a written repurchase agreement from such dealer or bank; provided that, (i) in the case of securities held in book-entry form in the Federal Reserve System, all deliveries of such securities must be made through the Federal Reserve book-entry system to an account designated by the State's custodian for such purpose and (ii) in the case of securities held in certificated form, all deliveries of such securities must be made to such address as designated by the State's custodian.

6.3.5.2 Percentage Limit: 50% in total; provided that any securities purchased subject to repurchase agreements shall be subject to the respective Percentage Limit for such security type as set forth in this subsection 6.3 and valued for such purposes at the lesser of fair market value and 102 percent of the maturity value of the securities pursuant to the repurchase agreement and marked-to-the-market daily as requested by the investment manager.

### **6.3.6 Money Market Funds**

6.3.6.1 Definition: Open-end money market mutual funds that are invested solely in government securities (as defined in subsections 6.3.1 and 6.3.2) and which are rated in the highest rating category by at least one NRSRO.

6.3.6.2 Percentage Limit: No limit.

**6.3.7 Canadian Treasury Bills**

6.3.7.1 Definition: Marketable securities issued by the government of Canada; provided that such securities are U.S. dollar denominated.

6.3.7.2 Percentage Limit: 25% in total.

**6.3.8 Canadian Agency Securities**

6.3.8.1 Definition: Any obligation of any Canadian government-sponsored agency that is insured as to principal and interest by the Canadian Government; provided that the obligation is U.S. dollar denominated commercial paper having a maximum maturity of 270 days from the date of settlement.

6.3.8.2 Percentage Limit: 25% in total; 10% in any one agency.

**6.3.9 Mortgage-Backed Securities**

6.3.9.1 Definition: Government National Mortgage Association, Federal National Mortgage Association or Federal Home Loan Mortgage Corporation mortgage-backed securities issued in the form of pass-throughs; provided that, such securities have (i) been issued and guaranteed by the US Government or Government Agency and (ii) an average life not to exceed two years from the date of settlement (unless such securities are subject to periodic reset of coupon or interest rate, in which case the average life may not exceed three years from the date of settlement).

6.3.9.2 Percentage Limit: 10% in total, including securities defined in subsection 6.3.10.1.

**6.3.10 Asset-Backed Securities**

6.3.10.1 Definition: Securities collateralized by pools of auto loan receivables, credit card receivables, and equipment loans; provided that such securities have (i) the highest credit rating from at least two NRSROs and (ii) an average life not to exceed two years from the date of settlement (unless such securities are subject to periodic reset of coupon or interest rate, in which case the average life may not exceed three years from the date of settlement).

6.3.10.2 Percentage Limit: 10% in total, including securities defined in subsection 6.3.9.1.

**6.3.11 Supranational Organizations or International Agencies**

6.3.11.1 Definition: Any obligation issued by a supranational organization or international agency denominated in U.S. dollars under U.S. securities law for sale in the United States as well as globally; provided that such obligation is rated by at least two NRSROs and must not be rated lower than "A-" by S&P, "A3" by Moody's and "A-" by Fitch. Supranational organizations include, but are not limited to, the World Bank, Asian Development Bank, Inter-American Development Bank, International Bank for Reconstruction and Development, International Finance Corporation, and the Agency for International Development.

6.3.11.2 Percentage Limit: 25% in total, 10% in any one agency.

**23 DE Reg. 584 (01/01/20)**

**7.0 Reserve Accounts**

7.1 **Investment Objectives.** The Reserve Accounts have been established to provide funding over an intermediate horizon but must be available to meet unanticipated operating requirements of the State as they arise. The primary investment objectives are to maintain the safety of and maximize the return on such funds. Liquidity of such funds is a secondary consideration, but Reserve Managers are expected to invest State Funds in a manner to mitigate losses in connection with the need to liquidate investments for unforeseen operating requirements.

7.2 **Maturity Restrictions.** The maximum maturity for any investment of State Funds in the Reserve Accounts shall be ten years and one month from the date of settlement.

7.3 **Permissible Investments and Percentage of Account Limitations.** State Funds held in Reserve Accounts can be invested solely in the types of securities set out in this subsection 7.3. Each Reserve Manager is further subject to limit the aggregate value of State Funds invested in each type of security held in the account under such manager's discretion to the "Percentage Limit" of such security type identified in this subsection 7.3, measured as a percentage of the total Reserve Account value of State Funds under such manager's discretion.

