

This rule was filed as 2 NMAC 60.14.

TITLE 2 PUBLIC FINANCE
CHAPTER 60 INVESTMENT AND DEPOSIT OF PUBLIC FUNDS
PART 14 BROKER POLICY

2.60.14.1 ISSUING AGENCY: New Mexico State Investment Council, 2055 South Pacheco Street, Suite 100, Santa Fe, New Mexico 87505, (505) 424-2500
[06/15/99; Recompiled 10/01/01]

2.60.14.2 SCOPE: Institutional broker/dealers.
[06/15/99; Recompiled 10/01/01]

2.60.14.3 STATUTORY AUTHORITY: The state investment office recognizes the value of outside research, quantitative support, and other services provided by the brokerage firms with which it transacts securities trades. The state investment office attempts to compensate brokers fairly and in approximate proportion to the overall utility of each brokerage firm to the funds' internal management activities. Brokerage firms with offices in New Mexico will be given preference in the award of commission business within a best price and execution context where all other factors are judged equal.
[06/15/99; Recompiled 10/01/01]

2.60.14.4 DURATION: Permanent.
[06/15/99; Recompiled 10/01/01]

2.60.14.5 EFFECTIVE DATE: June 15, 1999 unless a later date is specified at the end of a section or paragraph.
[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]
[06/15/99; Recompiled 10/01/01]

2.60.14.6 OBJECTIVE: The state investment office recognizes the value of outside research, quantitative support, and other services provided by the brokerage firms with which it transacts securities trades. The state investment office attempts to compensate brokers fairly and in approximate proportion to the overall utility of each brokerage firm to the funds' internal management activities. Brokerage firms with offices in New Mexico will be given preference in the award of commission business within a best price and execution context where all other factors are judged equal. The state investment office is responsible for the management of the assets of the land grant permanent fund, the severance tax permanent fund, and a number of funds managed for other state agencies. As a part of that responsibility, a portion of the funds are managed in-house by the state investment council staff. In order to fulfill that responsibility, it is essential that the staff have access to the necessary market information, research, services, and securities trading capabilities provided by those brokerage firms that emphasizes institutional capabilities. In addition, it is necessary that those brokers who are professionally trained to service large institutions such as the state investment council provide sales coverage. The broker/dealer selection process must, therefore, focus on obtaining the services needed by the staff in the management of the in-house portion of the portfolios.
[06/15/99; Recompiled 10/01/01]

2.60.14.7 DEFINITIONS: [RESERVED]

2.60.14.8 GENERAL REQUIREMENTS FOR INSTITUTIONAL BROKER/DEALERS:

- A. Trading must be done either with the New York trading desk or a regional office with direct lines into the New York trading desk.
- B. Sales/research coverage must be provided by institutional salespersons that report to the institutional department.
- C. Brokers must provide access to all research information disseminated by the firm, including the ability to access the information electronically.
- D. Brokers must provide access to research conference calls of interest to the staff.

E. Brokers must provide ability for staff to talk directly with their institutional analysts, strategists, and economists on a periodic basis. In addition, brokers are expected to arrange for periodic face-to-face meeting in Santa Fe with their research staff. [06/15/99; Recompiled 10/01/01]

2.60.14.9 BROKER/DEALER APPROVED LISTS:

A. GENERAL - Brokers desiring to conduct business with the state investment council should contact the appropriate member of the investment staff. This could be the state investment officer, deputy state investment officer or the portfolio managers. The institutional firms will be evaluated on the breadth of their capabilities. Firms will be added to the approved list based upon the collective judgment of those investment staff members most affected. New Mexico based firms, defined, as a brokerage firm that maintains at least one active retail office in the state, should contact the state investment officer or the deputy state investment officer. New Mexico based firms must have the ability to execute institutional-sized orders.

B. EQUITIES - The approved list shall consist of institutional firms and New Mexico based firms. The list of institutional firms shall be limited to ten firms and shall receive approximately 90 percent of the commissions generated by equity trades. Those institutional firms that have offices in New Mexico will be included in the institutional list. The remaining commissions will be divided among those New Mexico firms that provide primarily retail coverage for individuals and that have indicated an interest in doing business with the SIC.

C. The primary focus of equity trading is to obtain the best [sic] net price, consisting of both commission cost and execution cost. Considerations involved in selecting the brokerage firm with which to place the order include but are not limited to:

- (1) Marketability of the stock. Some stocks are more liquid than others are.
- (2) speed of execution necessary. A brokerage firm may be required to commit capital to accommodate the order.
- (3) location of execution. OTC and international exchange trades tend to be more difficult than trades executed on national U.S. exchanges.

D. It is the SIC trader's responsibility to determine the difficulty of the trade and match it with the execution services necessary for best execution.

E. Frequently there may be several institutional brokerage firms that could provide best execution particularly related to liquid, large capitalization stocks. An additional factor in the selection of a brokerage firm to execute a trade is the value of the additional services provided to the SIC staff, such as input related to market strategy, research on individual companies, and quality of the sales coverage. The institutional brokerage firms shall be ranked according to the value-added to the SIC investment process. Semi-annually, the equity staff, including the state investment officer and the deputy state investment officer, shall individually rank the institutional firms in the categories of strategy, research, sales coverage, and trading. The results shall be tabulated and a list created for use by the trader for the following six months. The top half of the firms shall receive approximately 60 percent of the total commissions and the remaining firms shall receive approximately 30 percent. In no case will best net price be sacrificed.

