

1 20 NCAC 03 .0701 – .0709 are repealed as published in the NCR pages 1950-1951 as follows:

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAPTER 03 - LOCAL GOVERNMENT COMMISSION

SECTION .0700 - MUTUAL FUND FOR LOCAL GOVERNMENT INVESTMENT

- 20 NCAC 03 .0701 GENERAL INFORMATION**
- 20 NCAC 03 .0702 DEFINITION OF TERMS**
- 20 NCAC 03 .0703 MINIMUM FUND STANDARDS**
- 20 NCAC 03 .0704 REQUIREMENTS FOR THE RFP**
- 20 NCAC 03 .0705 ISSUANCE OF THE RFP**
- 20 NCAC 03 .0706 CERTIFICATION AND TERMINATION OF MANAGER**
- 20 NCAC 03 .0707 TERMINATION FOR CAUSE**
- 20 NCAC 03 .0708 REVIEW OF MANAGER**
- 20 NCAC 03 .0709 DELEGATION OF AUTHORITY**

History Note: Authority G.S. 159-3(f); 159-30(c)(7); 159-30(c)(6a)
Eff. February 1, 1982;
Amended Eff. April 1, 1985; April 1, 1987; October 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,
2018-2018;
Repealed Eff. ~~September 1, 2023~~ October 1, 2023.

1 20 NCAC 03 .0710 is adopted as published in 37:19 NCR, page 1951, with changes as follows:

2

3 **20 NCAC 03 .0710 GENERAL INFORMATION**

4 ~~(a) This Section sets forth the manner in which a mutual fund for local government investment shall be certified as~~
5 ~~required by G.S. 159-30(c)(8).~~

6 ~~(b) All correspondence~~Correspondence ~~to the State Treasurer~~required by the Rules ~~under~~of this Section shall be
7 addressed to: Secretary, Local Government Commission, Department of State Treasurer, 3200 Atlantic Avenue,
8 Raleigh, North Carolina ~~27604~~27604 or emailed to SLGFD@nctreasurer.com.

9

10 *History Note: Authority G.S. 159-3(f); 159-30(c)(8);*

11 *Eff. ~~September 1, 2023~~. October 1, 2023.*

12

1 20 NCAC 03 .0711 is adopted as published in 37:19 NCR, page 1951, with changes as follows:

2
3 **20 NCAC 03 .0711 DEFINITION OF TERMS**

4 The following words and phrases used in this Section are defined as follows:

- 5 (1) ~~“Active Participants” means local governments and public authorities as defined in G.S. 159-7,~~
6 ~~school administrative units, local ABC boards, community colleges, public hospitals, and other~~
7 ~~entities authorized by law to use forms of investment allowed by G.S. 159-30. Eligible Participants~~
8 ~~that are currently invested in a Fund.~~
- 9 (2) “Affiliate” means, with respect to ~~any~~ party, any person, entity, or organization that either directly
10 or indirectly controls, is controlled by, or is under common control with such party, including any
11 employee, officer, or director of such party.
- 12 (3) “Broker-Dealer” means either a “broker” or a “dealer” as both are defined in the Securities Exchange
13 Act of 1934 which is ~~hereby~~ incorporated by reference, including subsequent amendments and
14 editions and is available online, at
15 ~~<https://uscode.house.gov/browse/prelim@title15/chapter2B&edition=prelim> at no cost east, at~~
16 ~~<https://uscode.house.gov/browse/prelim@title15/chapter2B&edition=prelim>~~
- 17 (4) “Certified Money Market Mutual Fund” means a mutual fund certified under pursuant to this Section
18 which meets the definition of “Money Market Mutual Fund” in this Rule.
- 19 (5) “Certified Mutual Fund” means a mutual fund certified under pursuant to this Section which does
20 not meet the definition of “Money Market Mutual Fund” in this Rule.
- 21 (6) “Decertification Period” means the period of time beginning on the date the Commission adopts a
22 resolution terminating the certification of a Fund and ending ~~either in~~ 30 calendar days ~~thereafter~~ or
23 on a date specified in ~~such~~ the resolution.
- 24 (7) “Eligible Participants” means the following North Carolina entities: local governments and public
25 authorities as defined in G.S. 159-7, school administrative units, local ABC boards, community
26 colleges, public hospitals, and other entities authorized by North Carolina law to use forms of
27 investment allowed by G.S. 159-30.
- 28 (8) “Fund” means a mutual fund certified ~~under~~ pursuant to this Section.
- 29 (9) “Manager” means the investment adviser managing a Fund certified ~~under~~ pursuant to this Section
30 as required by Rule ~~.0712(g)~~.0712(f).
- 31 (10) “Money Market Mutual Fund” means a money market fund that complies with 17 C.F.R. § 270.2a-
32 7 and which maintains a stable one-dollar net asset value (NAV) per share.
- 33 (11) ~~“Enforcement”~~ “Reporting Event” means any of the following which either is a public record or is
34 required by law to be reported to the Active Participants:
- 35 (a) ~~any~~ an administrative, civil, ~~administrative~~, or criminal enforcement action ~~under~~
36 ~~either~~ taken pursuant to ~~state~~ federal or ~~federal~~ state law against a Fund, a Manager, or ~~any~~ an
37 Affiliate of a Fund or ~~Manager~~.Manager:

- 1 (b) ~~anya~~ notice from the SEC that SEC staff intends to recommend an enforcement action
2 against a Fund, or, with respect to services provided to the relevant Fund, against a
3 ~~Manager, Manager~~ or anyan Affiliate of a Fund or ~~Manager, Manager~~; or
4 (c) ~~anya~~ non-routine ~~SEC~~-inquiry or investigation pursuant to securities law or regulation or
5 ~~any similar inquiry or investigation from~~ by the SEC or any similar other federal, ~~state~~state,
6 or self-regulatory body or organization against a Fund, a Manager, or ~~anyan~~ Affiliate of a
7 Fund or Manager.

8 (12) “SEC” means the U.S. Securities and Exchange Commission.

9

10 *History Note: Authority G.S. 159-3(f); 159-30(c)(8);*

11 *Eff. ~~September 1, 2023~~ October 1, 2023*

12

1 20 NCAC 03 .0712 is adopted as published in 37:19 NCR, page 1951 & 1952, with changes as follows:

2
3 **20 NCAC 03 .0712 MINIMUM FUND STANDARDS**

4 (a) ~~Moneys of a Fund may be invested only in securities permitted by G.S. 159-30. The maximum maturity of any~~
5 ~~security purchased shall not be set by the Commission; however, no maturity shall exceed seven years.~~ A Fund may
6 only invest in securities permitted by G.S. 159-30(c). A Fund shall not purchase any security with a maturity
7 exceeding seven years.

8 (b) A Fund shall be registered with the SEC as an investment company ~~under~~ pursuant to the Investment Company
9 Act of 1940 and shall comply with all applicable SEC rules, regulations, and reporting requirements. The SEC
10 requirements of 17 CFR Chapter 2 are ~~hereby~~ incorporated by reference, including subsequent amendments and
11 editions, and are available online, at ~~https://www.ecfr.gov/current/title-17/chapter-II~~ at no cost east, at
12 ~~https://www.ecfr.gov/current/title-17/chapter-II.~~ SEC registration and compliance do not modify the requirement that
13 a Fund comply with G.S. 159-30. The Investment Company Act of 1940 is ~~hereby~~ incorporated by reference, including
14 subsequent amendments and editions and is available online, at
15 ~~https://uscode.house.gov/browse/prelim@title15/chapter2D/subchapter1&edition=prelim~~ at no cost east, at
16 ~~https://uscode.house.gov/browse/prelim@title15/chapter2D/subchapter1&edition=prelim.~~

17 (c) A Fund shall be established and operated in such a manner that any local, state, or federal income tax liability
18 ~~will~~ shall be passed through to the Active Participants.

19 (d) A Fund shall ~~assign a benchmark that is specified in advance and is representative of the Fund's current investment~~
20 ~~strategy and shall~~ periodically report performance in conformance with SEC rules and regulations, 17 CFR Chapter
21 ~~2-2, and such~~ the reports shall include at least annually the Fund's performance against ~~any~~ the benchmarks assigned
22 by the Fund. A Fund shall assign a benchmark that meets the following requirements:

- 23 (1) is unaffiliated with the Fund's Manager;
24 (2) is specified in advance; and
25 (3) is representative of the Fund's current investment strategy and parameters.