**7.3.1 United States Treasury Obligations**

7.3.1.1 Definition: Bills, bonds, and notes issued by the U.S. Treasury.

7.3.1.2 Percentage Limit: No Limit.

**7.3.2 United States Government Agency Obligations**

7.3.2.1 Definition: Any obligation of, or obligation that is insured as to principal and interest by, the U.S. or any agency or corporation thereof (excluding bills, bonds and notes issued by the U.S. Treasury), and any obligation and security of U.S.-sponsored enterprises, limited to the Export-Import Bank of the United States, Farmers Home Administration, Federal Farm Credit Banks, Federal Home Loan Banks, Federal Home Loan Mortgage Corporation, Federal Land Banks, Government National Mortgage Association, and the Federal National Mortgage Association.

7.3.2.2 Percentage Limit: 50% total; 20% in any one issuer.

### 7.3.3 **Certificates of Deposit and Time Deposits**

7.3.3.1 Definition: Certificates of deposit and time deposits denominated in U.S. dollars and issued or endorsed by either (i) a bank or a savings and loan association organized and supervised under federal or any state laws and regulated by the Federal Reserve or a trust company which is a member of the Federal Reserve system or (ii) a bank organized and supervised under the laws of Japan, Canada, United Kingdom, the Netherlands, Germany, France, Switzerland, Australia, New Zealand, Sweden, or Norway. Any such banking institution must have assets of not less than \$100 billion and be rated not lower than A1/P-1/F1 Short Term by at least two NRSROs.

7.3.3.2 Percentage Limit: 50% in total (domestic & non-domestic combined); 25% in all non-domestic banking institutions; 5% in any one issuer.

### 7.3.4 **Corporate Debt Instruments**

7.3.4.1 Definition: Commercial paper, variable rate notes, and non-convertible bonds and debentures denominated in U.S. dollars and issued by a U.S. corporation or a non-domestic corporation subject to the laws of Japan, Canada, United Kingdom, the Netherlands, Germany, France, Switzerland, Australia, New Zealand, Sweden, or Norway; provided that such securities must be rated by at least two NRSROs and (i) in the case of commercial paper, must be rated not lower than "A-2" by S&P, "P-2" by Moody's and "F2" by Fitch and the senior long-term debt of the issuer must be rated not lower than "A-" by S&P, "A3" by Moody's and "A-" by Fitch (excluding asset-backed commercial paper that is rated A1 or better) and (ii) in the case of notes, bonds and debentures, must be rated not lower than "A-" by S&P, "A3" by Moody's and "A-" by Fitch; provided that, any security that meets the foregoing rating standards and is backed fully by an irrevocable, unconditional letter of credit issued by a banking institution shall not be permissible hereunder unless such banking institution meets the definition of subsection 7.3.3.1 (in which case, any such securities will be deemed to be securities of both the corporate issuer and the banking institution for purposes of calculating the Percentage Limits set forth in subsections 7.3.4.2 and 7.3.3.2, respectively).

7.3.4.2 Percentage Limit: 50% in total; 25% in all non-domestic corporations; 25% in any one industry; 5% in any one issuer.

### 7.3.5 **Repurchase Agreements**

7.3.5.1 Definition: Securities permissible pursuant to subsections 7.3.1 and 7.3.2 acquired from a primary dealer designated by the NY Federal Reserve Bank, or a domestic bank which meets the definition set out in subsection 7.3.3.1, subject to a written repurchase agreement from such dealer or bank; provided that, (i) in the case of securities held in book-entry form in the Federal Reserve System, all deliveries of such securities must be made through the Federal Reserve book-entry system to an account designated by the State's custodian or such purpose and (ii) in the case of securities held in certificated form, all deliveries of such securities must be made to such address as designated by the State's custodian.

7.3.5.2 Percentage Limit: 50% in total; provided that any securities purchased subject to repurchase agreements shall be subject to the respective Percentage Limit for such security type as set forth in this subsection 7.3 and valued for such purposes at the lesser of fair market value and 102 percent of the maturity value of the securities pursuant to the repurchase agreement and marked-to-the-market daily as requested by the investment manager.

