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Correspondence Memorandum

Date: September 9, 2025

To: Deferred Compensation Board

From: Kyle Kundert, Policy Advisor (Interim Director)
Wisconsin Deferred Compensation Program

Dan Hayes, Attorney
Office of Legal Services

Subject: Empower Settlement with SEC

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

Background

On August 29, 2025, the U.S. Securities and Exchange Commission (SEC) announced a settlement with Empower Advisory Group and Empower Financial Services (Empower) related to violations of securities laws. The settlement, which totaled nearly $6 million in disgorgement, prejudgment interest, and penalties, was the result of the firms' failure to adequately disclose certain alleged conflicts of interest to retirement plan participants. The Department of Employee Trust Funds (ETF) staff had an initial meeting with Empower staff on September 4, 2025, in which we were informed of the settlement and its findings.

Settlement Findings

ETF staff is actively reviewing the settlement, including the remedial actions taken by Empower to address the findings in the settlement. At this point, ETF staff can share the following:

The SEC's investigation found that from July 2019 through December 2022, Empower's compensation structure created a conflict. Specifically, the firm financially incentivized certain retirement plan advisors with bonuses and merit raises for enrolling plan participants in a fee-based "Managed Account" service. The SEC found that these advisors had asset-based enrollment goals that were a key factor in their performance evaluations, directly impacting their compensation.

The SEC also determined that Empower's disclosures to clients were misleading and inadequate. Advisors often described themselves as being "salaried and/or

Patti Epstein

Reviewed and approved by Patti Epstein, Chief Benefits Officer, Division of Benefits Administration
Electronically Signed 09/09/2025

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noncommissioned" and as acting in the client's best interest, without clearly revealing the underlying financial incentives that could influence their recommendations.[1] This omission created a situation where participants were led to believe that the advice they received was objective and unbiased.

In addition to the disclosure failures, Empower was also cited for failing to establish and enforce written policies and procedures that were reasonably designed to address these conflicts of interest. Without admitting or denying the SEC's findings, Empower agreed to the terms of the settlement, including taking remedial actions to remove the asset-based enrollment goals from advisor performance evaluations and strengthening its compliance oversight. The funds from the settlement will be distributed to affected retirement plan participants.

Based on the attached statement provided by Empower, the Wisconsin Deferred Compensation Program was not included in the SEC matter.

Discussion
ETF staff continue to investigate this issue and plan to provide the Board more information about any potential impact on WDC participants at the December Board Meeting. To ensure ETF is responsive to board member concerns, ETF requests you communicate any questions or issues that you would like addressed at the December Board Meeting.

ETF and Empower staff will be available to answer any initial questions.

Attachment A: Empower Written Statement on SEC Settlement and Participant Disclosures

Attachment B: SEC Settlement & Findings

[1] See paragraph 4 of Attachment B (SEC Settlement and Findings)