NATIONAL GOVERNMENT ETHICS

SUMMIT

MARCH 8-10 2016

Refresher on Mutual Fund Exemptions

Jack MacDonald

18 U.S.C. § 208

Government employees are prohibited from participating personally and substantially in a **particular government matter** that will have a direct and predictable effect on **their financial interests, including** the financial interests **of others**, which are attributed to the federal employee.

Purpose: To prevent an employee's personal interests from influencing Government decisions

A few words about exemptions

- Only OGE is authorized to issue
- They are housed in 5 CFR 2640
- They apply automatically (unless you have a statute or regulation that trumps them)
- They mitigate both the conflict AND any appearance concerns

Analysis Process

1. Will the outcome of the Government matter have an effect upon the identified interest?
2. Can you identify a potential exemption?
3. Does the exemption cover this type of financial interest?
4. Does the exemption cover this type of particular matter?
5. Where applicable, does the $ value of the interest meet the de minimis thresholds of the exemption?

Applying the Exemptions Exercise

An employee of the FDA will be working on reviewing and approving requests by drug companies for new medicines. The employee's investment portfolio consists of:

- $100,000 invested in the **Janus Emerging Markets Fund**
- $55,000 invested in the **T. Rowe Price Health Sciences Fund**
- $20,000 invested in the **Vanguard Health Care Fund**
- $75,000 invested in the **iShares DJ U.S. Consumer Goods Fund**

1. Will the outcome of the matter affect the holding?

Matters:

Drug approvals

Interests:

Pooled investment vehicles

2. Which exemption might apply?

5 CFR 2640.201

Exemptions for interests in **mutual funds**, unit investment trusts, and employee benefit plans.

3. Is it a mutual fund?

Mutual fund means an entity which is registered as a management company under the Investment Company Act of 1940, as amended (15 U.S.C. 80a–1 et seq.). For purposes of this part, the term mutual fund includes open-end and closed-end mutual funds and registered money market funds.

5 CFR § 2640.102(k)

MUTF:JMFDX

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Janus Emerging Markets Fund Class D (MUTF:JMFDX)

More results

Mutual fund
- Summary
- Purchase information
- Historical prices

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Recent Quotes (30 days)

		chg | %
PRHSX	60.01	0.99%
JMFDX	6.75	-0.44%
MFC	13.26	2.47%
HFMDX	18.17	1.68%
DODGX	151.13	1.01%
VEMAX	25.50	-0.12%
VGSLX	109.74	2.10%
VTSAX	48.26	1.13%
VSEAX	37.16	0.98%
FSPHX	183.70	0.92%
SCHG	49.69	0.40%
MDT	77.78	0.15%
WBA	79.12	-1.00%
WBA	78.05	0.00%
FISV	97.96	-1.52%

6.75 -0.03(-0.44%) G+1 0

Feb 24, 7:00PM EST Overall Morningstar Rating™ ★★☆☆☆

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Description

The investment seeks long-term growth of capital. The fund pursues its investment objective by investing, under normal circumstances, at least 80% of its net assets

Performance

Trailing returns

1 day	-0.44%
1 week	-1.03%
4 week	+1.96%
3 month	-12.15%
YTD	-9.15%
1 year	-19.94%
3 years*	-6.36%

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MUTF:PRHSX

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T. Rowe Price Health Sciences Fund (MUTF:PRHSX)

Add to portfolio

More results

Mutual fund
- Summary
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Recent Quotes (30 days)

		chg | %
JMFDX	6.75	-0.44%
PRHSX	60.01	0.99%
MFC	13.27	2.51%
HFMDX	18.17	1.68%
DODGX	151.13	1.01%
VEMAX	25.50	-0.12%
VGSLX	109.74	2.10%
VTSAX	48.26	1.13%
VSEAX	37.16	0.98%
FSPHX	183.70	0.92%
SCHG	49.69	0.40%
MDT	77.83	0.23%
WBA	79.22	-0.88%
WBA	78.05	0.00%
FISV	98.02	-1.46%

60.01 +0.59(0.99%) G+1 21

Feb 24, 7:00PM EST Overall Morningstar Rating™ ★★★★★

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Performance

Trailing returns

1 day	+0.99%
1 week	+2.14%
4 week	-2.14%
3 month	-11.74%
YTD	-12.85%
1 year	-11.47%
3 years*	+22.27%