F. FIXED INCOME - The approved list shall consist of both institutional firms and New Mexico based firms. The list of institutional firms shall be limited to ten firms. Trades shall be executed on a best efforts basis with any discretionary commissions (primarily new issue designation) being awarded to those firms who have added the most value to the SIC investment process.

G. COMPETITIVE GUIDELINES - Trades shall be executed on a competitive basis when it is practical in the judgment of the staff. The following rules shall be followed for competitive trades:

- (1) A minimum of three firms will be included on each trade.
- (2) A minimum of one New Mexico firm will be included on each trade.
- (3) The winner on all trades will be included on the competing list for the following trade unless, in the judgment of the staff, the firm does not have good capabilities in the sector related the subsequent trade.
- (4) In the event of a tie, the trade will be awarded to a firm with a New Mexico office if possible.

H. CORPORATE BOND TRADING RULES - New issue trades shall be conducted in the following manner:

- (1) Securities will normally be purchased from the lead underwriter.
- (2) Available designations will first be used to fulfill soft dollar commitments.
- (3) Remaining designations may be used to compensate firms according to the value of services provided to the investment office.

I. BOND EXCHANGES - Bond exchanges will be managed under the following guidelines:

(1) Recognizing the value of original ideas proposed bond exchanges would not be shopped among other institutional firms.

(2) If uncertainty exists concerning the levels of the bid or offer prices on the proposed exchange, the level(s) should be checked with at least one other firm.

(3) If a higher bid or offer is found, the proposing firm shall be given the opportunity to improve their bid or offer. The proposing firm shall win any ties.

[06/15/99; Recompiled 10/01/01]

2.60.14.10 SOFT DOLLAR POLICY:

A. The use of soft dollars refers to the use of commissions to pay for brokerage and research services instead of brokerage fees. It is common practice among large institutions to use a portion of the available commissions in both equity and fixed income portfolios to pay for investment-related goods and services.

B. GUIDELINES - The state investment office will be guided by prudent business principles and the following guidelines:

(1) The investment office will strictly follow the safe harbor" provision of Section 28(e) of the Securities and Exchange Act. The controlling principle used to determine whether an item constitutes brokerage and research services is whether it provides lawful and appropriate assistance to the money manager in the performance of his or her investment decision-making responsibilities.

(2) All soft dollar expenditures will be for the exclusive benefit of the funds managed by the investment office.

(3) The broker must provide brokerage and research services. The broker must incur the direct legal obligation to pay the third-party providers for the brokerage and research services.

(4) The investment office will determine that the value of brokerage and research services received is reasonable in relation to the amount of commissions paid.

(5) The investment office will not pay a higher commission rate on trades allocated to the soft-dollar account than it pays on any other trades with the same broker. Best price and execution will not be sacrificed.

(6) Best execution will not be sacrificed. Securities transactions will be executed in such a manner that the total cost or proceeds in each transaction is the most favorable under the circumstances. In placing brokerage, the investment office will consider the full range and quality of a broker's services, including but not limited to execution capability, the value of research, commission rate, financial responsibility, and responsiveness to the investment office.

(7) Obligations will be satisfied using normal flow of orders. Trades will not be created to pay for soft-dollar commitments.

(8) Fixed assets acquired with soft dollars will be included on the investment office inventory. equipment on loan from a third-party soft-dollar provider will not be included on the inventory.

(9) The state investment office will maintain records of soft-dollar procurement, including soft-dollar cost and actual (hard dollar) cost if the services are offered for hard dollars or can be obtained through other sources. The records will include details of the amount of securities transactions and related commissions allocated to the soft-dollar costs together with details of the arrangement governing the level of commissions necessary to meet these costs.

(10) Soft-dollar expenditures will be reported to the council annually at the close of the fiscal year.

[06/15/99; Recompiled 10/01/01]

2.60.14.11 ELIGIBLE BROKERAGE AND RESEARCH SERVICES:

A. INVESTMENT RESEARCH - advice, furnished either directly or through publications or writings, as to the value of securities, the advisability of investing in, purchasing or selling securities, the advisability of investing in, purchasing or selling securities, and the availability of securities or purchasers or sellers of securities. Analyses and reports concerning issuers, industries, securities, economic factors and trends, portfolio strategy and portfolio performance.

B. DATA SERVICE - On line data feeds that aid in the investment decision-making process.

C. EQUIPMENT - Computer hardware/software and communications equipment which support the investment decision-making process. All computer hardware/ software purchases will be coordinated with the management information systems department.

D. EXCHANGE FEES - Fees paid to both domestic and international exchanges to provide real-time quotes.

E. PROFESSIONAL SERVICES - Services that provide appropriate assistance to the investment decision-making process. Examples include performance measurement and proxy-voting services.

F. SUBSCRIPTION/REFERENCE MATERIALS - Publications, which provide appropriate assistance to the investment decision-making process.

G. POLICY REVIEW - The state investment officer will recommend changes to this policy as necessary to conform to standard industry practices.

[06/15/99; Recompiled 10/01/01]

HISTORY OF 2.60.14 NMAC:

Pre-NMAC History: The material in this Part was derived from that previously filed with the State Records Center and Archives under

SIC Rule 88-4, Broker Policy, filed 6/6/88.

History of Repealed Material: [RESERVED]