

# CONSECO FAIR FUND DISTRIBUTION NOTICE

## *IN THE MATTER OF CIHC, INC., CONSECO SERVICES, LLC, AND CONSECO EQUITY SALES, INC., RESPONDENTS*

### *SECURITIES AND EXCHANGE COMMISSION (“SEC”) ADMINISTRATIVE PROCEEDING FILE NO. 3-11578*

This Notice explains:

1. Settlement Background
2. Eligibility
3. Payment Calculations
4. Tax Implications
5. Where to Obtain More Information

#### **1. Settlement Background**

On August 9, 2004, the SEC approved a settlement of an administrative proceeding against CIHC, Inc., Consecos Services, LLC, and Consecos Equity Sales, Inc. (collectively, “Consecos”) and established the Consecos Fair Fund.

The Consecos Fair Fund was established to provide restitution for losses caused by “market timing” in certain variable annuity funds (“VAFs”) held by Consecos. Any parties that were invested in such VAFs from December 1, 1999 to October 22, 2002 and are not “Identified Market Timers” may receive restitution. The following VAFs were substantially affected during this time period:

- Alger American Small Capitalization Portfolio
- American Century VP International Fund
- Dreyfus International Value Portfolio
- Federated International Equity Fund II
- Janus Aspen Series Worldwide Growth Portfolio
- Pioneer Europe
- Van Eck Worldwide Bond Fund
- Van Eck Worldwide Emerging Markets Fund
- Van Eck Worldwide Hard Assets Fund
- Van Eck Worldwide Real Estate Fund

Firms other than Consecos also offered variable annuity products and placed individual investors’ funds into the VAFs listed above. The Plan of Distribution refers to these firms as Unrelated Insurance Companies (“UICs”) and those who invested in the affected VAFs through the UICs are also eligible for restitution.<sup>1</sup>

The independent distribution consultant (the “IDC”) has developed a Plan of Distribution, approved by the SEC, wherein the IDC sets forth the calculation of the proportionate share of losses suffered by virtue of the market timing through variable annuity products.

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<sup>1</sup> Account holders from Consecos Variable Ins/Jefferson National Life and the following 15 UICs are eligible for Distribution Payments in accordance with the criteria established in the Plan of Distribution: (1) Aegon/Western Reserve Life/Transamerica; (2) American United Life; (3) Commonwealth/Allmerica Financial; (4) Fidelity Investments Institutional; (5) Genworth/Life of Virginia; (6) Great West Life/First Great-West; (7) Hartford Life/Fortis Benefits (Union Security); (8) IDS Life Insurance Company/ Ameriprise/American Centurion/American Partners; (9) ING Insurance/Aetna Retirement/Security Life of Denver/ReliaStar; (10) Kemper Life; (11) Lincoln; (12) Lincoln Benefit Life/Allstate; (13) Nationwide/Provident PLACA; (14) New York Life Ins. and Annuity Corp.; (15) Symetra.

## 2. Eligibility

Based on information provided by Conseco or the UICs, the IDC has determined that you are either (a) eligible to receive a Distribution Payment, or (b) the custodian or other fiduciary (“Retirement Plan Administrator”) that has the responsibility for acting on behalf of Retirement Plan members who are eligible to receive a Distribution Payment as shown in the UIC’s records.<sup>2</sup>

The amount of the Distribution Payment, the Insurance Company holding the related account and the account number are noted on the enclosed letter. For accountholders who receive a Distribution Payment check, the check will be cancelled if not cashed within ninety (90) days after issuance as required by the Plan of Distribution. (Some accountholders will receive a Distribution Payment as a direct deposit.) If you held another account that invested in an eligible VAF during the time period, you may receive a separate Distribution Payment for that account. Not all accounts are entitled to a Distribution Payment under the Plan of Distribution. If you hold another account and do not receive an additional Distribution Payment, the IDC may not have awarded any Distribution Payment to that account due to the minimum Distribution Payment threshold (see “Payment Calculations” below).

For more information on eligibility, please refer to the Plan of Distribution located at [www.consecofairfund.com](http://www.consecofairfund.com).

## 3. Payment Calculations

Distribution Payment amounts from the Conseco Fair Fund for all Eligible Investors were calculated as provided in the Plan of Distribution. The methodology for such calculations is summarized below.

The IDC calculated the aggregate monthly losses suffered by accountholders in each affected VAF during the relevant time period (December 1, 1999 to October 22, 2002). The IDC calculated each accountholder’s proportionate share of the aggregate monthly losses after also calculating (a) the month-end balance of each accountholder; and, (b) the month-end balance of each VAF for the relevant time period.