26 (e) A Fund shall calculate a daily net asset value according to US "generally accepted accounting principles" (GAAP)
27 and allow investors to transact daily at the net asset value.

28 (f) A Fund shall be managed by an investment adviser registered with either the SEC as an investment adviser
29 ~~under~~ pursuant to the Investment Advisers Act of 1940, or the North Carolina Secretary of State as an investment
30 adviser ~~under~~ pursuant to the North Carolina Investment Advisers Act, and such investment adviser shall comply with
31 all applicable federal and state rules, regulations, and reporting requirements. The Investment Advisers Act of 1940
32 is ~~hereby~~ incorporated by reference, including subsequent amendments and editions and is available online, at
33 ~~https://uscode.house.gov/browse/prelim@title15/chapter2D/subchapter2&edition=prelim~~ at no cost east, at
34 ~~https://uscode.house.gov/browse/prelim@title15/chapter2D/subchapter2&edition=prelim.~~ The North Carolina
35 Investment Advisers Act, G.S. 78C is ~~hereby~~ incorporated by reference, including subsequent amendments and
36 editions and is available online, at

1 https://ncleg.gov/EnactedLegislation/Statutes/HTML/ByChapter/Chapter_78C.html at no cost, ~~est,~~ at
2 ~~https://ncleg.gov/EnactedLegislation/Statutes/HTML/ByChapter/Chapter_78C.html.~~

3 (g) The sale and marketing of a Fund ~~must~~ shall adhere to all applicable federal and state ~~and federal~~ laws and
4 regulations.

5 (h) A Fund shall bear one of the two highest ratings of at least one nationally recognized rating service and shall not
6 bear a rating below one of the two highest ratings by any nationally recognized rating service which rates the Fund.

7 (i) A Fund shall disclose prominently in its prospectus, marketing materials, and communications with Eligible
8 Participants and Active Participants that it invests only in those securities that are authorized for investment by units
9 of local government pursuant to G.S. 159-30(c)(8) and this Section.

10 (j) A Certified Mutual Fund shall disclose prominently in its prospectus, marketing materials, and communications
11 with Eligible Participants and Active Participants that, in contrast to ~~any~~ Certified Money Market Mutual Fund, such
12 Certified Mutual Fund does not seek to maintain a stable one-dollar net asset value (NAV) per share.

13

14 *History Note: Authority G.S. 159-3(f); 159-30(c)(8);*

15 *Eff. ~~September 1, 2023~~ October 1, 2023.*

16

17

18

1 20 NCAC 03 .0713 is adopted as published in 37:19 NCR, page 1952, with changes, as follows:

2
3 **20 NCAC 03 .0713 CERTIFICATION OF A FUND**

4 ~~(a) A prospective Manager may request Certification~~certification of a Fund~~may be requested~~ by submitting a proposal
5 to the ~~Secretary, Secretary in a method prescribed by the Secretary,~~ containing the following information:

- 6 (1) the name of the Fund;
- 7 (2) the address of the Fund;
- 8 (3) the Fund prospectus;
- 9 (4) the most recent holdings report;
- 10 (5) the most recent annual report;
- 11 (6) an attestation that the Fund meets, and ~~will~~shall maintain compliance with, the minimum Fund
12 standards set forth in Rule .0712 of this Section;
- 13 (7) if the Fund is seeking certification as a Money Market Mutual Fund, an attestation that the Fund
14 meets, and ~~will~~shall maintain compliance with, the definition in Rule .0711 of this Section of Money
15 Market Mutual Fund; and
- 16 (8) a list of all Broker-Dealers selling or marketing the Fund.

17 (b) The Commission ~~will~~shall review the proposal and may request supporting information as needed to assist in its
18 review of the proposal.

19 (c) If the Commission certifies a Fund, it shall ~~identify~~certify the Fund as a “Certified Money Market Mutual
20 ~~Fund~~,” if the Fund is a Money Market Mutual Fund as defined in Rule .0711 of~~in~~ this Section; otherwise, it
21 shall ~~identify~~certify the Fund as a “Certified Mutual ~~Fund~~.”

22 (d) Certification is effective the day after the Commission adopts a resolution certifying the Fund and is effective
23 until termination of certification pursuant to Rule .0715 of this Section.

