

TREASURY—GENERAL

(a)

DIVISION OF PENSIONS AND BENEFITS

Supplemental Annuity Collective Trust

Proposed Readoption with Amendments: N.J.A.C. 17:8

Authorized By: Supplemental Annuity Collective Trust, John D. Megariotis, Acting Director.

Authority: N.J.S.A. 52:18A-107 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2021-054.

Submit comments by August 20, 2021, to:

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The agency proposal follows:

Summary

The Supplemental Annuity Collective Trust (SACT) is a defined contribution plan available to active members of the following systems: Public Employees' Retirement System (PERS), Teachers' Pension and Annuity Fund (TPAF), Police and Firemen's Retirement System (PFRS), State Police Retirement System (SPRS), and Judicial Retirement System (JRS). It provides supplemental benefits to those provided by the aforementioned retirement systems. Members contribute through payroll deductions, which are voluntary contributions that may be suspended at the beginning of any quarter. Members are fully vested for the accumulated units in their respective accounts at all times. This program provides two separate plans: one tax-sheltered pursuant to Internal Revenue Code Section 403(b), and one non-tax-sheltered plan. Only members of the PERS and TPAF who are employed by public educational institutions are eligible to participate in the tax-sheltered plan.

Upon retirement, a member may elect a single cash payment, or various forms of monthly annuities or reduced annuity payments with a beneficiary provision based upon the value of the member's account. Upon the death of a member, the designated beneficiary may elect to receive a lump sum payment equal to the account value, or an annuity under any of the settlement options that a retiree could elect under SACT. Upon termination of employment and withdrawal from a State-administered retirement system, the member must withdraw his or her SACT account balance as a lump sum settlement.

The Council of the SACT (Council) is responsible for promulgating and reviewing the administrative rules at N.J.A.C. 17:8. When the Council becomes aware of a change in the laws or a court decision that could affect SACT, the administrative rules are reviewed and, if changes are mandated, steps are taken to propose changes to those rules to conform to the new statute or court decision. Additionally, the rules are periodically reviewed by the Division of Pensions and Benefits (Division) and the SACT staff, to ascertain if the rules are necessary and cost efficient, and to ensure that they are in line with present statutes.

The rules proposed for readoption with amendments were scheduled to expire on May 16, 2021. Pursuant to Executive Order No. 127 (2020) and P.L. 2021, c. 104, any chapter of the New Jersey Administrative Code that would otherwise have expired during the State of Emergency originally declared in Executive Order No. 103 (2020) was extended through January 1, 2022. Therefore, this chapter has not yet expired and is extended 180 days from the date of publication of this notice of proposed readoption to December 18, 2021, pursuant to N.J.S.A. 52:14B-5.1.c, Executive Order No. 244 (2021), and P.L. 2021, c. 104. The rules proposed for readoption with amendments affect the administration, enrollment, contributions, withdrawals, insurance and death benefits,

membership, eligible service, service-credit purchases, retirements, and transfers within the SACT.

Subchapter 1. Administration

Subchapter 1 outlines how the Supplemental Annuity Collective Trust Program is administered. It includes information about Council meetings, records, the process for appealing a Council decision, a general description of variable annuity, and explains the variable accumulation account, the variable benefit account, the income distribution summary, the computation of dollar values of equity units, and the payment of pension loan balances upon retirement.

At Subchapter 1, the Council proposes to amend N.J.A.C. 17:8-1.1(b) to include the makeup of the Council and the roles of its members. Additionally, N.J.A.C. 17:8-1.1(c) is proposed for deletion. Pursuant to N.J.S.A. 52:18A-111, in the event of a vacancy in one of the enumerated offices, the official assuming the responsibility of that office shall act as a member of the Council. The statute does not permit Council members to designate someone to serve as an alternate in their absence; therefore, this language is proposed for deletion.

