



## **HO-CHUNK NATION LEGISLATURE**

*Governing Body of the Ho-Chunk Nation*

### **HO-CHUNK NATION LEGISLATURE ALLOCATION OF LITIGATION PROCEEDS TO THE NATION'S 401(K) PLAN**

#### **RESOLUTION 09-03-13B**

- WHEREAS,** on November 1, 1994, the United States Secretary of the Interior approved a new Constitution for the Ho-Chunk Nation, formerly known as the Wisconsin Winnebago Nation; and
- WHEREAS,** the Ho-Chunk Nation ("Nation") is a federally recognized Indian Tribe, organized pursuant to the Indian Reorganization Act of 1934; and
- WHEREAS,** Article V, Section 2 (a) of the Ho-Chunk Nation Constitution ("Constitution") grants the Ho-Chunk Nation Legislature ("Legislature") the power to make laws, including codes, ordinances, resolutions and statutes; and
- WHEREAS,** Article V, Section 2 (i) of the Constitution grants the Legislature the power to negotiate and enter into treaties, compacts, contracts and agreements with other governments, organizations, or individuals; and
- WHEREAS,** Article V, Section 2 (s) of the Constitution grants the Legislature the power to promote public health, education, charity, and such other services as may contribute to social advancement of members of the Ho-Chunk Nation; and
- WHEREAS,** Article V, Section 2 (x) of the Constitution grants the Legislature the power to enact any other laws, ordinances, resolutions, and statutes necessary to exercise its legislative powers delegated by the General Council pursuant to Article III including but not limited to the forgoing list of powers; and
- WHEREAS,** it has been brought to the attention of the Ho-Chunk Nation Insurance Department ("Insurance Department") by Newport Retirement Services, the Nation's Record Keeper for the 401(k) Plan ("Plan") for Tribal Employees, that the Plan will be in receipt of \$8,586.76 as a result of settlement of litigation from the transfer of investments from the Schwab Total Return Fund that was transferred into the Pimco Total Return Fund in 2008; and

#### **Executive Offices**

W9814 Airport Road P.O. Box 667 Black River Falls, WI 54615  
(715) 284-9343 Fax (715) 284-3172 (800) 294-9343

**NOW THEREFORE BE IT RESOLVED**, that the Legislature, pursuant to its Constitutional authority, hereby approves the attached Allocation of Litigation Proceeds by selecting Option #3 and directs Newport to offset plan-level administration expenses that would otherwise be borne by participants.

**BE IT FURTHER RESOLVED**, the Legislature hereby authorizes the Vice President of the Nation to sign all documents pertaining to said settlement.

**CERTIFICATION**

I, the undersigned, as Tribal Secretary of the Ho-Chunk Nation, hereby certify that the Legislature of the Ho-Chunk Nation, composed of **13 members** of whom **11** constituting a quorum were present at a meeting duly called and convened and hold on the **3<sup>rd</sup> day of September, 2013**, adopted the foregoing resolution at said meeting by an affirmative vote of **5 members, 4 opposed, and 2 abstaining**, pursuant to Article V, Section 2 (a) and (x) of the Constitution of the Ho-Chunk Nation, approved by the Secretary of the Interior on November 1, 1994, and that the foregoing resolution has not been rescinded or amended in any way. I further certify that this is a verified copy of said resolution.

Kathleen LoneTree-Whiterabbit  
Kathleen LoneTree-Whiterabbit, Tribal Secretary

9.3.13  
Date

## ALLOCATION OF LITIGATION PROCEEDS

Newport Retirement Services, Inc. ("Newport") has been notified that your plan has received or will receive shortly proceeds from the settlement of litigation. As the Plan Sponsor, you will need to provide direction to Newport on how these monies should be allocated or otherwise used within your retirement plan.

The US Department of Labor has issued guidance regarding the allocation of proceeds received from mutual funds in settlement of SEC investigations, which you may find useful in determining how the litigation proceeds should be allocated. The guidance suggests that you exercise prudence in determining how the proceeds will be allocated or used, i.e., that you choose an approach that attempts to compensate affected participants for the impact the actions involved in the litigation had on them, keeping in mind the costs to the plan or participants associated with achieving that objective relative to the benefits to be gained. For example, if the amounts to be allocated are small, it may be reasonable to use the proceeds to offset administrative expenses of the plan rather than allocate the proceeds to participants. If records are insufficient to determine the exact amount by which affected participants should be compensated, or the cost of doing so is too great, it is permissible to allocate the proceeds to current participants in a reasonable, fair and objective manner, rather than on the basis of actual harm incurred. It is generally not permissible to use the proceeds in a way that would benefit the company.

Please complete and return the form below by indicating the option you would prefer to use to dispose of this cash settlement. Sign and date the form and then return it directly to my attention.

If you need any assistance or have any questions please feel free to contact me directly.

- Option 1: Allocate pro rata to current participants in the Pimco Total Return Fund based on account balances invested in that fund as of the date the payment is processed.
- Option 2: Allocate per capita to current participants in the Pimco Total Return Fund as of the date the payment is processed.
- Option 3: Offset plan-level administration expenses that would otherwise be born by participants.
- Option 4: Other (please specify): \_\_\_\_\_

Weather Cloud  
Authorized Signature

VICE PRESIDENT  
Title

9/5/13  
Date