24
25 *History Note: Authority G.S. 159-3(f); 159-30(c)(8);*
26 *Eff. ~~September 1, 2023~~October 1, 2023.*
27

20 NCAC 03 .0714 is adopted as published in 37:19 NCR, page 1952, with changes as follows:

20 NCAC 03 .0714 REVIEW OF FUND AND ATTESTATION

(a) Beginning one year after the effective date of the certification of a Fund, and by December 31 each year thereafter, the Manager shall submit an attestation to the ~~Secretary, Secretary: in a method prescribed by the Secretary:~~

(1) attesting that the Fund continues to meet ~~all~~the minimum Fund standards provided in Rule ~~.0712;~~.0712 of this Section;

(2) listing all Reporting Events from the date of the prior attestation provided to the Secretary or, in the case of the first attestation of a Fund, all Reporting Events from the date of the initial submission of proposal for certification, and Attestingattesting that no other Enforcement~~Reporting~~ Event has occurred;

(3) attesting that the sale and marketing of the Fund adheres to all applicable federal and state ~~and federal~~ laws and regulations;

(4) if the Fund is a Certified Money Market Mutual Fund, attesting that the Fund continues to comply with the definition of Certified Money Market Mutual Fund in Rule .0711 of this Section; ~~and~~

(5) providing a list of ~~all~~the Broker-Dealers selling or marketing the ~~Fund~~Fund;

(6) ~~providing a holdings report including all holdings from the date of the prior attestation provided to the Secretary or, in the case of the first attestation of a Fund, all holdings from the date of the holdings report provided in the initial submission of proposal for certification; and~~

(7) ~~providing the most recent Fund prospectus and annual report.~~

(b) The Commission may request ~~an additional attestation~~attestation at any ~~other~~ time to review and confirm compliance of the Fund with the Rules in this Section.

(c) Any changes to a Fund's or investment adviser's federal or state registration documents shall be reported to the Secretary within 30 days of the filing of the updated registration documents, with all changes marked and identified.

(d) The Manager shall, upon receiving a request from the Commission, provide documentation supporting ~~any~~an attestation with specific reference to the location within such supporting documentation which demonstrates that the minimum Fund standards of Rule .0712 of this Section have been met.

(e) The ~~Commission~~Manager shall ~~provide to the Commission~~have access to all Fund documents, documents ~~and shall allow the Commission~~ shall be able to make any examinations ~~if~~the Commission deems ~~necessary~~required to ensure compliance with the Rules ~~in~~of this Section, and shall ~~have the right to provide to the Commission~~ copies of all Fund documents ~~requested by the Commission to the Commission~~ at the expense of the Manager of the Fund.

*History Note: Authority G.S. 159-3(f); 159-30(c)(8);
Eff. September 1, 2023-October 1, 2023.*

1 20 NCAC 03 .0715 is adopted as published in 37:19 NCR, page 1952, with changes as follows:

2
3 **20 NCAC 03 .0715 TERMINATION OF CERTIFICATION**

4 (a) The Commission may adopt a resolution terminating the certification of a Fund due to one or more of the following:

- 5 (1) A Manager or a Fund violates any of the Rules in this ~~Section~~Section and the Commission finds
6 that there has been a material adverse effect on the Fund or the interests of the Active Participants.
- 7 (2) A Fund fails to meet ~~any a federal or state or federal~~legal requirementand the
8 Commission finds that there has been a material adverse effect on the Fund or the interests of the
9 Active Participants.
- 10 (3) A Fund fails to submit an attestation pursuant to Rule .0714 of this Section within 30 calendar days
11 of the due date.
- 12 (4) The Manager of a Fund requests termination of certification.
- 13 (5) A Fund is dissolved or terminated.
- 14 (6) A Reporting Event has occurred, and the Commission finds that there has been a material adverse
15 effect on the Fund or the interests of the Active Participants.

16 (b) A Decertification Period shall commence upon the Commission’s adoption of a resolution terminating certification
17 of a Fund, during which time the Manager of the Fund shall notify ~~at~~the Active Participants of the termination of
18 certification and provide instructions on withdrawing assets from the Fund.

19 (c) Termination of certification shall be effective upon the conclusion of the Decertification Period.

20
21 *History Note:* *Authority G.S. 159-3(f); 159-30(c)(8);*
22 *Eff. ~~September 1, 2023.~~ October 1, 2023.*
23