### 7.3.6 **Money Market Funds**

7.3.6.1 Definition: Open-end money market mutual funds that are invested solely in government securities (as defined in subsections 7.3.1 and 7.3.2) and which are rated in the highest rating category by at least one NRSRO.

7.3.6.2 Percentage Limit: 100% in total.

### 7.3.7 **Canadian Treasury Bills**

7.3.7.1 Definition: Marketable securities issued by the government of Canada, provided that such securities are U.S. dollar denominated.

7.3.7.2 Percentage Limit: 25% in total.

### 7.3.8 Canadian Agency Securities

7.3.8.1 Definition: Any obligation of any Canadian government-sponsored agency that is insured as to principal and interest by the Canadian Government; provided that the obligation is U.S. dollar denominated commercial paper having a maximum maturity of 270 days from the date of settlement.

7.3.8.2 Percentage Limit: 25% in total; 10% in any one agency.

### 7.3.9 Mortgage-Backed Securities

7.3.9.1 Definition: Government National Mortgage Association, Federal National Mortgage Association or Federal Home Loan Mortgage Corporation mortgage-backed securities issued in the form of pass-throughs; provided that they have (i) been issued and guaranteed by the US Government or Government Agency and (ii) an average life not to exceed ten years (from the date of settlement of purchase).

7.3.9.2 Percentage Limit: 10% in total, including securities defined in subsection 7.3.10.1.

### 7.3.10 Asset Backed Securities

7.3.10.1 Definition: Securities collateralized by pools of auto loan receivables, credit card receivables, and equipment loans; provided that (i) such securities have the highest credit rating from ~~the highest credit rating from~~ at least two NRSROs and (ii) an average life not to exceed two years from the date of settlement (unless such securities are subject to periodic reset of coupon or interest rate, in which case the average life may not exceed three years from the date of settlement).

7.3.10.2 Percentage Limit: 10% in total, including securities defined in subsection 7.3.9.1.

### 7.3.11 Municipal Obligations

7.3.11.1 Definition: Taxable and tax-exempt securities issued by state and local governments and public authorities in the U.S., excluding securities issued by the State of Delaware, its local governments and public authorities; provided that such securities must be rated by at least two NRSROs and must be rated not lower than "A-" by S&P, "A3" by Moody's and "A-" by Fitch.

7.3.11.2 Percentage Limit: 20% in total; 5% in any one issuer.

### 7.3.12 Supranational Organizations or International Agencies

7.3.12.1 Definition: Any obligation issued by a supranational organization or international agency denominated in U.S. dollars under U.S. securities law for sale in the United States as well as globally; provided that such obligation is rated by at least two NRSROs and must not be rated lower than "A-" by S&P, "A3" by Moody's and "A-" by Fitch. Supranational organizations include, but are not limited to, the World Bank, Asian Development Bank, Inter-American Development Bank, International Bank for Reconstruction and Development, International Finance Corporation, and the Agency for International Development.

7.3.12.2 Percentage Limit: 25% in total, 10% in any one agency.

21 DE Reg. 968 (06/01/18)

23 DE Reg. 584 (01/01/20)

## 8.0 Endowment Accounts

8.1 **Investment Objectives.** Endowment Accounts are funded with State Funds to be preserved and grown over time with a portion of the investment income and/or appreciation thereon withdrawn periodically to provide for specified legislative purposes. The primary objective of such Accounts is to create a perpetual fund whereby returns are maximized over the long term while ensuring safety of the corpus and the availability of amounts prescribed to meet the periodic liquidity requirements of the permitted withdrawals.

8.2 **Permissible Investments and Percentage of Account Limitations.** State Funds held in Endowment Accounts can be invested solely in the types of securities set out in this subsection 8.2. Each Endowment Manager is further subject to (i) limit the aggregate value of State Funds invested in each type of security held in the account under such manager's discretion to the "Percentage Maximum" of such security type identified in this subsection 8.2, measured as a percentage of the total account value of State Funds under such manager's discretion, and (ii) maintain a minimum of the aggregate value of State Funds invested in each type of security held in the account under such manager's discretion to the "Percentage Minimum" of such security type identified in this subsection 8.2, measured in each case as a percentage of the total account value of State Funds under such manager's discretion.

