

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

IN RE MUTUAL FUNDS)
INVESTMENT LITIGATION)

MDL No. 1586

This Document Relates To:)
Pilgrim Baxter Sub-Track,)
04-md-15862-04)

Case No. 04-MD-15862-04
(Hon. J. Frederick Motz)

**NOTICE OF PENDENCY AND PROPOSED SETTLEMENTS OF CLASS ACTION,
MOTION FOR ATTORNEYS' FEES AND EXPENSES, AND SETTLEMENT HEARING**

A federal court authorized this notice. This is not a solicitation from a lawyer.

IF YOU HELD, PURCHASED OR OTHERWISE ACQUIRED SHARES IN CERTAIN MUTUAL FUNDS ADVISED BY PILGRIM BAXTER & ASSOCIATES, LTD. (THE "PBHG FUNDS" OR "FUNDS") DURING THE PERIOD FROM JULY 30, 1999 TO NOVEMBER 13, 2003, INCLUSIVE,¹ YOU COULD RECEIVE A PAYMENT FROM A CLASS ACTION SETTLEMENT. IN ADDITION, IF YOU CURRENTLY HOLD SHARES IN MUTUAL FUNDS IN THE OLD MUTUAL II FAMILY OF MUTUAL FUNDS THAT ARE SUCCESSORS TO PBHG FUNDS INC., CERTAIN OTHER RIGHTS MAY BE AFFECTED BY A SETTLEMENT OF A DERIVATIVE ACTION.

YOU ARE HEREBY NOTIFIED of a \$31,538,600 cash settlement of class action and derivative action lawsuits affecting investors in certain mutual funds in the Pilgrim Baxter family of mutual funds, consolidated in the actions captioned: *In re Mutual Funds Investment Litigation*, MDL-1586 (D. Md.), *Carey v. Pilgrim Baxter & Associates, Ltd. et al.*, No. 04-cv-01151-JFM (D. Md.) (the "Class Action"), and *Jungalawala v. Pilgrim Baxter & Associates, Ltd. et al.*, No. 04-md-00882-JFM (D. Md.) (the "Derivative Action") (collectively, the "Actions"). You may be eligible for a payment from the settlement proceeds, or you may act on other legal rights. **Important facts and terms are highlighted below, and explained in more detail in the Long-Form Notice of Pendency and Proposed Settlements of Class and Derivative Actions, Motion for Attorneys' Fees and Expenses, and Settlement Hearing (the "Long-Form Notice") available at www.mutualfundsettlements.com/pb.** The terms of these Settlements are embodied in a series of Stipulations and Agreements of Settlement with the Settling Defendants (the "Stipulations") also available at the website.

NOTE: This Notice (except with respect to the OAG/Canary recovery described below) concerns the settlement of private lawsuits. These Settlements are distinct from the settlements that government regulators, including the Securities and Exchange Commission ("SEC"), previously reached concerning market-timing and late trading in Pilgrim Baxter mutual funds, including with Pilgrim Baxter & Associates, Ltd. and related parties. Any payment that you may be eligible for under this private settlement is in addition to any payment you may have received from the SEC and/or other regulators. For more information about the SEC litigation, see: <http://www.sec.gov/divisions/enforce/claims/pilgrimbaxter.htm>.

