

CHAPTER 10

Retirement Fund

SECTIONS

- § 1001. Establishment of Fund.
- § 1002. Investment of Fund.
- § 1003. Fund custodian.
- § 1004. Investment consultant.
- § 1005. Investment advisor/manager.
- § 1006. Authorized investments.

§ 1001. Establishment of Fund.

There shall be established a Federated States of Micronesia Social Security Retirement Fund, hereinafter referred to as the “Fund,” separate and apart from all public monies or funds of the Federated States of Micronesia, which shall be administered by the Social Security Administration exclusively for the purposes of this subtitle.

Source: PL 6-111 § 1 (part), modified.

Editor’s note: Former chapter 10 of title 53 was repealed in its entirety by PL 6-111 § 1 (part).

§ 1002. Investment of Fund.

(1) The Social Security Retirement Fund shall consist of funds or assets transferred from the Trust Territory Social Security Retirement Fund, employee’s contributions, employer’s contributions, penalties and interest collected, gifts, donations, and fund transfers authorized by law, plus interest, dividends and other earnings from the investments of the Fund, less benefit payments and expenses incurred in the operation of the Social Security System, hereinafter referred to as the “System.”

(2) The reserves of the Fund in excess of the requirements for the current operations shall be invested and reinvested by or under the authority of the Board. The Board shall invest its reserves to ensure the greatest return commensurate with sound financial policies.

(3) The Board shall have the full power to manage the investments as in its considered judgment seems most appropriate to the requirements and objectives of the system, including but not limited to the power to hold, sell, purchase, convey, assign, transfer, dispose of, lease, subdivide, or partition any asset held or proceeds thereof; to execute or cause to be executed relevant documents; to enter into protective agreements, execute proxies, or grant consent; and to do all other things necessary or appropriate to its position as an owner or creditor.

(4) All proceeds and income from investments, of whatever nature, shall be credited to the account of the Fund. Transactions in marketable securities shall be carried out at the prevailing market prices.

(5) The Board may commingle securities and monies, subject to the crediting of receipts and earnings and charging of payments to the appropriate accounts established by this act.

(6) No member of the Board and no employee of the Board, nor anyone in the immediate family of such member or employee, shall have any direct or indirect interest in the income, gains or profits of any investments made by the Board, nor shall any such person receive any pay or emolument for services in connection with any investment made by the Board. Participation in the Fund under the terms of this act shall not be construed to include interest, pay or emolument within the meaning of this subsection.

(7) No member, employee or agent of the Board, nor any person in the immediate family of such member, employee or agent, shall become an endorser or surety or in any manner an obligator of investments made by the Fund, nor shall any member, employee or agent be held liable for actions taken in good faith in the performance of his duties.

(8) Investments may be held as physical securities in either bearer form, or registered in the name of the Fund or the nominee of the custodian. Non-physical securities may be held on book entry at a Depository Institution selected by the custodian, or one of the 12 U.S. Federal Reserve Banks.

(9) Due bills may be accepted from brokers against payment for securities purchased, pending delivery within a reasonable period of time of certificates representing such investments.

Source: PL 6-111 § 1 (part), modified.

§ 1003. Fund custodian.

(1) The Board shall engage one or more fund custodians to assume responsibility for the physical possession of the Fund assets or evidences of assets. The custodian shall submit such reports, accountings and other information in such form and at such time as requested by the Board. The custodian shall hold all assets for the account of the Fund, and shall act only upon the instructions of the Administrator, as so authorized by the Board.

(2) No Fund custodian shall be engaged unless it:

(a) Is a bank duly chartered to transact business in the Federated States of Micronesia or is a United States Bank or Trust Company regulated by the Federal Reserve Board, a state authority or the federal comptroller of the currency as is appropriate;

(b) Has a net worth in excess of \$10,000,000;

(c) Has the capacity to clear securities transactions through the Depository Trust Company I.D. System; and

(d) Has at least ten years' experience as a custodian of financial assets.

(3) The contract between the Board and the Fund custodian shall be of no specific duration and is voidable at any time by either party after 30 days' notice is given.

(4) The costs of services under this subsection shall be paid out of the Fund.

Source: PL 6-111 § 1 (part), modified.

§ 1004. Investment consultant.

