



BULLETIN

Amendments to The Pensions (Superannuation Funds and Retirement Schemes) (Investment) Regulations

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LEGISLATIVE REFERENCE: The Pensions (Superannuation Funds and Retirement Schemes) Investment Regulations ("Investment Regulations") [2, 3, 10, 16, 17, 23, 24A, 26, 27, 31, 33(1)]

1.0 BACKGROUND AND OBJECTIVE

- 1.1 Effective August 2, 2019, the Pensions (Superannuation Funds and Retirement Schemes) (Investment) Regulations were amended by way of the Pensions (Superannuation Funds and Retirement Schemes) (Investment) (Amendment) Regulations, 2019 (the "Investment Regulations") to strengthen the legislative framework concerning the prudent person rule and general governance and risk practices associated with the management of the assets of superannuation funds and retirement schemes by trustees and their agents.
- 1.2 The amendments also sought to clarify and/or simplify certain provisions, broaden the range of permissible assets, as well as set higher quantitative limits for select pre-existing investment categories.
- 1.3 The purpose of this Bulletin is to provide a description of the major amendments and to explain some of the new and revised requirements of the Investment Regulations. It is recommended that this Bulletin be read in conjunction with the bulletins on the Statement of Investment Policies and Principles ("SIPP") and Investment Limits.
- 1.4 It is noteworthy for trustees and their agents, to be aware that notwithstanding the increased quantitative limits and broadening of the permissible investment categories, they are required as part of prudent investing of, the assets of a superannuation fund and retirement scheme to comply with the SIPP, Constitutive Documents, and the pension legislation when making investment decisions and to take into account:
 - the demography of the membership;
 - asset liability matching;
 - the risk profile of the plan; and
 - proper risk management of the portfolio of assets.

2.0 AMENDMENTS TO THE INVESTMENT REGULATIONS

2.1 The major changes to the Investment Regulations are detailed in the table below:

Investment Regulation	Description
2	The amendment included new defined terms such as “non-discretionary arrangement”, “private company”, and “public company”, among others. The definition of Type II Pooled Fund was amended to mirror the definition of collective investment schemes.
3	The amendment provides clarification concerning the minimum expectations in relation to prudent investment by, inter alia, specifying that investments are to be made in the best interest of the participants and their beneficiaries and in accordance with the SIPP. The duties of an investment manager were also enlarged to require, among other things, consideration of the risk profile of a pension plan when making recommendations about investments and to provide quarterly reports of all fees and charges for which payment has been collected. The amendments also address the need for documentation and disclosure of due diligence conducted by the investment manager under non-discretionary arrangements.
10	The minimum content of a SIPP was expanded to include, among other things, the management of risk at the portfolio and individual investment levels in addition to an asset liability management strategy.
16(1)	This provision was amended to increase the general concentration limit from 5% to 10% of the fair value of the assets of the fund or scheme. The amendment also reinforces that investments made by Type 1 Pooled Funds are also subject to the concentration limits.
17	The exemption to the general concentration limit was expanded to include real property, annuities and companies established for holding real estate assets for superannuation funds and or retirement schemes.
23	This provision outlines the types of debt instruments that the assets of a superannuation fund and retirement scheme can be invested in. The provision is expanded to provide more clarity and to include a 5% limit on unsecured debt securities of a solvent public company that are not listed and have a credit rating below the grade published by the Commission in the Gazette.
24A	A new provision has been inserted that allows for investments in debt and equity of private Jamaican companies up to a limit of 5% of the fair value of the assets of a fund or scheme. The provision also provides: <ol style="list-style-type: none"> 1. that companies incorporated for the sole purpose of holding real estate assets for superannuation funds and or retirement schemes are exempted from the 5% limit. 2. a prohibition of investments in foreign private companies.

	3. To avoid any ambiguity, it should be noted that a superannuation fund or retirement scheme may invest in preferred or guaranteed shares of a public company permitted under Regulation 27 of the Investment Regulation without applying the 5% limit.
26	The provision is expanded to include an exception, by allowing, without the approval of the Commission, investments to acquire, hold or control in excess of 30% of the voting shares of a private company established for the sole purpose of holding real estate assets of superannuation funds and retirement schemes.
31	The definition of “foreign assets” was added and has the meaning assigned to it in Section 22B (7) of the Bank of Jamaica (“BOJ”) Act. Aggregate investment in foreign assets should not exceed the lower of the limit prescribed under BOJ Act and 20% of the fair value of the assets of the fund or scheme.
33(1)	This provision increased the investment limit for secured/collateralized leases to 10% of the fair value of the assets of a fund or scheme.
33A. (1)	The limit of 5% of the fair value of the assets of a fund or scheme remains for “other investments”.

3.0 CLARIFICATION OF PROVISIONS

3.1 Unsecured Obligations of Solvent Public Companies

Regulation 23(1A) specifies that no more than 5% of the fair value of the assets of a superannuation funds or retirement scheme shall be invested in unsecured corporate obligations that are not traded on a recognized stock exchange and have a credit rating below investment grade from a recognized rating agency. This means that both conditions must exist for the quantitative limit to apply; otherwise there is no limit on this category of investments. Therefore a fund or scheme can invest in unsecured obligations that are not listed but have investment grade rating or are both listed and have investment grade or listed and below investment grade without the limit applying.

3.2 Credit Ratings Grades and Credit Agencies

Regulation 23(2)(b) provides that the Commission will publish in the Gazette the Credit Rating Agencies it recognizes and the credit ratings those agencies recognize as being investment grade.

Notwithstanding the requirement for the Commission to publish the list of credit rating grades and agencies in the Gazette for the purpose of defining “investment grade” and “recognized rating agency”, please note that until the list is promulgated, the list below should be employed by the investment manager or board of trustees for a superannuation fund or retirement scheme for the purposes of Regulation 23.

- Standards & Poor as BBB- or above;
- Fitch Rating Agency as BBB- or above;
- Moody’s Rating Agency as Baa3 or above; and
- Caribbean Information and Credit Rating Services Limited as CariBBB- or above.

3.3 Investments in the Debt and Equity of Private Companies

Regulation 24A stipulates that the assets of superannuation funds and retirement schemes are permitted to be invested in both equity and debt securities of a private company as defined under the Companies Act; that is, private equity. A quantitative limit of 5% of the fair value of the assets of a superannuation fund and retirement scheme is placed on this asset class. This restriction applies to **all** classes of equity and/or debt securities issued by a private Jamaican company.

It should be noted that a superannuation fund or retirement scheme may invest in preferred or guaranteed shares of a public company permitted under Regulation 27 of the Investment Regulation without applying the 5% limit.

3.4 Real Estate Holding Companies

The amendments provide that the assets of a superannuation fund and retirement scheme may be invested in a company that has been established for the sole purpose of holding real estate assets for pension plans. This includes where a company has been established to hold real estate assets for more than one superannuation fund and or retirement scheme. These investments are exempted from the private equity limit of 5% as well as the 30% voting shares.

Questions regarding this Bulletin may be directed to:

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