- **The Mutual Funds (or Securities) At Issue:** PBHG Core Growth Fund, PBHG Emerging Growth Fund, PBHG Growth Fund, PBHG Large Cap 20 Fund (f/k/a PBHG Large Cap Growth Concentrated Fund), PBHG Large Cap Growth Fund, PBHG Limited Fund (merged into PBHG Emerging Growth Fund), PBHG Select Growth Fund (f/k/a PBHG Select Equity Fund), PBHG Small Cap Fund (f/k/a PBHG Small Cap Value Fund), PBHG Strategic Small Company Fund, PBHG Technology & Communications Fund, and PBHG Cash Reserves Fund. These funds are described in this Notice as the "PBHG Funds" or the "Funds."
- **Time Period:** July 30, 1999 through November 13, 2003, inclusive (the "Class Period").
- **Total Settlement Amount:** \$31,538,600 (the "Settlement Fund") plus interest earned on the Settlement Fund (the "Gross Settlement Fund"). The Settlement Fund is comprised of (i) \$26,500,000 paid on behalf of the PB Advisor Defendants² for the benefit of the Settlement Class and the PBHG Successor Funds (as defined in the Long-Form Notice), (ii) \$500,000 paid on behalf of the Appalachian Trails Defendants for the benefit of the Settlement Class, (iii) \$441,600 paid on behalf of Banc of America Securities, LLC for the benefit of the Settlement Class and the PBHG Successor Funds, (iv) \$1,232,000 paid on behalf of the Bear Stearns Defendants for the benefit of the Settlement Class, and (v) \$2,865,000 paid on behalf of the Canary Defendants for the benefit of the Settlement Class and the PBHG Successor Funds. The PB Advisor Defendants, the PB Funds Defendants, the Appalachian Trails Defendants, Banc of America Securities, LLC, the Bear Stearns Defendants and the Canary Defendants are collectively referred to as the "Settling Defendants". In addition to the amounts paid on behalf of the Settling Defendants, Class Counsel intends to distribute \$5,730,000 plus interest, which was obtained by the Office of the New York Attorney General ("OAG") in its settlement with the Canary Defendants, to the Settlement Class. Further details about the Settlements are available in the Long-Form Notice available at www.mutualfundsettlements.com/pb.

¹ Defendants and certain persons and entities affiliated with Defendants are excluded from the Settlement Class. Details about the persons and entities excluded from the Settlement Class are available in the Long-Form Notice.

² The PB Advisor Defendants' settlement includes at least \$750,000 and up to \$1,500,000 that will be used to help pay for the costs of providing notice and administering the Settlements. The \$26.5 million settlement payment shown above includes the entire \$1,500,000, based on Plaintiffs' Counsel's reasonable estimate of the costs of providing notice and administering the Settlements.

- **Statement of Recovery:** Assuming that all Settlement Class Members participate in the settlement, Class Lead Plaintiff estimates that the average recovery per eligible share (before deduction of attorneys' fees and expenses and the costs of notice and administration of the Settlements, and not including the OAG/Canary payment) will be as follows:

<u>PBHG Fund</u>	<u>Average Recovery per Eligible Share</u>
PBHG Core Growth Fund	\$0.0926
PBHG Emerging Growth Fund	\$0.1240
PBHG Growth Fund	\$0.1598
PBHG Large Cap 20 Fund (f/k/a PBHG Large Cap Growth Concentrated Fund)	\$0.0071
PBHG Large Cap Growth Fund	\$0.0140
PBHG Limited Fund (merged into PBHG Emerging Growth Fund)	\$0.0220
PBHG Select Growth Fund (f/k/a PBHG Select Equity Fund)	\$0.0993
PBHG Small Cap Fund (f/k/a PBHG Small Cap Value Fund)	\$0.0162
PBHG Strategic Small Company Fund	\$0.0264
PBHG Technology & Communications Fund	\$0.2024
PBHG Cash Reserves Fund	\$0.0000

Please note that this amount is only an estimate. Further detail is available in the Long-Form Notice, which is available on the internet at www.mutualfundsettlements.com/pb. If you do not have internet access, you may request a copy of the Long-Form Notice by writing to the Claims Administrator, The Garden City Group, Inc., at *Pilgrim Baxter Mutual Fund Settlement, In re Mutual Funds Investment Litigation*, c/o The Garden City Group, Inc., P.O. Box 9411, Dublin, OH 43017-4511. Any actual payment to a Settlement Class Member will depend on, among other things, (i) the total number of claims filed; (ii) the number of shares the Settlement Class Member held in the PBHG Funds during the Class Period; (iii) when the Settlement Class Member purchased or sold his, her or its shares; (iv) administrative costs, including the costs of notice, for the Actions; and (v) the amount awarded by the Court for attorneys' fees and expenses. Distributions to Settlement Class Members will be made based on the Plan of Allocation set forth in the Long-Form Notice on pages 7-9. The derivative recovery will be computed after distribution to the Settlement Class and will be paid to the PBHG Successor Funds as set forth in the Plan of Allocation set forth in the Long-Form Notice on pages 7-9.