### 8.2.1 Money Market Funds



8.2.1.1 Definition: Open-end money market mutual funds that are invested solely in government securities (as defined in subsections 6.3.1 and 6.3.2) and which are rated in the highest rating category by at least one NRSRO.

8.2.1.2 Percentage Maximum: 30% in total.

8.2.1.3 Percentage Minimum Limit: none.

#### 8.2.2 Domestic and International Equities

8.2.2.1 Definition: Common and preferred stocks of companies domiciled both within the U.S. and outside the U.S. that trade on U.S. or foreign exchanges and over the counter. Ownership in a publicly traded company, whether common or preferred, that trades on globally recognized exchanges, and issued by corporations, both foreign and domestic.

8.2.2.2 Percentage Maximum: 75% in total; no more than 35% of which are in international equities.

8.2.2.3 Percentage Minimum: 45% in total; no more than 35% of which are in international equities.

#### 8.2.3 Domestic and International Fixed Income

8.2.3.1 Definition: Debt securities of U.S. and non-U.S. governments, public agencies, corporations and other non-government entities.

8.2.3.2 Percentage Maximum: 55% in total, including securities permitted under subsection 8.2.4.

8.2.3.3 Percentage Minimum: 25% in total, including securities permitted under subsection 8.2.4.

#### 8.2.4 Alternative Investments

8.2.4.1 Definition: Securities not otherwise permissible pursuant to subsections 8.2.1 – 8.2.3 that a prudent manager would deem appropriate for portfolios of like character with comparable investment objectives, excluding hedge funds or other blind pool funds that incorporate leverage as part of their investment strategies.

8.2.4.2 Percentage Maximum: 25% in total.

8.2.4.3 Percentage Minimum: none.

### 23 DE Reg. 584 (01/01/20)

## 9.0 Operating Accounts

9.1 **Investment Objectives.** State agencies and other public authorities maintain various operating accounts with the intent of segregating such funds for accounting and reporting purposes. In addition, operating accounts may be created by the State to meet particular purposes and/or to comply with state statutes, bond trust agreements and/or Federal guidelines. The investment objectives with respect to such funds are to ensure safety and maximize return while providing for the liquidity requirements specifically identifiable to the use of such funds.

9.2 **Maturity Restrictions.** Unless otherwise determined by the Board, the maximum maturity for any investment of State Funds in the Operating Accounts shall be two years from the date of settlement. In some circumstances, State Funds in an Operating Account may be set aside to fund a known, specific future liability; in such cases, the Board grants OST the discretion to set the maturity restrictions with respect to securities purchased with such funds to correspond to the due date of the corresponding liability.

9.3 **Permissible Investments and Percentage of Account Limitations.** Unless otherwise determined by the Board, Operating Accounts shall be governed by the Permissible Investment and Percentage of Account Limitations for the Liquidity Accounts set out in subsections 6.2 and 6.3.

## 10.0 Settlement Accounts

10.1 **Investment Objectives.** State Funds in the Settlement Accounts remain for only a short period of time before transfer to a Collection and Disbursement Account. The primary investment objectives are therefore safety and liquidity of such funds; return is a secondary priority. OST may, consistent with these investment objectives, minimize credit risk associated with demand deposit account balances at Merchant Banks through same-day money market mutual fund sweep products in accordance with subsection 5.2.2. End-of-day ledger balances shall be secured as provided in subsection 5.2.1.

10.2 **Permissible Investments.** Merchant Banks shall maintain State Funds in either collateralized demand deposit accounts or open-end money market mutual funds, in each case, subject to the provisions of subsections 5.2.1 and 5.2.2, respectively, in order to mitigate the risk of State Funds being exposed to the credit risk of such financial institutions.

