§ 177. Eligible investments. In addition to the powers contained in any other provision of law, including the provisions of the administrative code of the city of New York, the trustee or trustees of a fund shall have the power to invest the moneys thereof in: 1. Such securities in which the trustees of a savings bank may invest the moneys deposited therein as provided by law, subject, however, to the following limitations:

(a) (i) Except as provided in sections one hundred seventy-eight and three hundred six of the public housing law, no conventional mortgage may exceed sixty per centum of the appraised value of improved and unencumbered real property or seventy-five per centum of the appraised value thereof if such real property is improved by a building or buildings, the major portion of which is used, or in the case of a building under construction is to be used, for residential, business, manufacturing or agricultural purposes; (ii) the aggregate unpaid principal amount of all conventional mortgages at any time held in a fund shall not exceed thirty per centum of the assets of such fund; and (iii) not more than five per centum of the assets of any fund shall be invested in any one conventional mortgage;

(b) the aggregate unpaid principal amount of obligations issued or guaranteed by the international bank for reconstruction and development at any time held in a fund shall not exceed five per centum of the assets of such fund;

(c) the aggregate unpaid principal amount of all obligations of the Dominion of Canada, of any province of the Dominion of Canada, and of any city of the Dominion of Canada at any time held in a fund shall not exceed five per centum of the assets of such fund;

(d) the aggregate unpaid principal amount of equipment trust certificates at any time held in a fund shall not exceed five per centum of the assets of such fund; and

(e) not more than two and one-half per centum of the assets of any fund shall be invested in the obligations of any one railroad or industrial corporation, or any one corporation engaged directly and primarily in the production, transportation, distribution, or sale of electricity or gas, or the operations of telephone and telegraph systems or waterworks, or in some combination thereof; and

(f) not more than thirty per centum of the assets of any fund shall be

invested in bonds of electric and gas corporations as defined in subdivision thirteen of section two hundred thirty-five of the banking law, notwithstanding the provisions of paragraph (h) of such subdivision.

1-a. Obligations payable in United States funds of the United States, any state of the United States, District of Columbia or Commonwealth of Puerto Rico, of any department, agency or political subdivision thereof, or of any corporation, company or other issuer of any kind or description created or existing under the laws of the United States, any state of the United States, District of Columbia or Commonwealth of Puerto Rico and obligations payable in United States funds of Canada or any province or city of Canada, provided

(a) each such obligation at the time of investment shall be rated investment grade by two nationally recognized rating services or by one nationally recognized rating service in the event only one such service rates such obligation; and

(b) the aggregate investment by a fund in the obligations of any one issuer pursuant to this subdivision (other than the obligations of the United States, or those for which the faith of the United States is pledged to provide payment of the interest and principal) shall not exceed two per centum of the assets of such fund or five per centum of the direct liabilities of such issuer.

2. Equity securities, and interest-bearing obligations payable in United States funds which are convertible into equity securities, of any corporation created or existing under the laws of the United States, any state of the United States, District of Columbia and Commonwealth of Puerto Rico, or any investment company, as defined by, and which is registered under, an act of Congress of the United States, entitled the "Investment Company Act of 1940", approved August twenty-second, nineteen hundred forty, as amended, subject to the following limitations:

(a) the maximum investment by a fund in such securities shall not exceed (i) in any one year fifteen per centum of the assets of such fund, or (ii) seventy per centum in the aggregate; provided, further, however, that more than fifteen per centum of such assets, but not more

than twenty per centum thereof, may be so invested in any one year but only to the extent that the per centum of such investments over all prior years from the effective date of this act when added to the per centum of such investments during that year does not exceed an average of fifteen per centum of the assets of such fund over all prior years and the year in which the investment is being made;

(b) not more than two per centum of the assets of any fund shall be invested in the equity securities of any one corporation and subsidiary or subsidiaries thereof;

(c) not more than five per centum of the total issued and outstanding equity securities of any one corporation shall be owned by any fund; and

(d) notwithstanding any other provision of law, the equity securities acquired hereunder must be registered on a national securities exchange, as provided in an act of congress of the United States, entitled the "Securities Exchange Act of 1934", approved June sixth, nineteen hundred thirty-four, as amended, or otherwise registered pursuant to said act and, if such equity securities are so otherwise registered, price quotations for such equity securities are furnished through a nationwide automated quotations system approved by the National Association of Securities Dealers, Inc.

3. Conventional mortgages guaranteed by a state bank or trust company having a net worth in excess of five hundred million dollars, provided, however, that not more than ten per centum of the assets of any fund shall be invested in any such mortgage so guaranteed.

4. Bonds and notes of any bank, trust company, savings bank or savings and loan association organized under the laws of this state having a net worth of at least ten million dollars, which bonds and notes shall be validly secured at all times to the extent of one hundred and ten per centum of the unpaid principal amount of such bonds and notes by mortgages upon real estate insured by the federal housing administrator or any of his successors in office and guaranteed by the United States under the provisions of the national housing act, as amended or supplemented, and to the extent of one hundred and thirty-three and one-third per centum of the unpaid principal amount of such bonds and notes by conventional mortgages, the valuation of which mortgages shall

be based upon the unpaid principal amount thereof upon the date of the pledge, assignment or transfer thereof to such fund or its trustee or trustees as security for such bonds and notes, such bonds or notes to be amortized in substantially equal annual or semi-annual payments of principal and interest over a period not in excess of twenty-five years, provided the aggregate unpaid principal amount of bonds and notes secured by conventional mortgages shall not exceed five per centum of the assets of such fund.

