

§1110. -- certain terms defined; net earnings**1.**

[PL 1999, c. 715, §3 (RP).]

1-A. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Admitted assets" means assets recognized by the superintendent pursuant to section 901-A. [PL 2001, c. 72, §11 (AMD).]

B. "Aggregate amount of investments" means the aggregate value of those investments as determined in accordance with statutory accounting principles pursuant to section 901-A and any rules adopted under that section. [PL 2001, c. 72, §11 (AMD).]

C. "Asset value" is that value that may be contained in the annual statement of the corporation filed pursuant to section 423. [PL 1999, c. 715, §4 (NEW).]

D. "Bona fide hedging transaction" means a purchase or sale of foreign currency or of a contract, option, call, put or right entered into for the purpose of offsetting changes in foreign currency exchange rates, in the market value of investments held or proposed to be acquired by the insurer or in the market value of liabilities that the insurer has or expects to incur, pursuant to a duly adopted resolution of the insurer's board of directors and written operations procedure submitted to the superintendent before making any such purchases and sales, as long as:

(1) There is a high correlation between changes in the market value of those hedging purchases and sales and the market value of the assets and liabilities to be hedged; and

(2) Books and records regarding all such purchases and sales are maintained by the insurer in accordance with generally accepted accounting principles.

The superintendent may adopt further rules regarding the form and content of resolutions, operation procedures, books and accounts and further accounting treatment and valuation methods necessary to ensure compliance with this definition. [PL 1999, c. 715, §4 (NEW).]

E. "Domestic institution" means an institution created or existing under the laws of the United States or any state, district or territory. [PL 1999, c. 715, §4 (NEW).]

F. "Fixed charges" includes interest on funded and unfunded debt and amortization of debt discount, but in the case of a bank or trust company, interest paid by that institution upon any deposit or any certificate or other evidence of a deposit may not be deemed a fixed charge of such an institution. [PL 1999, c. 715, §4 (NEW).]

G. "High-yield obligations" means obligations that are neither investment grade nor medium grade obligations. [PL 1999, c. 715, §4 (NEW).]

H. "Institution" means a corporation, a joint-stock association, a business trust, a business partnership, a business joint venture or any other similar entity. [PL 1999, c. 715, §4 (NEW).]

I. "Investment grade obligation" means an obligation that at the time of acquisition by the insurer is rated "1" or "2" by the Securities Valuation Office of the National Association of Insurance Commissioners. If not valued by the Securities Valuation Office of the National Association of Insurance Commissioners, "investment grade obligation" means an obligation that at the time of acquisition by the insurer is rated the equivalent of "1" or "2" by one of the following nationally recognized independent rating agencies: Moody's Investors Service, Inc., Standard and Poor's Division of The McGraw-Hill Companies, Inc., Fitch Investors Service, Inc., or Duff and Phelps Credit Rating Company. [PL 1999, c. 715, §4 (NEW).]

J. "Medium grade obligation" means an obligation that at the time of acquisition by the insurer is rated by the Securities Valuation Office of the National Association of Insurance Commissioners as "Class 3" quality. If not valued by the Securities Valuation Office of the National Association of Insurance Commissioners, "medium grade obligation" means an obligation that at the time of acquisition by the insurer is rated the equivalent of "3" by Moody's Investors Service, Inc., Standard and Poor's Division of The McGraw-Hill Companies, Inc., Fitch Investors Service, Inc., or Duff and Phelps Credit Rating Company. [PL 1999, c. 715, §4 (NEW).]

K. "Net earnings available for fixed charges" means net income after deducting operating and maintenance expenses, taxes other than federal, state and other income taxes, depreciation and depletion, but excluding extraordinary nonrecurring items of income or expense appearing in the regular financial statements of the issuing, assuming or guaranteeing institutions. [PL 1999, c. 715, §4 (NEW).]

L. "Not acquired by the insurer from an issuer, underwriter or dealer" means acquired by the insurer in an exempt transaction described in the United States Securities Act of 1933, Section 4(1) or Section 4(3), 15 United States Code, Section 77d(1) or Section 77d(3), as from time to time amended. [PL 1999, c. 715, §4 (NEW).]

M. "Obligations" includes bonds, debentures, notes or other evidences of indebtedness. [PL 1999, c. 715, §4 (NEW).]

N. "Qualified broker or dealer" means a broker or dealer that is organized under the laws of a state, is registered under the United States Securities Exchange Act of 1934, 15 United States Code, Sections 78a to 78kk and has net capital in excess of \$250,000,000. [PL 1999, c. 715, §4 (NEW).]

O. "Qualified financial institution" means a bank or a trust company that is organized under the laws of a state or the United States, has assets in excess of \$5,000,000,000, has, or its parent corporation has, senior obligations outstanding rated "AA" or better and has a ratio of primary capital to total assets of at least 5 1/2% and a ratio of total capital to total assets of at least 6%. [PL 1999, c. 715, §4 (NEW).]

P. "Qualified for public sale" means registered under the United States Securities Act of 1933, 15 United States Code, Sections 77a to 77aa. [PL 1999, c. 715, §4 (NEW).]

Q. "Subsidiary" has the same meaning as defined in section 222, subsection 2, paragraph F. The term "subsidiary" does not include a separate account established under section 2537. [PL 1999, c. 715, §4 (NEW).]

R. "United States" when used to signify place includes those geographical areas and the lands and waters adjacent to those geographical areas under the jurisdiction of the United States. [PL 1999, c. 715, §4 (NEW).]

[PL 2001, c. 72, §11 (AMD).]

2. If net earnings are determined in reliance upon consolidated earnings statements of parent and subsidiary institutions, such net earnings shall be determined after provisions for income taxes of only those subsidiaries in which the parent institution owns directly or indirectly less than 90% of all classes of voting stock, and after proper allowance for minority stock interest, if any; and the required coverage of fixed charges shall be computed on a basis including fixed charges and preferred dividends of subsidiaries other than those payable by such subsidiaries to the parent corporation or to any other of such subsidiaries, except that if the minority common stock interest in the subsidiary corporation is substantial, the fixed charges and preferred dividends may be apportioned in accordance with regulations prescribed by the superintendent.

[PL 1969, c. 132, §1 (NEW); PL 1973, c. 585, §12 (AMD).]

3.

[PL 1999, c. 715, §5 (RP).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1979, c. 458, §§4,5 (AMD). PL 1983, c. 759, §1 (AMD). PL 1993, c. 313, §§24,25 (AMD). PL 1999, c. 715, §§3-5 (AMD). PL 2001, c. 72, §11 (AMD).

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