Description

The investment seeks long-term capital appreciation. The fund will normally invest at least 80% of its net assets (including any borrowings for investment purposes) in

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MUTF:VGHCX

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Vanguard Health Care Fund Investor Shares (MUTF:VGHCX)

More results

Mutual fund
- Summary
- Purchase information
- Historical prices

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Recent Quotes (30 days)

		chg | %
PRHSX	60.01	0.99%
JMFDX	6.75	-0.44%
MFC	13.27	2.55%
HFMDX	18.17	1.68%
DODGX	151.13	1.01%
VEMAX	25.50	-0.12%
VGSLX	109.74	2.10%
VTSAX	48.26	1.13%
VSEAX	37.16	0.98%
FSPHX	183.70	0.92%
SCHG	49.69	0.46%
MDT	77.82	0.21%
WBA	79.24	-0.85%
WBA	78.05	0.00%
FISV	98.01	-1.47%

199.68 +2.10(1.06%) G+1 17

Feb 24, 7:00PM EST Overall Morningstar Rating™ ★★★★☆

Compare: Enter ticker here Add

Zoom: 1m 3m 6m YTD 1y 5y 10y All

Jan 25, 2016 - Feb 25, 2016 -5.38 (-2.62%)

Settings | Link to this view

Performance

Trailing returns

1 day	+1.06%
1 week	+1.96%
4 week	-1.67%
3 month	-9.13%
YTD	-9.38%
1 year	-4.88%
3 years*	+20.82%

Description

The investment seeks long-term capital appreciation. The fund invests at least 80% of its assets in the stocks of companies principally engaged in the development,

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NYSEARCA:IYK

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iShares Dow Jones US Consumer Goods(ETF) (NYSEARCA:IYK)

More results

Company
- Summary
- News
- Related companies
- Historical prices
- Financials

Markets

News

Portfolios

Stock screener

Google Domestic Trends

107.68

-0.66 (-0.61%)

Real-time: 1:17PM EST

NYSEARCA real-time data - Disclaimer

Currency in USD

Range	107.57 - 108.66	Div/yield	0.68/2.13
52 week	84.48 - 111.35	EPS	8.40
Open	108.66	Shares	7.00M
Vol.	9,677.00	Beta	0.76
Mkt cap	765.13M	Inst. own	53%
P/E	12.82		

G+1 0

Dow Jones	16,676.47	-0.12%
Financials		0.91%
IYK	107.68	-0.61%

Compare: Enter ticker here Add Dow Jones IYY IJH more »

Zoom: 1d 5d 1m 3m 6m YTD 1y 5y 10y All

Feb 24, 2016 - Feb 26, 2016 +1.17 (1.1%)

Settings | Technicals | Link to this view

Volume delayed by 15 mins.
Prices are not from all markets.
Sources include SIX.

Recent Quotes (30 days)

		chg | %
VGHCX	199.68	1.06%
PRHSX	60.01	0.99%
JMFDX	6.75	-0.44%
MFC	13.23	2.24%
HFMDX	18.17	1.68%
DODGX	151.13	1.01%
VEMAX	25.50	-0.12%
VGSLX	109.74	2.10%
VTSAX	48.26	1.13%
VSEAX	37.16	0.98%
FSPHX	183.70	0.92%
SCHG	49.69	0.40%
MDT	77.71	0.06%
WBA	79.17	-0.94%

News Relevance | Date

A ETF Preview: ETFs, Futures Higher on Upbeat Q4 GDP, Personal Income, Consumer...
Nasdaq - 4 hours ago

B Mid-Day ETF Update: ETFs, Stocks Lower, Tracking Crude Oil; Upbeat Economic ...
Nasdaq - 13 minutes ago

C ETF Preview: ETFs, Stocks Higher, Tracking Crude Oil Prices; Investors Mull ...
Nasdaq - Feb 18, 2016

D Mid-Day ETF Update: ETFs, Stocks Back in Positive Territory as Crude Oil ...
Nasdaq - Jan 27, 2016

E Mid-Day ETF Update: ETFs, Stocks Extend Gains as Oil Price Recovery ...

