§ 1403. Reserve and other investments; certain requirements. (a) If the requirements of section one thousand four hundred two of this article are met:

(1) any domestic life insurance company may invest its funds in, or otherwise acquire, or loan upon, only the types of investments specified in section one thousand four hundred two, this section, sections one thousand four hundred five, one thousand four hundred six, one thousand four hundred ten, four thousand two hundred forty and article seventeen of this chapter, subject to the limitations therein contained. The provisions of section one thousand four hundred four of this article shall not have any application to investments of life insurance companies, except to the extent provided in paragraph four of subsection (b) of section one thousand four hundred two of this article;

(2) any domestic corporation subject to article forty-three or sixty-four of this chapter and any domestic fraternal benefit society subject to article forty-five of this chapter may invest its funds in, or otherwise acquire, or loan upon, only the types of investments specified in section one thousand four hundred two, this section and section one thousand four hundred four of this article, except as may be modified by said article forty-three or sixty-four of this chapter as to corporations organized thereunder or by article forty-five of this chapter as to societies organized thereunder. Any such corporation subject to article forty-three or any such society governed by subsection (a) of section forty-five hundred twenty-nine of this chapter may also invest in, or otherwise acquire, subsidiaries to the extent permitted by subsection (b) of section one thousand seven hundred one of this chapter. Any such fraternal benefit society may also make policy loans under section one thousand four hundred six of this article.

(b) A domestic charitable annuity society, the investments of which are subject to the provisions of section eleven hundred ten of this chapter, may invest such of its assets (the investment of which is controlled by section eleven hundred ten) in, or otherwise acquire, or loan upon, only the types of securities specified in section one thousand four hundred two, this section and section one thousand four hundred four of this article. A retirement system subject to the provisions of article forty-six of this chapter may invest its funds only as provided in article forty-six of this chapter. In addition, a

retirement system subject to article forty-six may acquire subsidiaries under article seventeen of this chapter and may establish separate accounts under section four thousand two hundred forty of this chapter, in each case to the extent permitted by article forty-six of this chapter.

(c) If the requirements of section one thousand four hundred two of this article are met, any domestic insurer, other than an insurer subject to subsection (a) or (b) of this section, may, except as set forth below, invest its funds in, or otherwise acquire, or loan upon, only the types of investments specified in such section, this section and subsection (a) of section one thousand four hundred four of this article (except paragraphs eight and ten of subsection (a) of such section); provided that any such domestic insurer may also invest its funds in, or otherwise acquire or loan upon investments permitted under sections one thousand four hundred seven (including investments of the classes described in paragraphs eight and ten of subsection (a) of section one thousand four hundred four), section one thousand four hundred eight of this article and article sixteen of this chapter, so long as it maintains cash, investments required by section one thousand four hundred two of this article and reserve investments under subsection (a) of section one thousand four hundred four of this article, free from any lien or pledge, which, when valued in accordance with the provisions of this chapter, shall at least equal fifty percent of the aggregate amount of its unearned premium, loss and loss adjustment expense reserves as shown by its last sworn statement, annual or quarterly, on file with the superintendent. If an insurer, other than an accident and health insurance company, maintains cash, investments required by section one thousand four hundred two of this article and reserve investments under subsection (a) of section one thousand four hundred four of this article, free from any lien or pledge, which, when valued in accordance with the provisions of this chapter, shall at least equal the aggregate of seventy percent of its loss and loss adjustment expense reserves and fifty percent of its unearned premium reserves as shown by its last sworn statement, annual or quarterly, on file with the superintendent, then such insurer, other than an accident and health insurance company, may in addition enter into the types of transactions set forth in section one thousand four hundred ten of this article,

subject to the limitations set forth in such section. The term "lien or pledge" as used in this subsection shall not include any deposit of securities or cash with any government, nor trusteed assets, held in trust for the benefit or protection of all or any class of the policyholders, or policyholders and creditors, of such insurer.

(d) (1) Except for investments referred to in subsection (e) of this section, investments that are neither interest bearing nor income paying shall be purchased or acquired only under, and to the extent permitted by, subsection (b) of section one thousand four hundred four of this article (in the case of insurers that make investments under section one thousand four hundred four of this article other than insurers making investments under the authority of subsection (c) of this section), paragraph eight of subsection (a) of section one thousand four hundred five of this article (in the case of insurers that make investments under section one thousand four hundred five) or section one thousand four hundred seven of this article (in the case of insurers that make investments under the authority of subsection (c) of this section), however, a default in interest or income occurring subsequent to the purchase or other acquisition of an investment shall not affect the allowance thereof as an admitted asset at the market value thereof.

