

1 20 NCAC 03 .0701 – .0709 are repealed as published in the NCR pages 1950-1951 as follows:

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CHAPTER 03 - LOCAL GOVERNMENT COMMISSION

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SECTION .0700 - MUTUAL FUND FOR LOCAL GOVERNMENT INVESTMENT

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History Note: Authority G.S. 159-3(f); 159-30(c)(7); 159-(c)(6a)

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Eff. February 1, 1982;

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Amended Eff. April 1, 1985; April 1, 1987; October 1, 2017;

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Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,

23

2018-2018;

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Repealed Eff. September 1, 2023.

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

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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 to the State Treasurer under this Section shall be addressed to: Secretary, Local Government
7 Commission, Department of State Treasurer, 3200 Atlantic Avenue, Raleigh, North Carolina ~~27604~~27604 or emailed
8 to SLGFD@nctreasurer.com.

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

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

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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 this Section which
18 meets the definition of “Money Market Mutual Fund” in this Rule.
- 19 (5) “Certified Mutual Fund” means a mutual fund certified under this Section which does not meet the
20 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 30 calendar days thereafter or
23 on a date specified in such 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 this Section.
- 29 (9) “Manager” means the investment adviser managing a Fund certified under this Section as required
30 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 ~~administrative, civil, administrative,~~ or criminal enforcement action under either state
36 or federal law against a Fund, a Manager, or any Affiliate of a Fund or Manager,

1 (b) any 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 any Affiliate of a Fund or Manager, or

4 (c) any non-routine SEC inquiry or investigation or any similar inquiry or investigation from
5 any similar federal, state or self-regulatory body or organization against a Fund, a Manager,
6 or any Affiliate of a Fund or Manager.

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

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

10 *Eff. September 1, 2023.*

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

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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.

6 (b) A Fund shall be registered with the SEC as an investment company under the Investment Company Act of 1940
7 and shall comply with all applicable SEC rules, regulations, and reporting requirements. The SEC requirements of 17
8 CFR Chapter 2 are hereby incorporated by reference, including subsequent amendments and editions, and are available
9 online, at ~~https://www.ecfr.gov/current/title-17/chapter-II~~ at no ~~cost east~~, at ~~https://www.ecfr.gov/current/title-~~

10 ~~17/chapter-II~~. SEC registration and compliance do not modify the requirement that a Fund comply with G.S. 159-30.
11 The Investment Company Act of 1940 is hereby incorporated by reference, including subsequent amendments and
12 editions and is available online, at
13 ~~https://uscode.house.gov/browse/prelim@title15/chapter2D/subchapter1&edition=prelim~~ at no ~~cost east~~, at
14 ~~https://uscode.house.gov/browse/prelim@title15/chapter2D/subchapter1&edition=prelim~~.

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

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

21 (1) _____ is unaffiliated with the Fund's Manager;

22 (2) _____ is specified in advance; and

23 (3) _____ is representative of the Fund's current investment strategy and parameters.

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

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

33 Investment Advisers Act, G.S. 78C is hereby incorporated by reference, including subsequent amendments and
34 editions and is available online, at
35 ~~https://ncleg.gov/EnactedLegislation/Statutes/HTML/ByChapter/Chapter_78C.html~~ at no ~~cost east~~, at
36 ~~https://ncleg.gov/EnactedLegislation/Statutes/HTML/ByChapter/Chapter_78C.html~~.

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

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

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

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

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

11 *Eff. September 1, 2023.*

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

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

4 (a) Certification of a Fund may be requested by submitting a proposal to the Secretary, in a method prescribed by the
5 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 maintain compliance with, the minimum Fund standards
12 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 maintain compliance with, the definition of Money Market Mutual Fund; and

15 (8) a list of all Broker-Dealers selling or marketing the Fund.

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

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

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

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

25 *Eff. September 1, 2023.*

26

1 20 NCAC 03 .0714 is adopted as published in 37:19 NCR, page 1952, with changes as follows:

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3 **20 NCAC 03 .0714 REVIEW OF FUND AND ATTESTATION**

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

6 (1) attesting that the Fund continues to meet all minimum Fund standards provided in Rule .0712;

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

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

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

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

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

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

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

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

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

27 (e) The Commission shall have access to all Fund documents, shall be able to make any examinations it deems
28 necessary to ensure compliance with the Rules in this Section, and shall have the right to copies of all Fund documents
29 at the expense of the Manager of the Fund.

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

32 *Eff. September 1, 2023.*

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

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

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

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

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