

HOUSE BILL No. 5323

September 9, 2009, Introduced by Reps. Hammel, Mayes, Roy Schmidt, Robert Jones, Clemente, Geiss, Neumann, Walsh, Marleau, Valentine, LeBlanc, Constan, Bettie Scott, Gregory, Gonzales, Liss, Switalski, Dean, Haugh, Scripps, Meadows and Kowall and referred to the Committee on Banking and Financial Services.

A bill to amend 1965 PA 314, entitled "Public employee retirement system investment act," by amending sections 13, 15, 17, 19, 19a, 20c, 20d, and 20j (MCL 38.1133, 38.1135, 38.1137, 38.1139, 38.1139a, 38.1140c, 38.1140d, and 38.1140j), sections 13, 19, and 20d as amended and section 19a as added by 2008 PA 425, section 15 as amended and section 20j as added by 1996 PA 485, and sections 17 and 20c as amended by 2000 PA 307.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 13. (1) The provisions of this act shall supersede any
2 investment authority previously granted to a system under any other
3 law of this state.

1 (2) The assets of a system may be invested, reinvested, held
2 in nominee form, and managed by an investment fiduciary subject to
3 the terms, conditions, and limitations provided in this act. An
4 investment fiduciary of a defined contribution plan may arrange for
5 1 or more investment options to be directed by the participants of
6 the defined contribution plan. The limitations on the percentage of
7 total assets for investments provided in this act do not apply to a
8 defined contribution plan in which a participant directs the
9 investment of the assets in his or her individual account, and that
10 participant is not considered an investment fiduciary under this
11 act.

12 (3) An investment fiduciary shall discharge his or her duties
13 solely in the interest of the participants and the beneficiaries,
14 and shall do all of the following:

15 (a) Act with the same care, skill, prudence, and diligence
16 under the circumstances then prevailing that a prudent person
17 acting in a similar capacity and familiar with those matters would
18 use in the conduct of a similar enterprise with similar aims.

19 (b) Act with due regard for the management, reputation, and
20 stability of the issuer and the character of the particular
21 investments being considered.

22 (c) Make investments for the exclusive purposes of providing
23 benefits to participants and participants' beneficiaries, and of
24 defraying reasonable expenses of investing the assets of the
25 system.

26 (d) Give appropriate consideration to those facts and
27 circumstances that the investment fiduciary knows or should know

1 are relevant to the particular investment or investment course of
2 action involved, including the role the investment or investment
3 course of action plays in that portion of the system's investments
4 for which the investment fiduciary has responsibility; and act
5 accordingly. For purposes of this subsection, "appropriate
6 consideration" includes, but is not limited to, a determination by
7 the investment fiduciary that a particular investment or investment
8 course of action is reasonably designed, as part of the investments
9 of the system, to further the purposes of the system, taking into
10 consideration the risk of loss and the opportunity for gain or
11 other return associated with the investment or investment course of
12 action; and consideration of the following factors as they relate
13 to the investment or investment course of action:

14 (i) The diversification of the investments of the system.

15 (ii) The liquidity and current return of the investments of the
16 system relative to the anticipated cash flow requirements of the
17 system.

18 (iii) The projected return of the investments of the system
19 relative to the funding objectives of the system.

20 (e) Give appropriate consideration to investments that would
21 enhance the general welfare of this state and its citizens if those
22 investments offer the safety and rate of return comparable to other
23 investments permitted under this act and available to the
24 investment fiduciary at the time the investment decision is made.

25 (f) Prepare and maintain written objectives, policies, and
26 strategies with clearly defined accountability and responsibility
27 for implementing and executing the system's investments.

1 (g) Monitor the investment of the system's assets with regard
2 to the limitations on those investments pursuant to this act. Upon
3 discovery that an investment causes the system to exceed a
4 limitation prescribed in this act, the investment fiduciary shall
5 reallocate assets in a prudent manner in order to comply with the
6 prescribed limitation.

7 (4) An investment fiduciary who is an investment fiduciary of
8 any of the following shall comply with the divestment from terror
9 act, 2008 PA 234, MCL 129.291 to 129.301, in making investments
10 under this act:

11 (a) The Tier 1 retirement plan available under the state
12 employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69.

13 (b) The Tier 1 retirement plan available under the judges
14 retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670.

15 (c) The state police retirement system created under the state
16 police retirement act of 1986, 1986 PA 182, MCL 38.1601 to 38.1648.

