9 AAC is amended by adding a new chapter to read:

Chapter 70.

Constitutional Budget Reserve Fund Subaccount Fiduciary Standards Review

Section

9 AAC 70.010. Purpose. The purpose of this chapter is to implement a uniform process for reviewing and responding to a request from the fiduciary to the attorney general to certify that the fiduciary has documented compliance with the fiduciary standards applicable to a proposed non-routine investment from a covered fund under 15 AAC 170. (Eff. ____/____/______, Register ______)

Authority: Art. IX, sec. 17, Ak. Const., AS 37.10.430 AS 44.23.020
AS 37.10.071

9 AAC 70.015. Fiduciary standards review request. A request from the fiduciary to the attorney general made under 15 AAC 170.035 must include copies of or access to the documentation required to be maintained by 15 AAC 170 in the Department of Revenue's investment file relating to the proposed non-routine investment opportunity and any other information considered by the fiduciary in considering the investment decision. The request from the fiduciary must include documentation of the following:

(1) how the initial investment opportunity was identified, including the person or entity that presented the opportunity, the date the opportunity was presented, and the nature and detail of the non-routine investment;

(2) the guidance or advice received from the chief investment officer of the treasury division of the Department of Revenue and others, including investment consultants, with knowledge of the offered non-routine investment or similar investments;

(3) the guidance or advice received from external auditors regarding financial disclosures related to the non-routine investment;

(4) the guidance or advice received from the investment advisory council of the treasury division of the Department of Revenue;

(5) for a non-routine investment from the constitutional budget reserve fund or subaccount, the most recent 10-year plan or other official long-range published fiscal forecast of the office of management and budget for the state showing anticipated future balances that was considered by the fiduciary;

(6) the size of the proposed non-routine investment;

(7) the date of funding the proposed non-routine investment;

(8) the requirements of the Department of Revenue's custodial bank for conducting the financial transaction related to the proposed non-routine investment;

(9) the basis for valuation of the proposed non-routine investment;

(10) the notification from the fiduciary to the investment compliance section of the treasury division of the Department of Revenue of the fiduciary's intent to proceed with the proposed non-routine investment;

(11) the notification from the fiduciary to the office of management and budget of the fiduciary's intent to proceed with the proposed non-routine investment;

(12) the notification from the fiduciary to the division of legislative audit of the fiduciary's intent to proceed with the proposed non-routine investment;

(13) the notification from the fiduciary to the chairs of the senate and house finance committees of the fiduciary's intent to proceed with the proposed non-routine investment;

(14) the fiduciary's determination of whether the proposed non-routine investment requires an update to the Department of Revenue's investment guidelines, and the related update, if any; and

(15) the investment pool and asset class for the non-routine investment. (Eff. ____/____/______, Register ______)

Authority: AS 44.23.020

9 AAC 70.020. Fiduciary standards review. (a) Upon receiving a request from the fiduciary under 15 AAC 170.035, the attorney general will

(1) review all documents provided by the fiduciary with the fiduciary’s request under 9 AAC 70.015;

(2) contact and request additional information from any person consulted by the fiduciary or required to be consulted by the fiduciary in considering a non-routine investment

under 15 AAC 170.035; the attorney general may require that the fiduciary provide contact information for any person under this paragraph;

(3) request additional documentation or information from the fiduciary or any other person necessary to conduct the review under this section; and

(4) document any

(A) noncompliance of the fiduciary with the requirements of 15 AAC 170; or

(B) additional documentation or information necessary to determine compliance of the fiduciary that the attorney was not able to obtain during the review under this section.

(b) On completion of the review under (a) of this section, the attorney general will

(1) certify in writing that the fiduciary of the constitutional budget reserve fund subaccount has complied with the fiduciary standards applicable to the proposed non-routine investment from the covered fund, including for the constitutional budget reserve fund subaccount the standards set out in AS 13.36.230 and AS 37.10.071;

(2) notify the fiduciary that the fiduciary has not documented compliance with the statutory fiduciary standards applicable to the proposed non-routine investment; or

(3) notify the fiduciary that additional information is needed to complete the review.

(c) The department of revenue shall bear the costs associated with the review under this section. (Eff. ____/____/______, Register ______)

Authority: AS 13.36.230 AS 37.10.071 AS 44.23.020

9 AAC 70.025. Definitions. (a) In this chapter, unless the context requires otherwise,

(1) "attorney general" means the attorney general or the attorney general's designee;

(2) "documentation" means materials maintained in writing or other formats to demonstrate the contemporaneous and verifiable recording of actions, dates, and processes in sufficient detail to demonstrate adherence to applicable legal and quality standards, relied upon by a fiduciary in making an investment decision.

(b) In this chapter, the following have the meaning given in 15 AAC 170.045, unless the context requires otherwise:

(1) "constitutional budget reserve fund subaccount;"

(2) "covered fund;"

(4) "fiduciary;" and

(5) "non-routine investment." (Eff. ____/____/______, Register ______)

Authority: AS 44.23.020