The Council proposes to amend N.J.A.C. 17:8-1.2(a), Records, to include a cross-reference to N.J.A.C. 17:1-1.2. Subsection (b) would be modified to include "telephone numbers and email addresses" as part of a participant's confidential information. Proposed new subsection (c) prohibits the release of any active or retired participant's beneficiary designations while the participant is living.

The heading at N.J.A.C. 17:8-1.3, Appeals from council decisions, is modified to correct capitalization.

N.J.A.C. 17:8-1.9(a) is proposed for amendment to include the acronyms for the Teachers' Pension and Annuity Fund and the Public Employees' Retirement System. Additionally, N.J.A.C. 17:8-1.9(b), Payment of pension loan balance upon retirement, is proposed for amendment to specify that a SACT Loan Payoff Form (Application to Transfer SACT Monies) must be completed to use funds from a SACT account to pay for a pension loan.

Subchapter 2. Enrollment, Contributions and Transfers

Subchapter 2 outlines how to enroll in the SACT. It also explains the conditions of enrollment, what enrollment form must be completed to initiate salary reductions, and any exceptions and limitations on dollar amounts and percentages due to 26 U.S.C. § 403(b). This subchapter further clarifies how much participants can contribute to the plans and any limitations due to 26 U.S.C. § 403(b). Instructions on how to change or discontinue the percentage rate of contributions, how to make a lump-sum contribution, and any limitations due to 26 U.S.C. § 403(b) are also set forth in this subchapter. Subchapter 2 also outlines how participants who cancel a withdrawal or retirement application from the basic retirement system can reinstate and redeposit the funds from their SACT account and the time frame in which this is permissible. Beneficiary designation, what constitutes a full monthly payment to a retiree or beneficiary, what an approved annuity is, and transfers from alternate investment providers is also explained in this subchapter.

The Council proposes to amend N.J.A.C. 17:8-2.2, Enrollment applications, to codify the existing paragraph as subsection (a) and to specify that a SACT Enrollment Request must be completed and certified by the employer in order for the employee to participate in the regular or tax-sheltered SACT program. Eligible employees who wish to participate in the SACT Tax-Sheltered Plan must also complete a Salary Reduction Agreement. New subsection (b) is proposed to set forth the eligibility requirements and limitations for enrollment in the SACT.

N.J.A.C. 17:8-2.3, Salary reduction; exceptions, is proposed for amendment to specify that a Salary Reduction Agreement must be completed by the eligible employee and the employer.

The Council proposes to specify, at N.J.A.C. 17:8-2.6(a) and (c), Contribution change; regular SACT and the tax-sheltered annuity plan, that a SACT Change Request Form must be completed with the Division if a participant wishes to change or discontinue his or her percentage rate of contribution.

The Council proposes to amend N.J.A.C. 17:8-2.12 and 2.13(a), to replace the phrase "basic retirement system" with the language "by the defined benefit retirement system in which the member participates."

N.J.A.C. 17:8-2.15, Approved annuity, is proposed for amendment to specify that a participant has the right to withdraw, cancel, or change the SACT Application for Settlement at Retirement Form at any time before his or her annuity becomes due and is paid.

Subchapter 3. Retirement, Termination, and Transfers

Subchapter 3 covers the retirement options that are available to SACT participants, beneficiary designations made at retirement, withdrawal or retirement from SACT, how SACT accounts are handled when a participant dies or is terminated from his or her basic retirement system, and occasions in which a participant's account is suspended. The separation of contributions by pension system and SACT type, the payment of pension loan balance upon retirement, and the transfer to alternate investment providers is also contained in this subchapter.

At Subchapter 3, the Council proposes to amend N.J.A.C. 17:8-3.1(a), Retirement options, to specify that a SACT Application for Settlement at Retirement Form must be completed at retirement.