17 (d) The public school employees retirement system created
18 under the public school employees retirement act of 1979, 1980 PA
19 300, MCL 38.1301 to 38.1408.

20 (5) An investment fiduciary may use a portion of the income of
21 the system to defray the costs of investing, managing, and
22 protecting the assets of the system, **INCLUDING PROVIDING**
23 **PROFESSIONAL TRAINING AND EDUCATION**; may retain investment and all
24 other services necessary for the conduct of the affairs of the
25 system, **INCLUDING INVESTMENT ADVISORS, CONSULTANTS, CUSTODIANS,**
26 **AUDITORS, ATTORNEYS, ACTUARIES, ADMINISTRATORS, AND PHYSICIANS**; and
27 may pay reasonable compensation for those services. Subject to an

1 annual appropriation by the legislature, a deduction from the
2 income of a state administered system resulting from the payment of
3 those costs shall be made. **ALL INVESTMENT SERVICE PROVIDERS SHALL**
4 **PROVIDE THE INVESTMENT FIDUCIARY OF THE SYSTEM WITH COMPLETE**
5 **WRITTEN DISCLOSURE OF ALL FEES ASSOCIATED WITH THEIR RELATIONSHIP**
6 **WITH THE SYSTEM AND THEIR PROVISION OF SERVICES TO THE SYSTEM**
7 **BEFORE ANY SERVICES ARE PROVIDED. AFTER SERVICES ARE PROVIDED, ALL**
8 **INVESTMENT SERVICE PROVIDERS SHALL PROVIDE WRITTEN DISCLOSURES TO**
9 **THE INVESTMENT FIDUCIARY OF THE SYSTEM ON AN ANNUAL BASIS.**

10 (6) The system shall be a separate and distinct trust fund and
11 the assets of the system shall be for the exclusive benefit of the
12 participants and their beneficiaries and of defraying reasonable
13 expenses of investing the assets of the system. With respect to a
14 system, an investment fiduciary shall not cause the system to
15 engage in a transaction if he or she knows or should know that the
16 transaction is any of the following, either directly or indirectly:

17 (a) A sale or exchange or a leasing of any property from the
18 system to a party in interest for less than the fair market value,
19 or from a party in interest to the system for more than the fair
20 market value.

21 (b) A lending of money or other extension of credit from the
22 system to a party in interest without the receipt of adequate
23 security and a reasonable rate of interest, or from a party in
24 interest to the system with the provision of excessive security or
25 at an unreasonably high rate of interest.

26 (c) A transfer to, or use by or for the benefit of, the
27 political subdivision sponsoring the system of any assets of the

1 system for less than adequate consideration.

2 (d) The furnishing of goods, services, or facilities from the
3 system to a party in interest for less than adequate consideration,
4 or from a party in interest to the system for more than adequate
5 consideration.

6 (7) With respect to a system subject to this act, an
7 investment fiduciary shall not do any of the following:

8 (a) Deal with the assets of the system in his or her own
9 interest or for his or her own account.

10 (b) In his or her individual or any other capacity act in any
11 transaction involving the system on behalf of a party whose
12 interests are adverse to the interests of the system or the
13 interest of its participants or participants' beneficiaries.

14 (c) Receive any consideration for his or her own personal
15 account from any party dealing with the system in connection with a
16 transaction involving the assets of the system.

17 (8) This section does not prohibit an investment fiduciary
18 from doing any of the following:

19 (a) Receiving any benefit to which he or she may be entitled
20 as a participant or participant's beneficiary of the system.

21 (b) Receiving any reimbursement of expenses properly and
22 actually incurred in the performance of his or her duties for the
23 system.

24 (c) Serving as an investment fiduciary in addition to being an
25 officer, employee, agent, or other representative of the political
26 subdivision sponsoring the system.

27 (d) Receiving agreed upon compensation for services from the

1 system.

2 (9) Except for an employee of a system, this state, or the
3 political subdivision sponsoring a system, when acting in the
4 capacity as an investment fiduciary, an investment fiduciary who is
5 qualified under section 12c(1)(b) shall meet 1 of the following
6 requirements:

7 (a) Be a registered investment adviser under either the
8 investment advisers act of 1940, 15 USC 80b-1 to 80b-21, or the
9 uniform securities act, 1964 PA 265, MCL 451.501 to 451.818.

10 (b) Be a bank as defined under the investment advisers act of
11 1940, 15 USC 80b-1 to 80b-21.

