§1136. Prohibited investments and investment underwriting

1. In addition to investments excluded pursuant to other provisions of this Title, an insurer shall not invest in or lend its funds upon the security of:

A. Issued shares of its own capital stock, except:

(1) For the purpose of mutualization under chapter 47, or

(2) For retirement, or

(3) Pursuant to a plan for such investment or loan submitted in writing by the insurer to the superintendent in advance, and which the superintendent has not, within 20 days after such submission or within such additional reasonable period as the superintendent may request, disapproved as being unfair or inequitable to the insurer's policyholders or stockholders. [PL 1969, c. 132, §1 (NEW); PL 1973, c. 585, §12 (AMD).]

B. Securities issued by any corporation or enterprise the controlling interest of which is, or will after such acquisition by the insurer be, held directly or indirectly by the insurer or any combination of the insurer and the insurer's directors, officers, subsidiaries, or controlling stockholders, and the spouses and children of any of the foregoing individuals. Investments in controlled insurance corporations or subsidiaries under sections 1114 and 1115 are not subject to this provision. [PL 1969, c. 132, §1 (NEW).]

C. Any note or other evidence of indebtedness of any director, officer or controlling stockholder of the insurer or of the spouse or child of any of the foregoing. [PL 1987, c. 399, §13 (AMD).]
[PL 1987, c. 399, §13 (AMD).]

2. No insurer shall underwrite or participate in the underwriting of an offering of securities or property of any other person. This provision shall not be deemed to prohibit:

A. The acquisition and ownership by the insurer of its subsidiary corporation acting as investment adviser or principal underwriter of a management company or investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940, as amended. [PL 1969, c. 132, §1 (NEW).]

B. The registration by the insurer, under the Securities Act of 1933 or other applicable law, of restricted or other securities acquired and owned by it in regular course of business. [PL 1969, c. 132, §1 (NEW).]
[PL 1969, c. 132, §1 (NEW).]

3. No insurer shall enter into any agreement to withhold from sale any of its securities or property, and the disposition of its assets shall at all times be within the control of the insurer. This provision shall not be deemed to affect any right or obligation of the insurer under a contract or agreement referred to in section 2537 (separate accounts), and shall not be deemed to prohibit an insurer from lending any of its publicly traded portfolio securities or bond investments to a financial institution, to a securities broker or securities dealer under a program which provides adequate collateral security for the return of the value of the loaned portfolio securities or bond investments and which provides that any such loan of securities may be terminated by the insurer on not more than 10 days' notice. These programs shall conform to provisions contained in a regulation promulgated by the Superintendent of Insurance on a prospective basis covering those programs and which sets consistent standards for the collateral security deposits.
[PL 1979, c. 458, §13 (AMD).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1979, c. 458, §13 (AMD). PL 1987, c. 399, §13 (AMD).

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