- **Reasons for the Settlements:** The settlement of the Actions, among other things, avoids delay and the substantial costs and risks from continuing the lawsuits, pays money to investors, and releases all settling defendants from other lawsuits based on matters at issue in the Actions. See Long-Form Notice at page 3. All defendants participating in these Settlements deny any wrongdoing.
- **Statement of Potential Outcome of Case:** If the Actions had not settled, there may have been a trial and Plaintiffs would have faced an uncertain outcome. Plaintiffs and the Settling Defendants disagree on both liability and damages and do not agree on the average amount of damages per share, if any, that would be recoverable if Plaintiffs were to have prevailed on each claim alleged. The parties disagree about, among other things: (1) whether the defendants engaged in conduct that was unlawful or harmful to the members of the Settlement Class or the PBHG Funds at issue; (2) the method for determining whether shares in the PBHG Funds at issue were damaged; (3) the amount of any such damage; (4) the extent that various facts alleged by Plaintiffs influenced the trading price of such shares during the relevant period; and (5) whether the Settlement Class and the PBHG Successor Funds have already been made whole because of amounts certain defendants paid to settle similar claims asserted by the SEC and government regulators, which amounts have been distributed to PBHG Funds investors and the PBHG Successor Funds.
- **Attorneys' Fees and Expenses:** Plaintiffs' Counsel have performed their work in these Actions on a contingent-fee basis. The Court-appointed lawyers for the Class Lead Plaintiff and Derivative Plaintiffs will jointly apply for an award of attorneys' fees not to exceed 15% of the Gross Settlement Fund for their efforts in connection with the Actions, including investigating the facts, litigating the case, and negotiating the Settlements. Counsel for Class Lead Plaintiff and the Derivative Plaintiffs will also ask the Court for reimbursement of their litigation expenses paid or incurred in connection with the commencement, prosecution and resolution of the Actions in an amount not to exceed \$615,000 (which expenses may also include the costs and expenses of Class Lead Plaintiff), to be paid from the Gross Settlement Fund. In addition, Court-appointed Plaintiffs' Administrative Chair and Liaison Counsel will apply for an award of attorneys' fees and expenses of an additional 1.25% of the Gross Settlement Fund for its efforts on behalf of plaintiffs. If the above requested amounts are approved by the Court, for each of the PBHG Funds the average cost of attorneys' fees and expenses per share will be equal to approximately 18.20% of the average recovery per eligible share as set forth above. **Please note that this amount is only an estimate.**
- **Plaintiffs' Representatives:** The Court has appointed the following lawyers as counsel for the Plaintiffs: Chad Johnson, William C. Fredericks and Jerald Bien-Willner, Bernstein Litowitz Berger & Grossmann LLP, 1285 Avenue of the Americas, New York, NY 10019 (800-380-8496) (counsel for Class Lead Plaintiff); and Nicholas E. Chimicles, Denise Davis

Schwartzman and Timothy N. Mathews, Chemicles & Tikellis LLP, 361 West Lancaster Avenue, Haverford, PA 19041 (610-642-8500) (counsel for the Derivative Plaintiffs). The Court has also appointed John B. Isbister, Tydings & Rosenberg LLP, 100 East Pratt Street, 26th Floor, Baltimore, MD 21202 as Plaintiffs' Administrative Chair and Liaison Counsel. If you want to be represented by your own lawyer, you may hire one at your own expense and enter an appearance in the Actions.