12 (c) Be an insurance company qualified under section 16(3).

13 (10) An investment fiduciary shall not invest in a debt
14 instrument issued by a foreign country that has been identified by
15 the United States state department as engaging in or sponsoring
16 terrorism.

17 (11) A system shall annually publish and make available to the
18 plan participants and beneficiaries a list of all expenses paid by
19 soft dollars.

20 Sec. 15. An investment fiduciary may invest in investment
21 companies registered under the investment company act of 1940,
22 title I of chapter 686, 54 Stat. 789, 15 ~~U.S.C.~~ **USC** 80a-1 to 80a-
23 64. The management company of the investment company shall have
24 been in operation for at least 5 years and shall have assets under
25 management of more than \$500,000,000.00. **AN INVESTMENT COMPANY MAY**
26 **BE ESTABLISHED AS A LIMITED PARTNERSHIP, CORPORATION, LIMITED**
27 **LIABILITY COMPANY, TRUST, OR OTHER ORGANIZATIONAL ENTITY FOR WHICH**

1 THE LIABILITY OF AN INVESTOR DOES NOT EXCEED THE AMOUNT OF THE
2 INVESTMENT UNDER THE LAWS OF THE UNITED STATES OR THE APPLICABLE
3 LAWS OF THE STATE, DISTRICT, TERRITORY, OR FOREIGN COUNTRY UNDER
4 WHICH THE INVESTMENT COMPANY WAS ESTABLISHED. An investment in an
5 investment company shall be considered an investment in the
6 underlying assets for all purposes under this act.

7 Sec. 17. (1) An investment fiduciary may invest in any of the
8 following:

9 (a) Obligations issued, assumed, or guaranteed by a solvent
10 entity created or existing under the laws of the United States or
11 of any state, district, or territory of the United States, which
12 are not in default as to principal or interest, including, but not
13 limited to, the following:

14 (i) Obligations secured by the mortgage of real property or the
15 pledge of adequate collateral if, during any 3, including 1 of the
16 last 2, of the 5 fiscal years immediately preceding the time of
17 investment, the net earnings of the issuing, assuming, or
18 guaranteeing entity available for fixed charges, as determined in
19 accordance with standard accounting practice, shall have been not
20 less than the total of its fixed charges for the year on an overall
21 basis, nor less than 1-1/2 times its fixed charges for the year on
22 a priority basis after excluding interest requirements on
23 obligations subordinate to the issue as to security.

24 (ii) Equipment trust certificates of railroad companies
25 organized under the laws of any state of the United States or of
26 Canada or any of its provinces, payable within 20 years from their
27 date of issue, in annual or semiannual installments, beginning not

1 later than the fifth year after the date of issue, which
2 certificates are a first lien on the specific equipment pledged as
3 security for the payment of the certificates, and which
4 certificates are either the direct obligations of the railroad
5 companies or are guaranteed by the railroad companies, or are
6 executed by trustees holding title to the equipment.

7 (iii) Obligations other than those described in subparagraphs
8 (i) and (ii), if the net earnings of the issuing, assuming, or
9 guaranteeing entity available for fixed charges during each of any
10 3, including 1 of the last 2, of the 5 fiscal years immediately
11 preceding the time of investment, shall have been not less than 1-
12 1/2 times the total of the entity's fixed charges for such year, or
13 if the obligations are of investment grade.

14 (iv) **OBLIGATIONS OTHER THAN THOSE DESCRIBED IN SUBPARAGRAPHS**
15 **(i), (ii), AND (iii), WHICH ARE NOT RATED OR OF INVESTMENT GRADE. THE**
16 **AGGREGATE INVESTMENTS MADE UNDER THIS SUBPARAGRAPH SHALL NOT EXCEED**
17 **10% OF THE INVESTMENTS OF THE SYSTEM.**

18 (b) Obligations secured by a security interest in real or
19 personal property and a lease obligation given by a solvent entity
20 whose obligations would be qualified investments under the
21 provisions of this act, if the investment does not exceed 100% of
22 the appraised value of the property subject to the lease, and if
23 all of the following requirements are met:

24 (i) The lease has an unexpired term equal to or exceeding the
25 remaining term of the investment.

26 (ii) The lease is noncancelable unless the lessee first pays
27 the sum of all unpaid rents due or to become due during the

1 remaining lease term.

