



**IMMEDIATE RELEASE**

## **The Primary Fund**

### **A Statement Regarding Special Reserve Under The Plan of Liquidation**

New York, February 26, 2009 – On December 3, 2008, the Board of Trustees (the “Board”) of The Reserve Fund (the “Trust”) announced that it had adopted a Plan of Liquidation (the “Plan”) for the orderly liquidation of the assets of the Primary Fund (the “Fund”), to be implemented subject to the supervision of the Securities and Exchange Commission. Under the terms of the Plan, Interim Distributions are to be made to shareholders pro rata out of Fund assets (as such terms are defined in the Plan) up to the amount of a special reserve. As disclosed in the Plan, the special reserve will be used to satisfy (a) anticipated costs and expenses of the Fund, including legal and accounting fees; (b) pending or threatened claims against the Fund, its officers and Trustees; and (c) claims, including but not limited to claims for indemnification that could be made against Fund assets. The Board took this approach because it considered it important to provide liquidity to investors without prejudicing the legal rights and remedies, if any, of any shareholder’s claims.

The Board’s overarching goal has been to set the special reserve at an amount that will cover the Fund’s total potential liabilities, so that it will be able to meet claims for damages, if any, while still returning as much money as possible to shareholders, as quickly as possible.

On December 24, 2008, the Board announced that, together with outside advisors, it had begun the process of estimating the amount to be initially set aside for the special reserve pursuant to the Plan. While that work is ongoing and circumstances are in a state of flux, the Board decided to set the amount of the initial special reserve. While it has been extremely difficult to estimate the initial amount of the special reserve with any degree of precision, the Board has endeavored to calculate the range of costs and expenses that might be included in the special reserve, and has preliminarily determined, based on currently available information, that those costs and expenses could total up to \$3.5 billion.

Accordingly, the Board has determined initially to set aside \$3.5 billion in the special reserve, which may be increased or decreased as further information becomes available. Consequently, pursuant to the Plan, interim distributions will continue to be made up to 91.72 cents per share unless the Board determines a need to increase the special reserve. As previously disclosed, the Plan is being implemented subject to the supervision of the Securities and Exchange Commission (the “Commission”), as required by the terms of the exemptive order issued by the Commission on September 22, 2008.

The Board has evaluated all relevant information and will continue to do so as further information becomes available. The unprecedented events of September 15 and 16, 2008, triggered very significant litigation against the Fund, the Trust and others. The Trust and the Fund necessarily must defend against such claims. Obviously, the sooner the litigation is resolved, the sooner monies held in the special reserve can be released to shareholders and, potentially, the greater the payout.

#### **ELEMENTS BEARING ON THE SIZE OF THE SPECIAL RESERVE**

Damages Related To Lawsuits And Regulatory Actions. As of February 20, 2009, twenty-seven (27) individual and class action cases have been commenced against the Trust, the Fund, the

Board and others in federal and state courts around the country, asserting liability under numerous different legal theories and seeking various forms of relief, including general, special and punitive damages. In addition, investors who have not yet commenced lawsuits have threatened to bring claims against the Fund. Furthermore, the Fund has been named as a party in regulatory investigations, and proceedings that have been commenced as well. Click [here](#) for a list of cases currently filed.

At this early stage, it is not possible to predict or estimate with precision the outcome of these proceedings or the Fund's potential damages exposure. In providing a preliminary estimate of the amount of the special reserve for damages, the Board has evaluated each type of damages claim. With respect to claims for general damages, those claims could, depending on the court's analysis, total up to \$785 million, which corresponds to the total face amount of the Lehman securities in which the Fund invested.

With respect to special or consequential damages, it is impossible to know at this juncture how many such claims will be asserted, for what sorts of losses, or the likelihood that such claims will succeed. For example, plaintiffs may seek consequential damages in the form of lost profits, which if successful, will depend on a number of factors including the enterprise's past history of profitability. It is therefore not possible to estimate with any degree of precision what the total amount of consequential damages could be. Using a cost of borrowing analysis as a surrogate for estimating potential consequential damages (and taking into account the amount of interim distributions that have already been made through December 31, 2008), such damages could total anywhere between \$355 million and \$1.5 billion, depending on various assumptions as to interest rate and other factors.

