

CONSECO FAIR FUND **STATEMENT TO ELIGIBLE INVESTORS**

INTRODUCTION

You are eligible to receive a distribution payment from CIHC-Conseco Distribution Fund (hereinafter, "Conseco Fair Fund"), a Fair Fund established by the United States Securities and Exchange Commission ("SEC") as a result of the settlement of proceedings brought by the SEC in *In the Matter of CIHC, Inc., Conseco Services LLC, and Conseco Equity Sales, Inc.*, Admin. Proc. File No. 3-11578 ("CIHC," "Conseco Services," and "CES," respectively; collectively, "Respondents").

Your payment has been calculated based on information contained in the records of Respondents and of third party intermediaries. This payment is intended to compensate you for harm to your variable annuity fund ("VAF") investment(s) due to market timing in various VAFs during the period spanning December 1, 1999 through October 22, 2002 (the "Relevant Period").

This Statement to Eligible Investors ("Statement") provides information to help you determine the U.S. federal income tax consequences of the distribution payment if you are a citizen or resident of the U.S.

YOU SHOULD NOT RELY ON THIS STATEMENT AS TAX ADVICE. CONSULT YOUR TAX ADVISOR WITH RESPECT TO THE SPECIFIC TAX CONSEQUENCES OF THE DISTRIBUTION PAYMENT, INCLUDING THE EFFECTS OF U.S. FEDERAL, STATE, LOCAL AND NON-U.S. TAX RULES AND THE EFFECT OF POSSIBLE CHANGES IN LAWS.

On August 9, 2004, the SEC issued an order instituting and simultaneously settling public administrative and cease-and-desist proceedings against Respondents (the "Order"). Pursuant to the Order, Respondents were required to pay \$15 million in disgorgement and civil money penalties.¹ According to the Order, the Conseco Fair Fund is to be distributed to investors injured by market timing in Conseco Monument Series and Conseco Advantage Plus VAFs pursuant to a distribution plan ("Distribution Plan") to be developed by an Independent Distribution Consultant (the "IDC"). Dr. Roger Kormendi and Mr. Cyrus Gardner of Kormendi \ Gardner Partners were retained to serve as the IDC.

¹ On October 23, 2002, Conseco Variable Insurance Company, through which Conseco conducted its variable annuity business, was sold to Inviva, Inc. ("Inviva"). There is a separate SEC order that governs a separate settlement with Inviva concerning losses after the sale to Inviva (*In the Matter of Inviva, Inc. and Jefferson National Life Insurance Company*, Admin Proc. File No. 3-11579).

On February 26, 2010 the SEC approved a Distribution Plan, which provides for distribution to eligible investors (“Eligible Investors”) of their calculated shares of the disgorgement and penalties paid by Respondents. The Distribution Plan compensates Eligible Investors for harm they suffered as a result of market timing in certain VAFs during the Relevant Period. Prior to any distribution, the CIHC-Conseco Fair Fund held a total of \$15,000,000. This amount, plus accumulated interest, less taxes, is available for distribution to Eligible Investors.

The Conseco Fair Fund is a Qualified Settlement Fund (“QSF”) under the Internal Revenue Code. Damasco & Associates LLP was appointed as the Tax Administrator for the Conseco Fair Fund. The SEC authorized Damasco & Associates LLP to seek a Private Letter Ruling (“PLR”) from the Internal Revenue Service (“IRS”) on behalf of the Conseco Fair Fund and other similar Fair Funds that involved market timing. A PLR was obtained that provides guidance to the Conseco Fair Fund with respect to the tax reporting obligations of *the Conseco Fair Fund* in making a distribution to you.² The PLR does not address *your* tax compliance obligations as an investor receiving a distribution payment. Damasco & Associates LLP has participated in the preparation of this Statement, but is not providing services or advice to you or any other Eligible Investor receiving a distribution payment.

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 below). Additionally, some tax-qualified retirement plans may be subject to special tax rules. Note that this statement does not address the tax consequences under any state, local or non-U.S. tax laws, or the alternative minimum tax provisions of the Internal Revenue Code.

THE DISTRIBUTION PAYMENT

Pursuant to the Order, the IDC was required to develop a Distribution Plan for the Conseco Fair Fund according to a methodology developed in consultation with the Respondents and not unacceptable to the staff of the SEC. The Distribution Plan uses dilution to measure the harm caused by the market timing. Your payment, therefore, is intended to compensate you for harm to the value of your VAF investment caused by market timing.