2 (iii) The lease provides for net rental payments equal to or
3 exceeding the periodic payments on the investment.

4 (iv) The lease provides that the net rental payments are to be
5 made without abatement or offset during the full term of the lease.

6 (v) The lease and the lease payments are assigned to the
7 system, an agent of the system, or an independent trustee.

8 (c) Obligations issued, assumed, or guaranteed by the United
9 States, its agencies, or United States government-sponsored
10 enterprises.

11 (d) Obligations of a possession, territory, or public
12 instrumentality of the United States, or of any state, city,
13 county, township, village, school district, authority, or any other
14 governmental unit having the power to levy taxes, or in obligations
15 of other similar political units of the United States. These
16 investments shall be of investment grade. These investments shall
17 not be permitted if in the 3 preceding years the governmental unit
18 has failed to pay its debt or any part of its debt or the interest
19 on the debt. The aggregate investments made under this subdivision
20 shall not exceed 5% of the system's total assets.

21 (e) Banker's acceptances, commercial accounts, certificates of
22 deposit, or depository receipts issued by a bank, trust company,
23 savings and loan association, or a credit union.

24 (f) Commercial paper rated at the time of purchase within the
25 2 highest classifications established by not less than 2 national
26 rating services, and which matures within 270 days after the date
27 of issue.

1 (g) Repurchase agreements for the purchase of securities
2 issued by the United States government or its agencies and executed
3 by a bank or trust company or by members of the association of
4 primary dealers or other recognized dealers in United States
5 government securities.

6 (h) Reverse repurchase agreements for the sale of securities
7 issued by the United States government or its agencies and executed
8 with a bank or trust company or with members of the association of
9 primary dealers or other recognized dealers in United States
10 government securities.

11 (i) Any investment otherwise permitted by this section in
12 which the interest rate varies from time to time. Notwithstanding a
13 provision of any other act to the contrary, a loan shall not be
14 considered to be in violation of the usury statutes of this state
15 by virtue of the fact that the loan is made on a variable interest
16 rate basis.

17 (j) Obligations secured by any of the obligations described in
18 subdivision (a) or (c).

19 (k) Dollar denominated obligations issued in the United States
20 by foreign governments, supranationals, banks, or corporations.
21 These investments shall be of investment grade.

22 (2) Except as otherwise provided in this act and except for
23 obligations described in subsection (1)(c), an investment fiduciary
24 shall not do any of the following:

25 (a) Invest in more than 5% of the outstanding obligations of
26 any 1 issuer.

27 (b) Invest more than 5% of a system's assets in the

1 obligations of any 1 issuer.

2 Sec. 19. (1) An investment fiduciary may invest up to ~~5%~~10%
3 of a system's assets in publicly or privately issued real estate
4 investment trusts or in real or personal property otherwise
5 qualified pursuant to section 15, 16, or 20c.

6 (2) In addition to investments authorized under subsection
7 (1), an investment fiduciary of a system having assets of more than
8 \$100,000,000.00 may do any of the following:

9 (a) Invest in, buy, sell, hold, improve, lease, or acquire by
10 foreclosure or an agreement in lieu of foreclosure, real or
11 personal property or an interest in real or personal property.

12 (b) Develop, maintain, operate, or lease the real or personal
13 property referred to in subdivision (a).

14 (c) Form or invest in 1 or more limited partnerships,
15 corporations, limited liability companies, trusts, or other
16 organizational entities for which liability of an investor cannot
17 exceed the amount of the investment under the laws of the United
18 States or of any state, district, or territory of the United States
19 or foreign country. The limited partnership, corporation, limited
20 liability company, trust, or other organizational entity may invest
21 in, buy, sell, hold, develop, improve, lease, or operate real or
22 personal property, or originate a mortgage or invest in an annuity
23 separate account that invests in real or personal property to hold
24 title to, improve, lease, manage, develop, maintain, or operate
25 real or personal property whether currently held or acquired after
26 the effective date of the amendatory act that added this
27 subdivision. An entity formed under this subdivision has the right

1 to exercise all powers granted to the entity by the laws of the
2 jurisdiction of formation, including, but not limited to, the power
3 to borrow money in order to provide additional capital to benefit
4 and increase the overall return on the investment held by the
5 entity.

6 (d) Invest in investments otherwise qualified pursuant to
7 subsection (1).