N.J.A.C. 17:8-3.2, Retirement; beneficiary designations, specifies the required information needed for beneficiary designations to include a full name, Social Security number, tax identification number (for estates or trusts), address, and date of birth. This information assists the Division with locating beneficiaries in an efficient manner, which in turn assists the Division with processing claims in a timely fashion. In addition, language was added to explain that if a designated beneficiary predeceases the participant, annuity payments would end after the participant's death.

The Council proposes to amend N.J.A.C. 17:8-3.3, Withdrawal or retirement; effective date and form, to replace the phrase "basic retirement system" with the language "by the defined benefit retirement system in which the member participates." The section is also proposed for amendment to indicate what happens if a participant withdraws from the pension system and if "option two" is selected.

The Council proposes to amend N.J.A.C. 17:8-3.5, Withdrawal; exceptions, to replace the phrase "basic retirement system" with the language "by the defined benefit retirement system in which the member participates."

Subchapter 4. Qualified Voluntary Employee Contributions

Subchapter 4 outlines the maintenance of the qualified voluntary employee contribution account. It also includes information about participant's contributions and how they are treated and reported due to the Income Tax Reform Act of 1986.

As the Division has provided a 60-day comment period on this notice of proposal, this notice is exempted from the rulemaking calendar requirements pursuant to N.J.A.C. 1:30-3.2(a)5.

Social Impact

The rules proposed for re-adoption with amendments benefit SACT members, retirees, and survivors of members and retirees. Members, retirees, and survivors of members and retirees rely on the efficient operation of SACT to provide them with monthly retirement benefits, with proper crediting of contributions and earnings, with death benefits, and with the information they need regarding their individual accounts.

Members depend upon the presence and predictability of rules proposed for re-adoption with amendments that guide the administration of their benefits and the stability of SACT. The protections and guarantees that these rules proposed for re-adoption with amendments afford members, retirees, and survivors of members and retirees mandate their continued existence. The taxpaying public also benefits from the proper and efficient administration of SACT, as public moneys are used to administer SACT benefits.

Economic Impact

The rules proposed for re-adoption with amendments do not impose any adverse economic effects on the public; they will continue existing, long-standing, regulatory requirements. The rules proposed for re-adoption with amendments also do not impose any additional recordkeeping or other requirements and will serve to preserve the efficient administration and operation of SACT.

Federal Standards Statement

The rules proposed for re-adoption with amendments meet the applicable Federal standards, that is, 26 U.S.C. § 403(b). There are no

other Federal standards applicable to the subject matter of the rules proposed for re-adoption with amendments.

Jobs Impact

The operation of the rules proposed for re-adoption with amendments will not result in the generation or loss of jobs. The Division invites any interested parties to submit any data or studies concerning the jobs impact of the rules proposed for re-adoption with amendments with their written comments.

Agriculture Industry Impact

The rules proposed for re-adoption with amendments will not have any impact on the agriculture industry.

Regulatory Flexibility Statement

The rules of the SACT only affect SACT members and retirees and survivors of SACT members and retirees. Thus, the rules proposed for re-adoption with amendments do not impose any reporting, recordkeeping, or other compliance requirements upon small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not required.

Housing Affordability Impact Analysis

The Division has evaluated the rules proposed for re-adoption with amendments to determine their impact, if any, on the affordability of housing and the average costs of housing in the State. The proposed rulemaking neither imposes requirements nor confers direct benefits upon homeowners, builders, or other providers of housing, making it unlikely that the rules proposed for re-adoption with amendments will have an impact on the affordability of housing units or result in a change in the average costs of housing in the State because the rules proposed for re-adoption with amendments pertain to administration of the SACT for members, retirees, and survivors of members and retirees.

Smart Growth Development Impact Analysis

The rules proposed for re-adoption with amendments will not have any impact on the achievement of smart growth, nor will they evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan, because the rules proposed for re-adoption with amendments pertain to administration of the SACT for members, retirees, and survivors of members and retirees.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Division has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of rules proposed for re-adoption may be found in the New Jersey Administrative Code at N.J.A.C. 17:8.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. ADMINISTRATION

17:8-1.1 Council meetings

(a) (No change.)