² The Tax Administrator obtained the following PLRs: 200645008, 200645017, 200646010, 200701001, 200702006, 200702008, 200702009, 200702010, 200702011, 200702012, 200702048, 200703008, 200703009, 200703010, 200703034, 200712004, 200712005, 200722004 and 200722025. You may obtain copies of these PLRs from the IRS web site, www.irs.gov. Search for “Electronic Reading Room,” select “Electronic Reading Room” from the results, and click on “IRS Written Determinations” in the resulting page.

The Conseco Fair Fund will not issue a Form 1099 to you for your distribution payment. The IRS has ruled that the Conseco Fair Fund is not required to report the distribution.³ Nevertheless, you should consult with your tax advisor as to how to report any portion of the distribution that is taxable to you as described in Examples 1, 2 and 3 below.

Note: There may be some circumstances in which the Conseco Fair Fund will issue information returns and will report payments to the IRS. Please see “Special Issues for Investments Held in IRA or Tax-Qualified Retirement Plans” for more information.

IRC § 72(e) governs the treatment of payments received under annuity contracts that are “not received as an annuity.”⁴ Whether such amounts are included in gross income depends on when they are received and whether they are allocable to income on the contract or investment in the contract.

A. Amount Received On or After The Annuity Starting Date

If IRC § 72(e) applies to a payment and the amount is received *on or after* the annuity starting date,⁵ then that amount is automatically included in your gross income.

Example 1: You have received a distribution payment of \$100 and have determined that this is an amount not received as an annuity. Your annuity starting date was January 1, 2010. Your distribution payment must be included in your gross income.

B. Amount Received Before The Annuity Starting Date

If IRC § 72(e) applies to a payment and the amount is received *before* the

³ Although the QSF does not have a Form 1099 reporting obligation, such determination does not affect nor imply the tax consequence of a distribution payment *in the hands of an Eligible Investor*. The payments may, in whole or in part, constitute taxable income, as discussed in Examples 1, 2 and 3, even though no 1099s will be issued to Eligible Investors.

⁴ Treas. Reg. 1.72-1(b) provides: “[T]he provisions of section 72 distinguish between ‘amounts received as an annuity’ and ‘amounts not received as an annuity.’ In general, ‘amounts received as an annuity’ are amounts which are payable at regular intervals over a period of more than one full year from the date on which they are deemed to begin, provided the total of the amounts so payable or the period for which they are to be paid can be determined as of that date . . . Any other amounts to which the provisions of section 72 apply are considered to be ‘amounts not received as an annuity.’” This Statement assumes that your distribution constitutes an amount “not received as an annuity.” However, you should consult your tax advisor to determine how to characterize your payment.

⁵ The “annuity starting date” is the first day of the first period for which an amount is received as an annuity under the contract.

annuity starting date, it will be included in gross income to the extent allocable to income on the contract and excluded from gross income to the extent allocable to the investment in the contract.

1. Allocable to Income

An amount not received as an annuity is considered allocable *to the accumulated income* on the contract (and thus includible in gross income), but only to the extent that the amount does not exceed the excess (if any) of the cash value of the contract (immediately before your distribution is received) over the investment in the contract at the time.

Example 2: You have received a distribution payment of \$100 and have determined that this is an amount not received as an annuity. Your annuity starting date will be January 1, 2020. The cash value of your contract is \$10,000. Your investment in the contract is \$9,000. Your distribution payment is allocable to income on the contract and must be included in your gross income.

2. Allocable to Investment

To the extent that a payment is not allocable to income on the contract, it is deemed *allocable to investment* in the contract and may be recovered tax-free.⁶

Example 3: You have received a distribution payment of \$100 and have determined that this is an amount not received as an annuity. Your annuity starting date will be January 1, 2020. The cash value of your contract is \$10,000. Your investment in the contract is \$9,950. \$50 of your distribution payment is allocable to income on the contract and must be included in your gross income and \$50 is allocable to investment on the contract and may be recovered tax-free.

Example 4: You have received a distribution payment of \$100 and have determined that this is an amount not received as an annuity. Your annuity starting date will be January 1, 2020. The cash value of your contract is \$10,000. Your investment in the contract is \$10,000. Your distribution payment is allocable to investment on the contract and may be recovered tax-free.

⁶ However, for contracts entered into before August 14, 1982 with investment allocable to the contract before that date, you may recover any amounts not received as an annuity tax-free until you have recovered your pre-August 14, 1982 investment in the contract.

If you do not have reasonable access to records indicating your investment in the contract, you may assume that your investment is zero and that the entire distribution payment is includible in your income.