8 (3) Except as otherwise provided in this section, the
9 aggregate investments made under subsection (2) shall not exceed 5%
10 10% of the assets of the system. The purchase price of an
11 investment made under this section shall not exceed the appraised
12 value of the real or personal property.

13 (4) If the investment fiduciary of a system is the state
14 treasurer, investments described in subsection (1) or (2) may
15 exceed 5%–10% of the assets of the system.

16 (5) An investment qualified under this section in which the
17 underlying asset is an interest in real or personal property
18 constitutes an investment under this section for the purpose of
19 meeting the asset limitations contained in this act. This
20 subsection applies even though the investment may be qualified
21 elsewhere in this act. Notwithstanding this subsection, an
22 investment fiduciary may designate a real estate investment trust
23 which satisfies the requirements of section 14(2) as an investment
24 qualified under this section or as an investment in stock under
25 section 14.

26 Sec. 19a. ~~If the investment fiduciary is the state treasurer,~~
27 ~~investments in private equity shall not be more than 30% of the~~

1 ~~total assets.~~

2 (1) AN INVESTMENT FIDUCIARY OF A SYSTEM HAVING ASSETS OF LESS
3 THAN \$500,000,000.00 MAY INVEST NOT MORE THAN 10% OF THE SYSTEM'S
4 ASSETS IN PRIVATE EQUITY. HOWEVER, IF THE SYSTEM HAS ASSETS OF LESS
5 THAN \$100,000,000.00, THE INVESTMENTS SHALL BE MADE THROUGH A FUND
6 OF FUNDS VEHICLE.

7 (2) AN INVESTMENT FIDUCIARY OF A SYSTEM HAVING ASSETS OF
8 \$500,000,000.00 OR MORE BUT LESS THAN \$1,000,000,000.00 MAY INVEST
9 NOT MORE THAN 15% OF THE SYSTEM'S ASSETS IN PRIVATE EQUITY.

10 (3) AN INVESTMENT FIDUCIARY OF A SYSTEM HAVING ASSETS OF
11 \$1,000,000,000.00 OR MORE MAY INVEST NOT MORE THAN 20% OF THE
12 SYSTEM'S ASSETS IN PRIVATE EQUITY.

13 (4) IF THE INVESTMENT FIDUCIARY IS THE STATE TREASURER,
14 INVESTMENTS IN PRIVATE EQUITY SHALL NOT BE MORE THAN 30% OF THE
15 TOTAL ASSETS.

16 (5) AS USED IN THIS SECTION, "FUND OF FUNDS" MEANS AN
17 INVESTMENT FUND THAT USES AN INVESTMENT STRATEGY OF HOLDING A
18 PORTFOLIO OF OTHER INVESTMENT FUNDS RATHER THAN INVESTING DIRECTLY
19 IN SHARES, BONDS, OR OTHER SECURITIES.

20 Sec. 20c. (1) ~~A financial institution, a trust company, a~~
21 ~~management company qualified under section 15, or any affiliate of~~
22 ~~a person described in this section if that affiliate qualifies as~~
23 ~~an~~ AN investment fiduciary under section 13(8)(a), retained to act
24 as an investment fiduciary may invest the assets of a system in any
25 collective investment fund, common trust fund, or pooled fund that
26 is established and maintained for investment of those assets ~~by the~~
27 ~~financial institution, trust company, or management company under~~

1 federal or state statutes or rules or regulations. THE INVESTMENT
2 FIDUCIARY OF THE COLLECTIVE INVESTMENT FUND, COMMON TRUST FUND, OR
3 POOLED FUND MUST BE A FINANCIAL INSTITUTION, A TRUST COMPANY, A
4 MANAGEMENT COMPANY QUALIFIED UNDER SECTION 15, OR AN AFFILIATE OF 1
5 OF THESE ENTITIES IF THAT AFFILIATE QUALIFIES AS AN INVESTMENT
6 FIDUCIARY UNDER SECTION 13(9)(A). THE COLLECTIVE INVESTMENT FUND,
7 COMMON TRUST FUND, OR POOLED FUND MAY BE ESTABLISHED AS A LIMITED
8 PARTNERSHIP, CORPORATION, LIMITED LIABILITY COMPANY, TRUST, OR
9 OTHER ORGANIZATIONAL ENTITY FOR WHICH LIABILITY OF ANY INVESTOR
10 DOES NOT EXCEED THE AMOUNT OF THE INVESTMENT UNDER THE LAWS OF THE
11 UNITED STATES OR THE LAWS OF THE STATE, DISTRICT, TERRITORY, OR
12 FOREIGN COUNTRY THAT APPLIED TO THE ORGANIZATION OF THE COLLECTIVE
13 INVESTMENT FUND, COMMON TRUST FUND, OR POOLED FUND. An investment
14 in a collective investment fund, common trust fund, or pooled fund
15 shall be considered an investment in the underlying assets of that
16 fund for all purposes under this act.