All news for iShares Dow Jones US Consumer Goods(ETF) »

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Exchange Traded Funds (ETFs)

Most exchange-traded funds are:

- organized either as open-end investment management companies or as unit investment trusts
- registered with the Securities and Exchange Commission (SEC) under the same statutory authorities as traditional mutual funds
- qualify for the exemptions in 5 C.F.R. Part 2640 for mutual funds and unit investment trusts

Caution:

ETFs invested in commodities and commodity futures usually do not meet the definitions for mutual fund or unit investment trust.

Example: iShares Gold Trust

Is it a mutual fund?

- ✓ Janus Emerging Markets Fund
- ✓ T. Rowe Price Health Sciences Fund
- ✓ Vanguard Health Care Fund
- ✓ iShares DJ U.S. Consumer Goods Fund

status check

4. Is it diversified or sector?

Does the mutual fund have a stated policy of concentrating its investments in **an industry, business, single country other than the United States, or bonds of a single State** within the United States?

5 CFR § 2640.102(a)

REMEMBER

Excepted Investment Funds

EIF = Reporting

EIF ≠ Conflicts

RESOURCES

OGE Guidance on Diversified and Sector Mutual Funds:

- DO-00-030
- LA-15-09 (Real estate funds)

Janus Emerging Markets Fund

The investment seeks long-term growth of capital. The fund pursues its investment objective by **investing**, under normal circumstances, **at least 80% of its net assets in securities of issuers in emerging market countries**. It normally invests in securities of issuers that (i) are primarily listed on the trading market of an emerging market country; (ii) are incorporated or have their principal business activities in an emerging market country; or (iii) derive 50% or more of their revenues from, or have 50% or more of their assets in, an emerging market country.

T. Rowe Price Health Sciences Fund

The investment seeks long-term capital appreciation. The fund will normally **invest** at least 80% of its net assets (including any borrowings for investment purposes) **in the common stocks of companies engaged in the research, development, production, or distribution of products or services related to health care, medicine, or the life sciences (collectively termed "health sciences")**. While the fund can invest in companies of any size, the majority of fund assets are expected to be invested in large- and mid-capitalization companies.

Vanguard Health Care Fund

The investment seeks long-term capital appreciation. The fund **invests** at least 80% of its assets **in the stocks of companies principally engaged in the development, production, or distribution of products and services related to the health care industry**. These companies include, among others, pharmaceutical firms, medical supply companies, and businesses that operate hospitals and other health care facilities. It may also consider companies engaged in medical, diagnostic, biochemical, and other research and development activities. The fund may invest up to 50% of its assets in foreign stocks.

iShares DJ U.S. Consumer Goods Fund

The investment seeks to **track the investment results of an index composed of U.S. equities in the consumer goods sector**. The fund generally invests at least 90% of its assets in securities of the underlying index and in depositary receipts representing securities of the underlying index. **It seeks to track the investment results of the Dow Jones U.S. Consumer Goods Index**), which measures the performance of the consumer goods sector of the U.S. equity market. **The fund is non-diversified**.

iShares DJ U.S. Consumer Goods Fund (continued)

The Fund seeks investment results that correspond generally to the price and yield performance, before fees and expenses, of United States consumer goods stocks, as represented by the Dow Jones United States Consumer Goods Index. The Underlying Index measures the performance of the consumer goods sector of the United States equity market. The **Underlying Index includes companies in a range of industry groups**, which include automobiles and parts, beverages, food producers, household goods, leisure goods, personal goods and tobacco.

Is the fund diversified?

- ✓ Janus Emerging Markets Fund
- ✗ T. Rowe Price Health Sciences Fund
  Sector fund not eligible for diversified exemption
- ✗ Vanguard Health Care Fund
  Sector fund not eligible for diversified exemption
- ✓ iShares DJ U.S. Consumer Goods Fund

status check

5. Does the value of the interest meet the *de minimis*?

Is the **aggregate** market value of the employee's interests in **all sector mutual funds** that concentrate in the same sector and have one or more holdings that might be affected by the particular matter **$50,000 or less**?

5 CFR § 2640.201(b)(2)

Exemptions for mutual funds

- ✓ Janus Emerging Markets Fund
- ✗ T. Rowe Price Health Sciences Fund
  $55,000 is above the *de minimis* for sector funds
- ✓ Vanguard Health Care Fund
  $20,000 is below the *de minimis* for sector funds
- ✓ iShares DJ U.S. Consumer Goods Fund

status check

THANK YOU