SPECIAL ISSUES FOR INVESTMENTS HELD IN IRA OR TAX-QUALIFIED RETIREMENT PLANS

A. Distributions to IRA Accounts

Please follow the applicable instructions below if you received a check that is associated with an IRA.⁷

1. For Checks Payable to the Custodian but Mailed to the You

a. If you held some or all of your VAF shares through an IRA, in most cases the distribution check will have been made payable to your IRA custodian but mailed directly to you. You may choose to forward the check to your custodian with a letter of instruction or, to review your options, contact the Administrator of Conseco Fair Fund Distribution Plan (“Administrator of the Plan”) at (800) 378-3615. You should deposit the check in your IRA account. Caution: If the check is cashed or deposited in any account other than an account eligible to receive the check, it may be subject to a 10% penalty and taxed as ordinary income in the year of receipt.

b. If your IRA custodian has changed, you may be able to transfer the payment to another custodian, or roll the payment over to another IRA or eligible account. Please contact the Administrator of the Plan at (800) 378-3615 to review your options. Caution: Please consult with your tax advisor because the rules related to transfers and rollovers are complicated and failure to comply with those rules could subject the payment to income tax and a 10% penalty.

c. If you no longer hold your IRA, please contact the Administrator of the Plan at (800) 378-3615 to review your options.

2. For Checks Payable to You and Mailed to You

If the distribution check was made payable to you (as opposed to the custodian of your IRA) because of the way your account was registered in the records obtained for the distribution, please contact

⁷ As a general rule, distribution payments from the Conseco Fair Fund received as a result of the investment held by your IRA do not constitute a “contribution” to your IRA for purposes of determining your maximum yearly contribution to your IRA or for purposes of determining your employer’s contributions to your plan.

the Administrator of the Distribution Plan immediately at (800) 378-3615 to receive instructions to get a replacement distribution check made payable to the custodian of your IRA. Caution: If you cash the check, or deposit it in any account other than an account eligible to receive the check, it may be subject to a 10% penalty and taxed as ordinary income in the year of receipt.

Additional information on this topic is available on the IRS Web Site www.irs.gov, Tax Topic 451 and Publication Number 590.

B. Distributions to Tax-Qualified Retirement Plans

Please follow the applicable instructions below if you received a check that is payable to a tax-qualified retirement plan.⁸

1. Checks Mailed to Your Retirement Plan

If you held some or all of your VAF shares through a tax-qualified retirement plan, in most cases the distribution check was made payable and mailed to your tax-qualified retirement plan.⁹ Plan fiduciaries are responsible for allocating these funds. Please contact your plan fiduciary if you have questions.

2. Checks Mailed to You

In limited instances, the distribution check was mailed to you and made payable to either (i) your retirement plan or (ii) you because of the way your account was registered in the records obtained for the distribution.

a. For A Check Payable to Your Retirement Plan but Mailed to You

In some instances the check payable to your tax-qualified retirement plan was mailed to you because your address was the address of record. If *you* received a check made payable to your tax-qualified retirement plan, please follow the directions in i. or ii., below.

⁸ Many types of plans are eligible to accept rollover contributions (and the Pension Protection Act of 2006 expanded the list of permissible recipient plans). More information on the Pension Protection Act of 2006 can be found at the IRS web site www.irs.gov. Contact your tax advisor to determine the types of plans to which you may make a rollover contribution.

⁹ As a general rule, distribution payments from the Conseco Fair Fund received as a result of the investment held by your tax-qualified retirement plan do not constitute a “contribution” to your plan for purposes of determining your maximum yearly contribution to your plan or for purposes of determining your employer’s contributions to your plan.

i. If you are still a participant in the tax-qualified retirement plan, contact your retirement plan trustee/administrator to coordinate the deposit of the check to your retirement plan.

ii. If you are no longer a participant in the tax-qualified retirement plan to which the distribution is directed, please contact the trustee/administrator of your former tax-qualified retirement plan to determine the appropriate course of action. If you have difficulty making contact with your former plan trustee/administrator, consult your tax advisor or contact the Administrator of the Plan at (800) 378-3615.

b. For a Check Payable to You and Mailed to You

Distributions with respect to investments held by a tax qualified plan should not be payable to individual investors. If you received such a check, this is an error likely due to the data available for the distribution. If you received a distribution check made payable to *you* in connection with an investment held by your tax-qualified retirement plan, please contact the Administrator of the Plan immediately at (800) 378-3615.

Additional information on this topic is available on the IRS Web Site www.irs.gov, Tax Topic 558.