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**CORRESPONDENCE MEMORANDUM**

**DATE:** April 20, 2005  
**TO:** Wisconsin Deferred Compensation Board  
**FROM:** Shelly Schueller, Director  
Wisconsin Deferred Compensation Program  
**SUBJECT:** Mutual Fund Investigations Update: Janus and American Funds

At the February 22, 2005, Wisconsin Deferred Compensation (WDC) Board meeting, the Board discussed the ongoing mutual fund investigations. Specifically, the Board talked about two current WDC investment providers: Janus and American Funds. The WDC investment spectrum presently includes both the Janus Fund and the EuroPacific Growth Fund, which is offered by American Funds. This memo provides an update on both investment providers.

**Janus Fund**

The Janus Fund has been part of the WDC since 1994. It is currently closed to new deferrals and will be phased out of the WDC spectrum of investment options during 2005. As of December 31, 2004, 11,100 WDC participants held shares worth approximately \$63,345,707 in the Janus Fund, with an average account value of \$5,706.

The Board is concerned with potential collateral damage to WDC Janus Fund holders resulting from numerous redemptions that followed the conclusion of investigations into the mutual fund industry and the Janus Capitol Group in particular. At the February 22, 2005, meeting the Board directed staff to send a letter (attached) to Janus. Through this letter, the Board requested inclusion in the pool of shareholders that the independent distribution consultant examines when attempting to identify affected shareholders and regular updates regarding the status of the development of the restoration payment plan and all other matters effecting the final settlement with regulators.

Staff spoke with Janus Fund representatives in mid-April regarding the Board's letter and learned that the Board's letter was forwarded to Dr. Christopher James, Janus' independent distribution consultant. A copy of the letter the WDC received in response is attached to this memo. The letter from Janus' general counsel, Kelley Abbott Howes, respectfully declines the WDC's request for restoration payment plan status or update information. Janus has agreed to keep the WDC informed as information becomes publicly available.

**American Funds**

The EuroPacific Growth Fund, which is offered by American Funds, opened to WDC participants on February 1, 2005. Shortly after the fund was opened, the National Association of Securities Dealers (NASD) alleged that American Funds violated the NASD Anti-Reciprocal Rule by directing approximately \$100 million in brokerage commissions to top sellers of the

Reviewed and approved by Dave Stella, Deputy Secretary

Signature \_\_\_\_\_

Date \_\_\_\_\_

American Funds. American Funds has strongly denied the NASD allegation and believes there are no facts that support this allegation. They have requested a hearing before the NASD, which is pending.

In addition, American Funds and the California Attorney General filed countersuits against each other in late March 2005. American Funds filed a complaint for injunctive and declaratory relief requesting that the court find that American Funds' disclosure of additional compensation was accurate and not misleading under federal and state law, and to prevent the California Attorney General from bringing any enforcement action against American Funds for those actions. The California Attorney General is alleging that American Funds failed to adequately inform investors of \$426 million in "shelf space" payments American Funds made to brokers and dealers to sell and recommend American Funds.

A representative from American Funds will be joining the Board meeting via teleconference to provide an update regarding these matters and answer questions.

Staff will continue to follow up with each of the investment providers discussed here and will keep the Board informed of any new developments.

Attachments