(b) **The Council consists of the State Treasurer, who shall be the chairman, the Commissioner of the Department of Banking and Insurance, and the State Budget Director. The Director of the Division of Pensions and Benefits shall be the secretary of the Council.** Any two members of the [council] **Council** shall constitute a quorum for the purpose of conducting the business of the [council] **Council**.

[(c) If a member is unable to attend a meeting, he shall designate a person to represent him as his alternate. The person so designated shall be permitted to vote on business brought before the council.]

17:8-1.2 Records

(a) [The] **In addition to the provisions at N.J.A.C. 17:1-1.2, the minutes of the [council] Council meetings are public records and may be inspected during regular business hours at the office of the Division of**

Pensions and Benefits under supervision of the chief accountant or other representatives of the office.

(b) Records considered confidential include specific individual account or investment recommendations, mailing addresses, **telephone numbers, or email addresses** of active and retired participants and individual files relating to beneficiary designation where no official purpose or reason for inspection is indicated.

(c) The beneficiary designations of an active or retired participant are considered to be part of the participant's confidential files and shall only be released after the participant's death.

17:8-1.3 Appeals from [council] Council decisions

The following statement shall be incorporated in every written notice setting forth the [council's] **Council's** determination in a matter where such determination is contrary to the claim made by the claimant or his **or her** legal representative:

If you disagree with the determination of the [council] **Council** in this matter, you may appeal by sending a written statement to the [council] **Council** within 45 days from the date of this letter, informing the [council] **Council** of your disagreement and all of the reasons therefor. If no such written statement is received within the 45-day period, this determination shall be considered final.

17:8-1.9 Payment of pension loan balance upon retirement

(a) At the retirement of a participant with a pension loan outstanding from the Teachers' Pension and Annuity Fund (TPAF) or the Public Employees' Retirement System (PERS), the participant may elect to use funds in his or her variable accumulation account to satisfy all or any portion of the pension loan.

(b) An election to use funds from a variable accumulation account to satisfy a pension loan balance must be filed with the Council within a [60 day] **60-day** period ending 30 days prior to the effective date of retirement [on the approved] **by filing the SACT Loan Payoff form (Application to Transfer SACT Monies).**

SUBCHAPTER 2. ENROLLMENT, CONTRIBUTIONS, AND TRANSFERS

17:8-2.2 Enrollment applications

(a) Each employee participating in the regular and tax-sheltered programs shall file a [Supplemental Annuity Collective Trust enrollment application on the prescribed form] **SACT Enrollment Request**, which shall be completed and certified by the employer. **To enroll in the SACT Tax-Sheltered Plan, the eligible employee must also complete a Salary Reduction Agreement.**

(b) To be eligible to participate in the regular and tax-sheltered programs, the eligible employee must be an actively contributing member of the Public Employees' Retirement System, Teachers' Pension and Annuity Fund, Police and Firemen's Retirement System, State Police Retirement System, or Judicial Retirement System. Only members of the PERS or TPAF who are employed by public educational institutions are eligible to participate in the SACT tax-sheltered plan.

17:8-2.3 Salary reduction; exceptions

As a condition of enrollment in the tax-sheltered annuity plan, [salary reduction agreements on the approved form] **a Salary Reduction Agreement** shall be entered into by the eligible employee and the employer. Such agreements shall commence only at the beginning of a calendar quarter, except 10-month employees of boards of education may enroll as of September 1. In each case, an employee must be enrolled in a State-administered retirement system prior to enrolling in the Supplemental Annuity Collective Trust.

17:8-2.6 Contribution change; regular SACT and the tax-sheltered annuity plan

(a) A participant may change or discontinue his or her percentage rate of contribution [upon written request to] **by filing a SACT Change Request Form** with the Division of Pensions and Benefits at least 30 days prior to the calendar quarter.