17 (2) As used in this section, "financial institution" means a
18 state or nationally chartered bank or a state or federally
19 chartered savings and loan association, savings bank, or credit
20 union whose deposits are insured by an agency of the United States
21 government and which maintains a principal office or branch office
22 located in this state under the laws of this state or the United
23 States.

24 Sec. 20d. (1) An investment fiduciary of a system having
25 assets of less than ~~\$250,000,000.00~~ \$500,000,000.00 may invest not
26 more than ~~5%~~ 10% of the system's assets in investments not
27 otherwise qualified under this act, except as qualified in section

1 19a, whether the investments are similar or dissimilar to those
2 specified in this act.

3 (2) An investment fiduciary of a system having assets of
4 ~~\$250,000,000.00~~ **\$500,000,000.00** or more **BUT LESS THAN**
5 **\$1,000,000,000.00** may invest not more than ~~10%~~ **15%** of the system's
6 assets in investments described in subsection (1).

7 (3) An investment fiduciary of a system having assets of
8 \$1,000,000,000.00 or more may invest not more than ~~15%~~ **20%** of the
9 system's assets in investments described in subsection (1).

10 (4) An investment fiduciary of a system who is the state
11 treasurer may invest not more than ~~20%~~ **25%** of the system's assets
12 in investments described in subsection (1).

13 (5) If an investment described in subsection (1) is
14 subsequently determined to be permitted under another section of
15 this act, then the investment shall no longer be included under
16 this section.

17 (6) This section shall not be used to exceed a percentage of
18 total assets limitation for an investment provided in any other
19 section of this act.

20 Sec. 20j. (1) Subject to qualification elsewhere in this act,
21 an investment fiduciary may invest in any of the following:

22 (a) A derivative that hedges positions of a nonderivative
23 component of a portfolio that clearly reduces a defined risk.

24 (b) A derivative that replicates the risk/return profile of an
25 asset or asset class, provided the asset or asset class is
26 permitted in other sections of this act.

27 (c) A derivative that rebalances the country or asset class

1 exposure of a portfolio.

2 (d) A derivative in which the investment fiduciary has
3 examined the price, yield, and duration characteristics in all
4 market environments both at the time of investment and on an
5 ongoing basis.

6 (e) A commingled or pooled investment fund that uses
7 derivatives, if the fund's use of derivatives is consistent with
8 the guidelines outlined in this section.

9 (f) Over-the-counter derivatives if, in the case of an over-
10 the-counter security, a minimum of 2 competing bids or offers are
11 obtained. All counter party risk in over-the-counter derivative
12 transactions shall be examined at the time of investment and on an
13 ongoing basis.

14 (2) The aggregate market value of the underlying security,
15 future, or other instrument or index made under this section shall
16 not exceed ~~15%~~30% of the assets of the system. For purposes of the
17 asset limitation in this section only, "derivatives" does not
18 include:

19 (a) Asset backed pools, mortgage backed pools, or
20 collateralized mortgage obligations that are otherwise qualified
21 under this act and are no more exposed to prepayment risk or
22 interest rate risk than the underlying collateral including planned
23 amortization classes and sequential-pay collateralized mortgage
24 obligations.

25 (b) Convertible bonds, convertible preferred stock, rights or
26 warrants to purchase stock or bonds or notes or partnership
27 interests, floating rate notes, zero coupon securities, stripped

1 principal securities, or stripped interest securities, which items
2 are otherwise qualified under this act.

3 (c) Exchange-listed derivatives trading on a daily basis and
4 settling in cash daily or having a limited and fully defined risk
5 profile at an identified, fixed cost, including futures contracts
6 and purchased options.

7 (d) Currency forwards trading on a daily basis and settling in
8 cash daily or having a limited and fully defined risk profile at an
9 identified, fixed cost.

10 (3) Notwithstanding any other provision of this act to the
11 contrary, an investment fiduciary shall not invest in derivatives
12 for the purpose of leveraging a portfolio or shorting securities as
13 a sole investment.