

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND

CHAMBERS OF  
J. FREDERICK MOTZ  
UNITED STATES DISTRICT JUDGE

101 WEST LOMBARD STREET  
BALTIMORE, MARYLAND 21201  
(410) 962-0782  
(410) 962-2698 FAX

October 25, 2004

Re: MDL-1586-*In re Mutual Funds Investment Litigation*

Dear Counsel:

This letter is to apprise all parties, including newly added defendants, of certain matters related to this MDL.

First, all counsel should familiarize themselves with previous case management orders and letters that appear on the court's website.<sup>1</sup> These documents provide information on such matters as entering appearances, registering for the CM/ECF system, the assignment of cases to the four judges overseeing this MDL, and so forth.

Second, all filing, docketing, and service (of documents other than complaints) in the case is done electronically through the CM/ECF system. Counsel for newly added defendants are particularly encouraged to promptly register in the CM/ECF system and to become familiar with its procedures. Letters posted on the web site on February 20, April 5, and April 22, 2004, describe how to register, special pro hac procedures for this MDL and how to obtain training on the CM/ECF.

Third, Judge Blake, Judge Davis, Judge Stamp, and I have previously divided this MDL into four "tracks," each of which is overseen by a different judge. A table showing these tracks is included with the court's April 12, 2004 letter. Since then, we have added AMCAP to track 1 (Judge Blake) and Allianz Dresdner (f/k/a PIMCO) to track 3 (Judge Motz).

Fourth, my colleagues and I would like to hold a joint monthly status teleconference with counsel on the second Thursday of every month at 4:30 pm Eastern time. The call for November has been rescheduled because of the Veteran's Day holiday to Tuesday November 16, 2004. Teleconference information will be circulated and posted on the web site prior to the call. If you have any questions about the teleconference, please contact the liaison counsel identified below.

Fifth, the consolidated amended complaints were (with a few exceptions) filed on September 29, 2004. These are the operative complaints in this MDL. The briefing schedule on contemplated motions to dismiss is currently suspended. A schedule for motions to dismiss will be established within

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<sup>1</sup>The USDC MD web site can be found at [www.mdd.uscourts.gov](http://www.mdd.uscourts.gov). Click on "MDL's" on the left-hand side of that page. Then click on "Mutual Funds," and go to the Case Management Documents."

60 days, probably during the conference calls to be held on November 16, 2004 or December 9, 2004.<sup>2</sup>

Sixth, all discovery is currently stayed in this MDL by operation of law, court order, and/or the agreement of the parties. On September 29, 2004, the investor class plaintiffs filed a motion to lift the discovery stay. The parties have agreed upon (and we have approved) the following briefing schedule:

December 10, 2004	Deadline for defendants to file opposition to plaintiffs' motion to lift PSLRA discovery stay and to cross-motion for protective order in cases not instituted under the PSLRA
January 21, 2005	Deadline for plaintiffs to file opposition/reply
February 11, 2005	Deadline for Defendants to file reply

A hearing on this motion has been scheduled for March 1, 2005 at 9:30 AM. Both plaintiffs and defendants are to coordinate their respective briefing to the maximum extent possible.

Seventh, we have previously approved an organizational structure for the plaintiffs. *See* Case Management Order No. 1.

Eighth, we hereby approve the following interim organizational structure for the defendants. This structure is subject to modification and will be formalized in a case management order at the appropriate time. The parties have advised the court that the defendants may be divided into three categories: (1) the "Fund Group Defendants," which includes investment companies (mutual funds), their advisers and parent, affiliated, or subsidiary companies, and their respective officers, directors, trustees, and committees; (2) the "Trader Defendants," which includes hedge funds, investors, and related individuals and entities that are alleged to have engaged in market timing, late trading, or other trading activities in the subject mutual funds; and (3) the "Broker Defendants," which includes broker-dealers, investment banks, commercial banks, and related individuals and entities that are alleged to have cleared, financed, or otherwise facilitated market timing, late trading, or other trading activities in the subject mutual funds. The Fund Group Defendants have already agreed that Mark A. Perry shall act as their Liaison Counsel. For each of the other categories, the court appoints interim liaison counsel as follows:

Mark A. Perry  
Gibson, Dunn & Crutcher LLP  
1050 Connecticut Avenue N.W.  
Washington, D.C. 20036  
(202) 887-3667 (tel)  
(202) 530-9696 (fax)  
mperry@gibsondunn.com  
*Counsel for Janus Capital Defendants*

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<sup>2</sup>The scheduling order that was posted to the web site on August 16, 2004 has been suspended.