5. The trustee or trustees shall have the power to participate or co-invest in any whole or part interest in any conventional mortgage or insured mortgage, or in any whole or part interest in any such mortgage, which mortgage is held for the benefit of the holder or holders of a whole interest or part interests therein, but no such investment shall be made in any part interest which is junior or subordinate to any other part interest therein nor if the aggregate amount of all investments by the fund in whole and part interests in such mortgages when added together will exceed the limitations set forth in the foregoing subdivisions of this section applicable to investments in such mortgages.

6. Real estate only if acquired or used for one or more of the following purposes and in the following manner:

(a) The land and the building thereon in which it has its principal office.

(b) Such as shall be requisite for its convenient accommodation in the transaction of its business.

(c) Such as shall have been acquired in satisfaction of loans, mortgages, liens, judgments, decrees or other debts previously owing to such fund in the course of its business.

(d) Such as shall have been acquired in part payment of the consideration on the sale of real property owned by it, if each such transaction shall have effected a net reduction in the fund's investment in real property.

(e) Such real property, other than property to be used primarily for agricultural, horticultural, ranch, mining, recreational, amusement or club purposes, as may be acquired, as an investment for the production

of income (including capital appreciation), or as may be acquired to be improved or developed for such investment purpose pursuant to an existing program therefor, subject to the following limitations: (1) the cost of each parcel of real property so acquired under the authority of this subdivision, including the estimated cost to the fund of the improvement or development thereof, when added to the value of all other real property then held by it pursuant to this subdivision, shall not exceed ten per cent of its assets, and (2) the cost of each parcel of real property acquired under the authority of this subdivision, including the estimated cost to the fund of the improvement or development thereof, shall not exceed two per cent of the fund's assets.

(f) Notwithstanding any other provision of this article, for the purposes of this subdivision, an investment in an entity that invests or proposes to invest, directly or indirectly through one or more other entities, at least a majority of its assets in (1) any interest in real property of any kind or character as an investment for the production of income (including capital appreciation), or (2) debt instruments secured by any interest in real estate may be considered an investment in real estate pursuant to this subdivision and included in the assets subject to the ten percent limitation of paragraph (e) of this subdivision.

7. The trustees of a fund shall have the power to invest the moneys thereof in limited partnerships, joint ventures, stock of corporations (including subsidiaries of the fund), group trusts, common trust funds, collective investment funds, investment companies (as defined by an act of Congress entitled the "Investment Company Act of 1940"), separate accounts established by a domestic life insurance company in accordance with section forty-two hundred forty of the insurance law, separate accounts of the kinds authorized for domestic life insurance companies in accordance with section forty-two hundred forty of the insurance law established by life insurance companies doing business in this state, real estate investment trusts (as defined in section 856 of the Internal Revenue Code of 1986) or any other similar investment entity, whether owned in whole or in part by the fund, provided that (a) such limited partnership, joint venture, corporation (including a subsidiary of the fund), group trust, common trust fund, investment company, separate account, collective investment entity, real estate investment trust or

other similar investment entity has been established or organized primarily for the purpose of investing in securities, real estate or other investments in which the trustee or trustees of a fund are authorized to invest pursuant to this section; and (b) each investment by a fund pursuant to this subdivision shall be deemed to be the investment of the fund in such investment entity (rather than in the assets of such investment entity), except that in calculating the amount of the fund's investment in assets for purposes of the percentage limitations, if any set forth in this section, there shall be included all assets held by any such investment entity in which the fund shall have an investment as of the date of determination, but only to the extent of the fund's indirect interest in such assets resulting from its investment in such investment entity.

8. The trustees of a fund shall have the power to invest the moneys thereof in foreign equity securities provided that (a) any such equity security is registered on a national securities exchange, as provided in an act of congress of the United States, entitled the "Securities Exchange Act of 1934", approved June sixth, nineteen hundred thirty-four, as amended, or otherwise registered pursuant to said act and, if such equity security is so otherwise registered, price quotations therefor are furnished through a nationwide automated quotation system approved by the National Association of Securities Dealers, Inc. or is registered on a foreign exchange organized and regulated pursuant to the laws of the jurisdiction of such exchange and (b) the corporation has averaged at least one billion dollars in annual sales for the three consecutive years preceding the year in which the investment is made or has market capitalization of at least one billion dollars at the time the investment is made. Investments in such foreign equities shall be included together with a fund's investments in other equity securities for purposes of the percentage limitations set forth in the foregoing subdivisions of this section, and not more than ten per centum of the assets of any fund shall be invested in the aggregate in such foreign equities.

9. Investments, which do not qualify or are not permitted under any other subdivision of this section, notwithstanding any other provision

of law, provided

(a) the investments by a fund made pursuant to this subdivision shall not at any time exceed thirty-five per centum of the assets of such fund;

(b) such investments shall be for the exclusive benefit of the participants and beneficiaries, and the trustee or trustees of a fund shall make such investments with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

(c) such investments shall, to the extent reasonably possible, benefit the overall economic health of the state of New York, so long and only if such investments satisfy paragraph (b) of this subdivision.

10. In calculating assets of a fund and percentages thereof for the purposes of this section, a fund is authorized to use a market valuation methodology, provided the valuation methodology is used consistently for all such calculations and is in accordance with recognized accounting methodology.