### 23 DE Reg. 584 (01/01/20)

## 11.0 Restrictions & Violations

- 11.1 **Investment Restrictions.** Notwithstanding any other provision, none of the banks or managers engaged to manage or invest State Funds may:
- 11.1.1 Purchase any securities other than those expressly permitted under Sections 5.0 – 9.0 of these Guidelines;
  - 11.1.2 Make investments for the purpose of exercising control or management of an issuer;
  - 11.1.3 Purchase any securities on margin, except for use of short-term credit necessary for clearance of purchases and sales of portfolio securities;
  - 11.1.4 Make short sales of securities or maintain a short position or write, purchase or sell puts, calls, straddles, spreads or combinations thereof;
  - 11.1.5 Make loans to other persons, other than in connection with repurchase agreements as provided herein;
  - 11.1.6 Mortgage, pledge, hypothecate or in any manner transfer as security for indebtedness any securities owned or held;
  - 11.1.7 Invest in securities with legal or contractual restrictions on resale or for which no readily available market exists (except for repurchase agreements or variable rate master demand notes as provided herein and, if authorized under applicable U.S. Securities and Exchange Commission rules and regulations, 144a private placements considered not to be illiquid, but, instead, readily marketable by issuing dealers);
  - 11.1.8 Act as an underwriter of securities on behalf of the State of Delaware; or
  - 11.1.9 Buy or sell any authorized investment when it is a party or any related or affiliated party in the transaction on both sides.
  - 11.1.10 Where these Guidelines require at least two NRSRO ratings for a security, the lowest such rating shall control.
- 11.2 **Purchases in Violation of Guidelines.** In the event that a bank or manager purchases any security that at the time of purchase violates Sections 5.0 – 10.0, the bank or manager shall remove the security from the State's portfolio ~~as soon as possible by the close of the business day following the date on which the bank or manager learns of the violation~~ and will bear all costs associated with the purchase and sale of such security. The bank or manager shall further ensure that the State recognizes no investment gain or loss on the purchase and sale of such security and/or shall effect such transactions as shall be necessary to eliminate any such gain or loss on the books and records of the State's Account with such bank or manager. A bank or manager shall report ~~immediately to OST any such violation and the remedial action(s) taken to correct such violation to OST or proposed by the close of the business day following the date on which the bank or manager learns of the violation.~~
- 11.3 **Holding Impermissible Securities Following a Downgrade.** In the event that a bank or manager holds any security that complied with Sections 5.0 – 10.0 at the time of purchase, but which ceases to qualify as a permissible investment as the result of a downgrade, the bank or investment manager shall remove the security from the State's portfolio ~~immediately by the close of the business day following the date on which the bank or manager learns of the downgrade~~ without any consideration as to the investment gains or losses occasioned thereby. In such case, the State shall bear all costs associated with the purchase and sale of such security and shall recognize any investment gain or loss on such transactions on the books and records of the State's Account with such bank or manager. A bank or manager shall report ~~immediately to OST any such violation downgrade and the remedial action(s) taken to correct such violation to OST or proposed by the close of the business day following the date on which the bank or manager learns of the downgrade.~~
- 11.4 **Holding Impermissible Securities Following a Drawdown.** In the event that a manager's account exceeds the percentage of account limitations set forth in Sections 5.0 - 10.0 hereof as the result of a portfolio withdrawal, the manager shall provide to OST within two (2) business days, a detailed plan for remediation of the allocation to within the permissible percentage of account limitation. Such plan shall include: any expected pay-downs on structured securities, expected maturities and expected cash flow items. The manager and OST shall work together to determine a prudent path for remediation, with care taken to manage the overall portfolio risk and implications of any book gains or losses within the portfolio.
- 11.5 **Mutual or Commingled Fund Exceptions to Guidelines.** The Board recognizes that (i) mutual funds and other types of commingled investment vehicles can provide, under some circumstances, lower costs and better diversification than can be obtained with a separately managed fund pursuing the same investment objectives and (ii) such funds cannot customize their investment policies to conform to the guidelines set out herein. In such cases, unless OST, after consultation with the Board or the Board's consultant determines otherwise, the policies of such funds shall supersede these guidelines and are exempt from the policies and restrictions specified herein.

~~Revised August 12, 2015~~

~~Revised August 10, 2016~~

~~Revised May 14, 2018~~

18 DE Reg. 462 (12/01/14)

20 DE Reg. 491 (12/01/16)

21 DE Reg. 968 (06/01/18)

23 DE Reg. 584 (01/01/20)

24 DE Reg. 345 (10/01/20) (Prop.)