- (1) No person, firm or corporation shall be engaged as investment consultant unless:
 - (a) The person, firm or corporation is actively involved in the performance measurement investment consulting business, and its principals in aggregate either possess prerequisite degrees in finance, accounting or economics or have independent professional certifications;
 - (b) The person, firm or corporation, or its principals in aggregate, have a minimum of ten full years of experience providing investment consulting services; and
 - (c) The person, firm or corporation certifies in writing that it provides investment consulting services to clients whose assets total at least \$500,000,000.
- (2) The Board shall engage an investment consultant to provide ongoing assistance to the Board in:
 - (a) The supervision, retention and termination of the investment advisors/managers, the maintenance and updating of the dynamic investment policy, asset allocation decisions, and any other matters involving the investment of the assets which the Board may desire;
 - (b) Providing quarterly reports of the performance of the investment advisors/managers which must provide time weighted rates of return for a minimum of five years in each asset category;
 - (c) Providing comparisons of the Fund's performance with that of the markets as well as comparisons with other investment advisors/managers managing similar types of assets; and
 - (d) Providing at least four reports annually in person.
- (3) The Administrator shall at all times maintain a dialogue with the investment consultant in order to facilitate efficient management.
- (4) The contract between the Board and the investment consultant shall be of no specific duration and is voidable at any time by either party after 30 days' notice is given.
- (5) All costs incurred for the services provided under this subsection shall be paid out of the Fund.

Source: PL 6-111 § 1 (part), modified.

§ 1005. Investment advisor/manager.

- (1) The Board shall engage one or more investment advisors/managers to assume the responsibility and direction for the purchase and sale decisions of all assets or evidences of assets charged to them.
- (2) No person, firm or corporation shall be engaged as investment advisor/manager unless:
 - (a) The person, firm or corporation is a registered investment advisor/manager with the U.S.

Securities and Exchange Commission in accordance with the Investment Advisors Act of 1940;

(b) The principal business of the person, firm or corporation is of rendering investment management supervisor services;

(c) The person, firm or corporation has been in business for a minimum of ten full years as an active advisor/manager of security portfolios; and

(d) The person, firm or corporation certifies in writing that the assets under its direct investment supervision are in excess of \$500,000,000.

(3) The Administrator shall at all times maintain a dialogue with the investment advisors/managers in order to facilitate efficient management and timely investment actions.

(4) The contract between the Board and the investment advisors/managers shall be of no specific duration and is voidable at any time by either party after 30 days' notice is given.

(5) All costs incurred for the services provided under this subsection shall be paid out of the Fund.

Source: PL 6-111 § 1 (part), modified.

§ 1006. Authorized investments.

Investments may be made in:

(1) *Government obligations.* Obligations issued or guaranteed as to principal and interest by the National Government and/or the State governments of the Federated States of Micronesia or by the Government of the United States, provided that the principal and interest on each obligation are payable in the currency of the United States.

(2) *Corporate obligations and mortgage backed securities.* Obligations of any public or private entity or corporation created or existing under the laws of the Federated States of Micronesia or of the United States or any state, territory or commonwealth thereof, or obligations of any other government or economic community which are payable in United States dollars, or pass through and other mortgage backed securities, provided that:

(a) The obligation is of an agency of the United States Government, or

(b) The obligation is of an agency of the Federated States of Micronesia Government, or

(c) The obligation is investment grade rated by one of two nationally recognized rating agencies; and

(d) No investment under this heading exceeds ten percent of the market value of the Fund or ten percent of the outstanding value of the issue at the time of purchase.

(e) Preferred and common stocks of any corporation created or existing under the laws of the Federated States of Micronesia or under the laws of the United States or any state, territory or commonwealth thereof, may be purchased provided that:

(i) The purchase of such shares shall be considered reasonable and prudent by the investment advisor at the time of purchase;

(ii) No more than five percent of the market value of the Fund shall be invested in the stock of any one corporation; and

(iv) Not more than 25 percent of the market value of the Fund shall be invested in any one industry group.

(v) Such shares are readily marketable and actively traded on a recognized national or regional stock exchange, physical or electronic.

(4) *Insurance company obligations.* Contracts and agreements supplemental thereto providing for participation in one or more accounts of a life insurance company authorized to do business in the Federated States of Micronesia or in any state, territory or commonwealth of the United States, provided that the total market value of these investments at no time shall exceed ten percent of the total market value of all investment of the Fund.

Source: PL 6-111 § 1 (part), modified; PL 15-73 § 12.

Editor's note: PL 6-111 § 2 reads:

“Section 2. Severability. If any provision of this act or application thereof to any individual or circumstance is held invalid, the invalidity does not effect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.”