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CORRESPONDENCE / MEMORANDUM

DATE: July 17, 2013
TO: Wisconsin Deferred Compensation Board Investment Committee
FROM: Shelly Schueller, Director
Wisconsin Deferred Compensation Program
SUBJECT: Float Investigation Update

This memo is for informational purposes only. No action is required.

During the Wisconsin Deferred Compensation Board (Board) June 2013 meeting, the Board received a briefing from the Department of Employee Trust Funds' Chief Legal Counsel regarding a recent lawsuit brought against Fidelity by several s. 401(k) plans for allegedly improper use of float income in Fidelity's record keeping services. The Wisconsin Deferred Compensation Program (WDC) offers the Fidelity Contrafund as an investment option, but does not use Fidelity's record keeping service. The lawsuit alleges that Fidelity kept float income ("the interest earned when contributions and disbursement are held temporarily in overnight accounts or disbursement accounts") for its own purposes. Fidelity is disputing the claims. The official statement from Fidelity as of March 18, 2013 is below:

"As an investment-only client, the State of Wisconsin 457 Plan does not use Fidelity Management and Trust Company (FMTC) as directed trustee or record keeper, so plan deposits or withdrawals are not subject to the practices which are in dispute in the float litigation. Instead, investment-only plan record keepers place fund-specific purchase and redemption orders with Fidelity. Moneys related to those transactions are not held overnight by Fidelity and thus there is no float income on such amounts.

Fidelity would also like to say that we vigorously deny the claims being asserted in these lawsuits. They were based on a prior lawsuit which we are appealing. That appeal is still pending. We look forward to the opportunity to address these claims in the Court of Appeals. Fidelity believes that its former float practices are consistent with the law and fair to all parties."

Reviewed and approved by Matt Stohr, Administrator, Division of Retirement Services

Matt Stohr

Electronically Signed 7/24/13

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The Board expressed interest in learning how its record keeper, Great-West Retirement Services (Great-West), handles float and directed staff to make an inquiry. The statement below was supplied by Great-West in response to the Board's request for information:

“Great-West does not receive float on any of its bank accounts. It receives bank credits. The below disclosure describes the bank accounts and bank credits that may be earned on the account and how the bank credits are used. The bank credits are used to offset any bank account expenses but Great-West does not retain excess bank credits as income.

Great-West or one of its affiliates may earn credits and/or interest on Plan assets awaiting investment or pending distribution. Any credits or interest earned by Great-West are aggregated with credits and/or interest earned by Great-West affiliates and will be used to defray the aggregate expenses for the maintenance of bank accounts. Great-West will not retain credits and/or interest earned in excess of such maintenance expenses, but any such excess will be retained by the bank.

Credits and/or interest are earned from the use of (i) uninvested contributions received too late in the day or not received in good order to be invested same-day and (ii) proceeds from investment option redemptions where Plan distribution checks have not been presented for payment by Participants. Credits and/or interest (i) begin to accrue on contributions on the date such amounts are deposited into the bank account and end on the date such amounts are invested pursuant to Participant instructions, and (ii) begin to accrue on distributions on the date the check is written or on the wire date, as applicable, and end on the date the check is presented for payment or when the wire clears against the account, as applicable. Earnings of credits and/or interest are at the rate the bank provides from time to time.”

Staff will be available at the August 20, 2013, meeting to discuss the information in this memo.