- **Summary Description of the Actions:** Starting on November 14, 2003, the first in a series of putative securities class action complaints was filed in the United States District Court for the Eastern District of Pennsylvania, alleging unlawful market-timing and late trading in the PBHG Funds and the communication of portfolio holdings information. Market-timing is a term used to describe the short-term, "in and out" trading of mutual fund shares, which may be used by a mutual fund trader to capitalize on inefficiencies in the way mutual fund shares are priced. Late trading is a form of market-timing that involves a mutual fund trader placing orders to buy, sell or exchange mutual fund shares using the prior day's price to capitalize on information obtained after the close of the market. On November 26, 2003, the first derivative action based on the same alleged market-timing and late trading practices was filed in the United States District Court for the Eastern District of Pennsylvania. On February 20, 2004, the Judicial Panel on Multi-District Litigation issued an order centralizing all of these actions in one multi-district docket in the United States District Court for the District of Maryland under the caption *MDL-1586 - In re Mutual Funds Investment Litigation*.

Consolidated Complaints were filed in the Actions in late September 2004. Claims were asserted in the Actions against persons affiliated with the PBHG Funds, including the investment advisor to the PBHG Funds and its affiliates, as well as unaffiliated entities, including alleged market-timers and parties that were alleged to have participated in or facilitated the market-timers' trading of PBHG Funds. Thereafter, Plaintiffs continued to pursue their Actions; many of the defendants moved to dismiss the Actions, which plaintiffs opposed. Agreements in principle to settle the Actions with various groups of defendants were reached at various times.

- **Release of Claims:** If the Court approves the Settlements and enters the binding judgments, all Settlement Class Members will release the Settling Defendants and certain parties related to the Settling Defendants (collectively, the "Released Parties") from all claims concerning market-timing, late-trading, or short-term or excessive trading in any mutual fund advised by Pilgrim Baxter & Associates, Ltd. during the Class Period, including all claims that were or could have been brought in the Complaints (the "Released Claims"). If you are interested in more information regarding the release of claims, please visit the case website, www.mutualfundsettlements.com/pb, and click on the "Releases" tab.

Deadlines:

Submit a Claim Form: December 8, 2010

- **Eligible Settlement Class Members are required to submit a valid and timely Proof of Claim and Release form ("Claim Form") in order to participate in the Settlements. Copies of the Claim Form can be obtained at www.mutualfundsettlements.com/pb.** If the Settlements are approved, distributions to eligible Settlement Class Members will be made pursuant to the proposed Plan of Allocation set forth in the Long-Form Notice.

Request Exclusion from the Settlement Class: September 21, 2010

- Settlement Class Members may elect to be excluded from the Settlement Class. If you ask to be excluded from the Settlement Class, you will not be eligible to receive any payment from the Settlements and cannot object to the terms of the Settlements, the Plan of Allocation, or counsel's applications for attorneys' fees and reimbursement of expenses. You will not be legally bound by the Settlements or any related events relating to this lawsuit and you will be able to pursue the claims that are being released in these Settlements. This is the only option that allows you to file or participate in another lawsuit against the Released Parties concerning any of the Released Claims. If you wish to exclude yourself from the Settlement Class, please follow the instructions in the Long-Form Notice (available at www.mutualfundsettlements.com/pb). If you choose not to exclude yourself from the Settlement Class and the Court approves the Settlements and enters the binding judgments, you will forever release all Released Claims against the Released Parties.
- The Settling Defendants shall have the option to withdraw from the Settlements in the event that certain threshold levels of investors who would otherwise be entitled to participate as members of the Settlement Class timely and validly request exclusion from the Settlement Class.

File an Objection to the Settlements: September 21, 2010

- A Settlement Class Member may object to the Settlements, the Plan of Allocation or counsel's request for attorneys' fees and reimbursement of expenses for any reason. To object, a Settlement Class Member must notify the Court and Class Lead Counsel in writing of his, her or its reason(s) for objection. Objections submitted by Settlement Class Members who are represented by an attorney must be filed with the Court via ECF (or at the Court's address set out in the Long-Form Notice) and served on Class Lead Counsel (at counsel's address set out in the Long-Form Notice) no later than September 21, 2010, and such objections must include the information required in the Long-Form Notice. Settlement Class Members may object **only if** they stay in the Class. By excluding yourself you tell the Court that you do not want to be part of the Settlements. Members of the Settlement Class who exclude themselves from the Settlements shall have no basis to object because the case no longer affects them.