***Liaison Counsel for Fund Group Defendants***

Steven S. Scholes  
McDermott, Will & Emery LLP  
227 West Monroe Street  
Chicago, Illinois 60606  
(312) 984-7762 (tel)  
(312) 984-7700 (fax)  
sscholes@mwe.com

*Counsel for Calugar and Security Brokerage Defendants*  
***Interim Liaison Counsel for Trader Defendants***

Jonathan D. Polkes  
Cadwalader, Wickersham & Taft LLP  
100 Maiden Lane  
New York, New York 10038  
(212) 504-6021 (tel)  
(212) 504-6666 (fax)  
Jonathan.Polkes@cwt.com

*Counsel for CIBC Defendants*  
***Interim Liaison Counsel for Broker Defendants***

Defense liaison counsel shall serve as the primary contacts in their respective categories for other defendants, the plaintiffs, and the court. These lawyers have prepared coordination guidelines, which the court attaches to this letter for convenience.

Very truly yours,

/s/

J. Frederick Motz  
United States District Judge

cc: Honorable Catherine C. Blake  
Honorable Andre M. Davis  
Honorable Frederick P. Stamp, Jr.

## Coordination Guidelines for Fund Group Defendants

The Fund Group Defendants have formed a Steering Committee comprised of the lead attorney for each track in the MDL (generally, the lead attorney for the adviser to the funds for which the track is named). The current composition of this committee is:

<b>Track</b>	<b>Lawyer</b>	<b>Firm</b>	<b>E-mail AIM/Invesco</b>
Maeve O'Connor	Debevoise	moconnor@debevoise.com	
Alger	Stewart Aaron	Dorsey & Whitney	Aaron.Stewart@dorsey.com
Alliance	Mark Kirsch	Clifford Chance	mark.kirsch@cliffordchance.com
Allianz Dresdner (f/k/a PIMCO)	John C. Ertman	Ropes & Gray	Jertman@ropesgray.com
AMCAP	James Benedict	Clifford Chance	james.benedict@cliffordchance.com
Artisan	John Rotunno	Bell Boyd	jrotunno@bellboyd.com
Bank of America/Nations	Steve DiPrima	Wachtell	srdirprima@wlrk.com
Columbia	Mark Rabinowitz	Neal Gerber	mrabinowitz@ngelaw.com
Excelsior (Schwab)	Eric T. Streck	Pillsbury Winthrop	estreck@pillsburywinthrop.com
Federated	Thomas L. Allen	Reed Smith	tallen@reedsmith.com
Franklin Templeton	Daniel A. Pollack	Pollack & Kaminsky	dapollack@pollacklawfirm.com
Janus	Mark A. Perry	Gibson Dunn	mperry@gibsondunn.com
MFS	William Paine	Wilmer	william.paine@wilmerhale.com
One Group (Bank One)	Daniel Kramer	Paul Weiss	dkramer@paulweiss.com
Pilgrim Baxter	Kenneth Kramer	Shearman & Sterling	kkramer@shearman.com
Putnam	Seth Schwartz	Skadden	sschwartz@skadden.com
Salomon Smith Barney	Stephen S. Madsen	Cravath	smadsen@cravath.com
Scudder	Kip Hall	Morgan Lewis	chall@morganlewis.com
Strong	Bruce E. Clark	Sullivan & Cromwell	ClarkB@sullcrom.com

Lead counsel for funds and/or advisers should continue to coordinate with Mark Perry regarding the Steering Committee (and related committees and working groups).

Counsel for other corporate entities who are Fund Group Defendants (*e.g.*, parent companies, affiliates, and subsidiaries) and individuals who are Fund Group Defendants (*e.g.*, current or former

officers, directors, or trustees) should coordinate with the Steering Committee member, or his or her designee, in the track in which they are named.

Counsel for defendants who are *not* Fund Group Defendants (*e.g.*, Trader Defendants or Broker Defendants) should coordinate with Steven Scholes or Jonathan Polkes, as the case may be.

## **Coordination Guidelines for Trader Defendants**

Counsel for Trader Defendants should coordinate with Steven Scholes to organize this category of defendants, including (1) identifying the defendants in this category and the tracks in which they have been named; (2) identifying the lead counsel for each defendant in this category; and (3) establishing an organizational structure to facilitate coordination within the category, with other defendants and the plaintiffs, and with the court. Counsel who have not yet contacted Mr. Scholes should do so as soon as possible.

## **Coordination Guidelines for Broker Defendants**

Counsel for Broker Defendants should coordinate with Jonathan Polkes to organize this category of defendants, including (1) identifying the defendants in this category and the tracks in which they have been named; (2) identifying the lead counsel for each defendant in this category; and (3) establishing an organizational structure to facilitate coordination within the category, with other defendants and the plaintiffs, and with the court. Counsel who have not yet contacted Mr. Polkes should do so as soon as possible.