STATE OF NEW YORK

3571

2021-2022 Regular Sessions

IN SENATE

January 30, 2021

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to reserve investments for certain insurers in exchange-traded funds

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subsection (a) of section 1401 of the insurance law is amended by adding a new paragraph 19 to read as follows:

(19) "Bond exchange-traded fund" means an exchange-traded fund registered under the federal Investment Company Act of 1940, as amended, that has a principal investment strategy of investing primarily in bonds, loans or other debt instruments.

§ 2. Paragraph 10 of subsection (a) of section 1404 of the insurance law, as added by chapter 324 of the laws of 1992, is amended to read as follows:

(10) Investment companies. (A) Securities of any investment company registered pursuant to the federal Investment Company Act of 1940, 15 U.S.C. § 802, **as amended, including exchange-traded funds,** if such company:

(i) invests at least ninety percent of its assets in the types of securities which qualify as a reserve investment pursuant to the provisions of paragraph one, two or three of this subsection or which invest in securities which are determined by the superintendent to be substantively similar to the types of securities set forth in such paragraphs; [~~or~~]

(ii) invests in bond exchange-traded funds, provided that such funds have received a valid designation from the Securities Valuation Office of the National Association of Insurance Commissioners such that it may be filed on the statutory long-term bond obligation Schedule D-1 as promulgated by the Securities Valuation Office; or

[~~(ii)~~] **(iii)** invests at least ninety percent of its assets in the types of equity interests which qualify as a reserve investment pursuant to the provisions of paragraph eight of this subsection.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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(B) Investment limitations. Investments made by an insurer subject to the provisions of paragraph two of subsection (a) or subsection (b) of section one thousand four hundred three of this article shall not exceed the following limitations:

(i) in any investment company qualifying under item (i) of subparagraph (A) hereof, ten percent of such insurer's admitted assets as shown by its last statement on file with the superintendent and the aggregate amount of investment in such qualifying investment companies shall not exceed twenty-five percent of such insurer's admitted assets as shown by its last statement on file with the superintendent **and the cost of such investments shall not be included when calculating the permissible aggregate value of equity interests pursuant to the provisions of subparagraph (B) of paragraph eight of this subsection**; [~~and~~]

(ii) in any single bond exchange-traded fund under item (ii) of subparagraph (A) hereof, fifteen percent of such insurer's admitted assets as shown by its last statement on file with the superintendent and the cost of such investments shall not be included when calculating the permissible aggregate value of equity interests pursuant to the provisions of subparagraph (B) of paragraph eight of this subsection; and

[~~(ii)~~] **(iii)** in any investment company qualifying under item [~~(ii)~~] **(iii)** of subparagraph (A) hereof, five percent of such insurer's admitted assets as shown by its last statement on file with the superintendent and the aggregate amount of investment in such qualifying investment companies shall be included when calculating the permissible aggregate value of equity interests pursuant to the provisions of subparagraph (B) of paragraph eight of this subsection.

§ 3. Subsection (a) of section 1405 of the insurance law is amended by adding a new paragraph 9 to read as follows:

(9) Investment companies. (A) Securities of any investment company registered pursuant to the federal Investment Company Act of 1940, 15 U.S.C. § 802, as amended, including exchange-traded funds, if such company:

(i) invests at least ninety percent of its assets in the types of securities which qualify as a reserve investment pursuant to the provisions of paragraph one, two or three of this subsection or which invest in securities which are determined by the superintendent to be substantively similar to the types of securities set forth in such paragraphs;

(ii) invests in bond exchange-traded funds, provided that such funds have received a valid designation from the Securities Valuation Office of the National Association of Insurance Commissioners such that it may be filed on the statutory long-term bond obligation Schedule D-1 as promulgated by the Securities Valuation Office; or

(iii) invests at least ninety percent of its assets in the types of equity interests which qualify as a reserve investment pursuant to the provisions of paragraph eight of this subsection.

(B) Investments made pursuant to item (iii) of subparagraph (A) of this paragraph shall be included when calculating the permissible aggregate value of equity interests pursuant to this section. Investments made pursuant to items (i) and (ii) of subparagraph (A) of this paragraph shall not be included when calculating the permissible aggregate value of equity interests pursuant to this section.

§ 4. This act shall take effect immediately.