- If you are currently a shareholder in any of the mutual funds that are successors to PBHG Funds Inc., including the PBHG Successor Funds, and will continue to own shares in one or more of these funds through the date of the settlement fairness hearing, you also have the right to object to the Settlements of the Derivative Action, the proposed Plan of Allocation, and the requests for attorneys' fees and expenses. Any such objections by current shareholders who are represented by an attorney must be filed with the Court via ECF (or at the Court's address set out in the Long-Form Notice) and served on Class Lead Counsel (at counsel's address set out in the Long-Form Notice) no later than September 21, 2010, and such objections must include the information required in the Long-Form Notice.
- If you have not retained an attorney to represent you in connection with these settlement proceedings and you wish to object, you may mail your objection to the Clerk of the Court, United States District Court for the District of Maryland, 101 W. Lombard Street, Baltimore, Maryland 21201, with a copy mailed to Class Lead Counsel, Chad Johnson, Esq., William C. Fredericks, Esq., and Jerald Bien-Willner, Esq., Bernstein Litowitz Berger & Grossmann LLP, 1285 Avenue of the Americas, New York, NY 10019, no later than September 21, 2010. Any objection that is submitted by mail to the Clerk of the Court and Class Lead Counsel will be filed on the Court's docket.

Court Hearing on Fairness of Settlements: October 21-22, 2010

- The Court will hold a settlement fairness hearing at 10:00 a.m., on October 21-22, 2010, at the United States District Court for the District of Maryland, 101 W. Lombard Street, Baltimore, MD 21201. At this hearing, the Court will consider whether to grant final approval to the Settlements and the Plan of Allocation. The Court may also consider Plaintiffs' Counsel's applications for attorneys' fees and reimbursement of expenses. You may apply to the Court for permission to appear at this hearing, and you may retain an attorney, at your own expense, to represent you at this hearing. You are not required to retain a lawyer to exclude yourself from the Settlement Class or to object to the Settlements. Further detail is available in the Long-Form Notice available at www.mutualfundsettlements.com/pb. Please note the date of the settlement fairness hearing is subject to change without further notice. If you plan to attend the hearing, you should check the website, www.mutualfundsettlements.com/pb, or with one of Plaintiffs' Representatives listed above to be sure that no change to the date and time of the hearing has been made.

Special Notice to Brokerage Firms and other Nominees:

- If you are a brokerage firm or other nominee who owned shares in any of the PBHG Funds during the Class Period as the record owner but not as the beneficial owner of the shares, you must either (1) send a copy of this Notice to each beneficial owner of such shares, postmarked no later than fourteen (14) days after you receive this Notice, or (2) provide a list of the names and addresses of such beneficial owners, no later than fourteen (14) days after you receive this Notice, to the Claims Administrator at *Pilgrim Baxter Mutual Fund Settlement, In re Mutual Funds Investment Litigation*, c/o The Garden City Group, Inc., P.O. Box 9411, Dublin, OH 43017-4511. If you choose the second option, the Claims Administrator will send a copy of the Notice to the beneficial owners of the shares. Upon full compliance with these directions, nominee owners may seek reimbursement of their reasonable expenses actually incurred, by providing the Claims Administrator with proper documentation supporting the expenses for which reimbursement is sought. Copies of this Notice can be obtained from the website, www.mutualfundsettlements.com/pb, or by calling 1 (800) 949-1898.

More Information:

- Visit the website: www.mutualfundsettlements.com/pb.
- Write the Claims Administrator, The Garden City Group, Inc., at *Pilgrim Baxter Mutual Fund Settlement, In re Mutual Funds Investment Litigation*, c/o The Garden City Group, Inc., P.O. Box 9411, Dublin, OH 43017-4511.
- Email questions to PilgrimBaxterQuestions@mutualfundsettlements.com.
- The Stipulations and all other papers filed in the Actions are available for inspection in the Clerk's office at the United States District Court for the District of Maryland, 101 W. Lombard Street, Baltimore, MD 21201, during regular business hours.

DO NOT TELEPHONE THE COURT REGARDING THIS NOTICE