(2)(A) Notwithstanding any other provision of this article, a domestic insurer making investments pursuant to paragraph two of subsection (a) of this section, a domestic charitable annuity society and a retirement system making investments pursuant to subsection (b) of this section, and a domestic accident and health insurer making investments pursuant to subsection (c) of this section may sell call options on securities, provided that:

(i) such options are traded on a securities exchange registered under the laws of the United States, and

(ii) the insurer holds, or can immediately acquire through the exercise of warrants or conversion rights already owned at a contractually specified price, the underlying securities during the entire period the option is outstanding.

(B) An insurer selling call options on securities pursuant to subparagraph (A) of this paragraph may purchase any such option to offset an outstanding option previously sold by the insurer for the same kind and amount of securities.

(e) (1) Nothing contained in this chapter shall prohibit the acquisition by any insurer of other securities or property (i) received as a dividend or pursuant to a judicial or lawful non-judicial plan of reorganization or dissolution or pursuant to a lawful and bona fide agreement of bulk reinsurance or consolidation; or (ii) received through the exercise of rights of conversion, stock warrants or stock options acquired by it in accordance with this subsection or section one thousand four hundred four, one thousand four hundred five, one thousand four hundred seven or one thousand four hundred ten of this article. Nor shall anything in this chapter prohibit acquisition of (1) an investment permitted under section one thousand four hundred four, one thousand four hundred five, one thousand four hundred seven or one thousand four hundred ten of this article because such investment is convertible into other securities in which such insurer is not permitted to invest under this chapter, or because such insurer receives in connection with such investment stock warrants, whether detachable or non-detachable, stock options, stock, property interests or other assets of any kind or (2) securities or property (real or personal) or any interest therein received in satisfaction of a debt previously owing to such insurer. If any securities or other property received by any insurer in accordance with the first sentence of this paragraph shall consist in whole or in part of shares of any institution or of obligations or other property not meeting the requirements specified in section one thousand four hundred four (in the case of insurers making investments under the authority of section one thousand four hundred four) or section one thousand four hundred five (in the case of insurers making investments under the authority of section one thousand four hundred five) of this article, then any such shares and any such obligations or property so received shall be disposed of within five years from the time of acquisition or before the expiration of such further period or periods of time as may be prescribed in writing by the superintendent, unless at any time after such acquisition such shares, obligations or property shall have met such requirements and the insurer has notified the superintendent thereof.

(2) Except as otherwise specifically provided in this chapter, investments in subsidiaries are not subject to the provisions of this section, section one thousand four hundred four (except paragraph nine

of subsection (a) thereof) or one thousand four hundred five of this article.

(f) (1) Subsidiaries of domestic life insurance companies, whether acquired under subsection (e) of this section, sections one thousand four hundred five, four thousand two hundred forty, or otherwise, shall be subject to the provisions of article seventeen of this chapter to the extent therein provided.

(2) Subsidiaries of domestic corporations subject to article forty-three of this chapter and of domestic retirement systems, whether acquired under subsection (e) of this section, section one thousand four hundred four, four thousand two hundred forty (in the case of retirement systems), or otherwise, shall be subject to the provisions of article seventeen of this chapter to the extent therein provided.

(g) This section does not prohibit any domestic insurance company from acquiring shares under article seventy-one of this chapter or any domestic life insurance company from acquiring shares of its own capital stock pursuant to section seven thousand three hundred two of this chapter.

(h) With respect to all transactions between a domestic insurer and any person, five percent or more of whose voting securities are held, directly or indirectly, by such insurer, but which is not a subsidiary, the insurer shall maintain books, accounts and records that disclose clearly and accurately the nature and detail of such transactions.

(i) (1) Except as provided in subparagraph (A) of paragraph two of subsection (a) of section four thousand two hundred forty of this chapter, investments made for separate accounts under the provisions of section four thousand two hundred forty of this chapter shall be disregarded, and shall be excluded from admitted assets, in applying the quantitative investment limitations contained in this chapter to other investments.

(2) Except as provided in subparagraph (A) of paragraph two of subsection (a) or paragraph four of subsection (a) of section four thousand two hundred forty of this chapter, the restrictions, limitations and other provisions relating to investments specified in this chapter shall not apply to investments made for separate accounts under the provisions of section four thousand two hundred forty of this chapter.