The IDC determined that some UIC accounts may be “Group Accounts” containing aggregated balances of multiple individual investors. When underlying individual investor data are available, the Group Account is called a “Transparent Group Account;” otherwise it is called an “Opaque Group Account.” See the Plan of Distribution for additional details regarding Group Accounts.

In some VAFs, in some months, accountholders benefitted from market timer activity. For any particular accountholder, benefit within the same VAF can offset losses suffered by the accountholder (over the relevant time period). In no instance does benefit from one VAF offset the losses incurred by an accountholder in a different VAF.

As provided in the Plan of Distribution, the IDC has established a minimum Distribution Payment threshold of \$50 (the *de minimis* Distribution Payment amount).<sup>3</sup> No Distribution Payments less than \$50 will be issued. In order to distribute the full balance of the Conseco Fair Fund, payments of \$50 may be issued to accountholders whose losses were less than this *de minimis* Distribution Payment amount.

The calculation method is intended by the SEC to estimate fairly and reasonably the loss that each Eligible Investor has suffered and, subject to the *de minimis* payment constraint, to determine a Distribution Payment.

If you disagree with the amount of your Distribution Payment, you may appeal to the IDC by completing an Appeal Form for the Conseco Fair Fund (“Appeal Form”). To obtain an Appeal Form, contact the Conseco Fair Fund Administrator by calling (800) 378-3615 or download the form at [www.consecofairfund.com](http://www.consecofairfund.com). The Appeal Form must be mailed to the Fund Administrator at the address provided below and postmarked on or before the 90th day after issuance of the last Distribution Payments in the Closing Round. Once determined, the date of the Closing Round and the end of the appeal filing period will be posted at [www.consecofairfund.com](http://www.consecofairfund.com) and will be available by calling the Conseco Fair Fund Administrator at (800) 378-3615.

All Appeal Forms must be mailed to:

Conseco Fair Fund Administrator  
PO Box 2555  
Faribault, MN 55021-9555

The decision of the IDC on any appeal is final.

For more information on payment calculations or allocations please refer to the Plan of Distribution located at [www.consecofairfund.com](http://www.consecofairfund.com).

<sup>2</sup> If you are receiving this check as a Retirement Plan Administrator, see the enclosed “Notice to Retirement Plan Administrators.”

<sup>3</sup> The Plan provides that the *de minimis* constraint applied to Opaque Group Accounts is \$1,000 and is adjustable by the IDC. Subsequent to the issuance of the Plan of Distribution, the IDC has lowered the Opaque Group *de minimis* payment constraint from \$1,000 to \$92.

#### 4. Tax Implications

It is very important that you understand tax implications that may arise in connection with this Distribution Payment.

As described in the Statement to Eligible Investors (“SEI”), the Conseco Fair Fund is a Qualified Settlement Fund (“QSF”) under the Internal Revenue Code that, in most cases, is not required to issue a Form 1099 to you and the IRS for your Distribution Payment. Under certain circumstances, however, the Conseco Fair Fund is required to report the distribution to the IRS.

Even if no 1099 is issued, a Distribution Payment may, in whole or in part, constitute taxable income as discussed in the SEI. Some Eligible Investors may be subject to special tax rules, including, without limitation, if you are a non-U.S. investor or if you hold your shares in a tax-qualified retirement plan or an individual retirement account (“IRA”) (except as specifically discussed in the SEI). Additionally, some tax-qualified retirement plans are subject to special tax rules.

Please access and review the SEI that is available in the Settlement Documents section of the Conseco Fair Fund website at [www.consecofairfund.com](http://www.consecofairfund.com) and consult with your tax advisor if you have any questions regarding the tax implications of the Distribution Payment.

The SEI does not address tax consequences under any state, local or non-U.S. tax laws, or the alternative minimum tax provisions of the Internal Revenue Code. To have a copy of the SEI mailed to you, please contact the Conseco Fair Fund Administrator at (800) 378-3615.

##### Special Notice for Financial Intermediaries

*If you are a financial intermediary and hold shares in the Eligible Funds on behalf of others for Qualified Retirement Plan accounts, you can obtain additional information, including guidance on how to allocate the distribution from the Conseco Fair Fund among the accounts on whose behalf you hold shares, by visiting the Department of Labor website at: [http://www.dol.gov/ebsa/regs/fab\\_2006-1.html](http://www.dol.gov/ebsa/regs/fab_2006-1.html)*

#### 5. Where to Obtain More Information

For additional information or questions you can contact the Conseco Fair Fund Administrator at the address or phone number below or at [www.consecofairfund.com](http://www.consecofairfund.com).

Conseco Fair Fund Administrator  
PO Box 2555  
Faribault, MN 55021-9555  
Toll-free: (800) 378-3615