(b) (No change.)

(c) If payroll deductions to the SACT program have been suspended by the participant, such payroll deductions may be resumed by **filing a SACT Change Request Form** giving at least 30 days' [written] notice to the Division of Pensions and Benefits. The resumption of such payroll deductions shall not occur within three months of the date on which the payroll deductions were suspended.

(d) A participant changing his or her contribution to the tax-sheltered annuity plan shall file a **SACT Change Request Form** and a new [salary reduction agreement] **Salary Reduction Agreement.**

17:8-2.12 Redeposit and reinstatement

If a participant's withdrawal or retirement from the Supplemental Annuity Collective Trust has been processed and a check has been issued to him or her covering the value of his or her account in the Supplemental Annuity Collective Trust and he or she subsequently cancels his **or her** withdrawal or retirement application from the [basic] **defined benefit** retirement system **in which the member participates**, his or her supplemental annuity account may be reinstated by the redeposit of the funds withdrawn within 15 days after such cancellation. In this event, the amount redeposited shall be converted into equity units on the basis of the value of an equity unit as of the end of the month of redeposit. If a timely redeposit is not made, the employee may reenroll as a new participant at the beginning of any calendar quarter.

17:8-2.13 Beneficiary designation

(a) If the [basic] **defined benefit** retirement system **in which the member participates** provides for return of accumulated deductions upon the death of the member, the primary and contingent beneficiaries of active participants shall be the same for the trust, unless a separate designation of beneficiary [on a] form [prescribed for the program] is filed with the trust. The original nomination of beneficiaries on file with the Supplemental Annuity Collective Trust will remain effective unless a subsequent designation of beneficiary form is filed with the Supplemental Annuity Collective Trust.

(b) (No change.)

17:8-2.15 Approved annuity

A participant shall have the right to withdraw, cancel, or change the [Supplemental Annuity Collective Trust application] **SACT Application** for [retirement] **Settlement at Retirement Form** at any time before his or her annuity becomes due and is paid; thereafter, the annuity shall stand as approved.

SUBCHAPTER 3. RETIREMENT, TERMINATION, AND TRANSFERS

17:8-3.1 Retirement options

(a) At retirement a participant shall be paid a variable life annuity unless he or she files a [written application] **SACT Application for Settlement at Retirement Form** with the **Division of Pensions and Benefits** prior to retirement requesting:

1.-3. (No change.)

(b)-(c) (No change.)

17:8-3.2 Retirement; beneficiary designations

On retirement, participants shall designate a primary and contingent beneficiary provided the retirement option requires such designation. **This designation shall include: each beneficiary's full name, Social Security number, tax identification number (for estates or trusts), address, and date of birth. Once a beneficiary has been elected, the participant cannot change the beneficiary regardless of the circumstances. If the designated beneficiaries predecease the participant, annuity payments will only continue during the participant's life with no alternate survivor payout.**

17:8-3.3 Withdrawal or retirement; effective date and form

(a) Withdrawal or retirement from the Supplemental Annuity Collective Trust is contingent upon the participant's completion of the appropriate forms required by the [basic] **defined benefit** retirement system **in which the member participates. If a participant withdraws from the pension system, the participant must also withdraw his or her SACT account as a lump-sum settlement by completing a SACT**

Application for Withdrawal. In addition, if a retirement option is selected, the [appropriate Supplemental Annuity Collective Trust forms shall be] **SACT Application for Settlement at Retirement Form shall be completed. If option two, lump sum settlement is selected, the SACT Distribution Form must also be filed prior to retirement.**

(b)-(e) (No change.)

17:8-3.5 Withdrawal; exceptions

A participant may withdraw from the trust only if the value of his **or her** account is \$100.00 or less; otherwise he **or she** may not withdraw unless his **or her** membership in the basic retirement system **in which the member participates** has been terminated.