Any damage award could have a prejudgment interest component and the amount of such interest could vary depending upon the nature of any successful claim and the law applicable to such award. In addition, some plaintiffs have sought punitive damages. It is difficult to estimate with any degree of precision the amount of such damages that could be awarded, since such an estimate depends on a number of factors that are unknown at this time.

Costs Of Defense. The fees and expenses the Fund might incur in defending against these claims are also difficult to estimate and will depend on the length and complexity of the litigation. As previously disclosed, in an effort to minimize those fees and expenses and streamline the litigation, the Fund and other defendants filed a motion before the Judicial Panel on Multidistrict Litigation (the "JPML") for an order transferring several cases to a single court in New York for coordinated or consolidated pre-trial proceedings (the "Transfer Motion"). On February 10, 2009, the JPML granted the Transfer Motion, over the objection of Ameriprise Financial Services Inc., Securities America Inc. and Safeco Insurance Company, and has transferred most of the cases to the United States District Court for the Southern District of New York for consolidated or coordinated pretrial proceedings (the "Transfer Order").

However, not all of the cases are subject to the Transfer Order and, even as to those cases that are subject to the Order, certain plaintiffs have made motions to have their cases transferred to state court to be litigated according to a separate schedule. In addition, it is unclear what level of coordination and/or consolidation will occur. To the extent plaintiffs seek to minimize coordination and/or consolidation, these efforts, if successful, will increase the costs and expenses to the Fund in the litigation. It is also not possible to predict at this juncture the scope of discovery that will be required in the litigation or the amount of motion practice that might take place. Because it is not possible to predict the number of cases, or the length or complexity of the litigation involving the Fund, it is difficult to estimate the Fund's potential legal expenses, which could total up to \$100 million should the cases proceed through trial.

Indemnification And Advancement. In addition to its own litigation fees and expenses, the Trust has an obligation to indemnify the trustees and officers of the Trust (the "Indemnitees") and to advance their legal expenses, so long as those persons did not engage in "disabling conduct" as

defined in the Fund's governing documents and Section 17(h) of the Investment Company Act. For the same reasons discussed above, at this stage, it is impossible to estimate what the total costs of these obligations will be with any degree of precision. The Board, the Fund, Reserve Management Company, Inc., Resrv Partners, Inc. and others participate in a joint directors and officers liability policy with a \$10 million aggregate limit of liability.

Plaintiffs' Attorney's Fees. The Fund may also be required to pay a portion of plaintiffs' attorney's fees and expenses. It is not possible to estimate the amount of such fees and expenses that might be awarded against the Fund in the event plaintiffs were to prevail on their claims. For example, were plaintiffs to establish a violation of the securities laws, depending on the length and complexity of the litigation and the amount of damages awarded or the settlement amount agreed upon, under a percentage approach, plaintiffs' attorney's fees could total up to approximately 30% of that recovery amount.

Extraordinary Expenses. The Fund is also responsible for any extraordinary fees and expenses beyond those an investment company would typically incur. This includes, for example, the fees and expenses incurred by the accounting firm engaged to perform certain tasks in connection with the Interim Distributions, as disclosed in the Plan. While these expenses have not been significant to date, the Fund cannot presently estimate the total amount of extraordinary fees and expenses it might be required to make.

#### ONGOING REVIEW OF THE SPECIAL RESERVE

The amount the Board of Trustees has determined initially to set aside for the special reserve is a preliminary estimate based on currently available information and, as disclosed in the Plan, may be increased or decreased as claims are resolved. Amounts in the special reserve will be distributed to shareholders once claims, if any are successful, have been paid or set aside for payment. However, determination of the entitlement to those amounts may take a long period of time and involve substantial expense.