

MEMO# 31573

January 23, 2019

Draft Letter to IRS on Single Security Initiative and Diversification Under Section 817(h) - Comments Requested by January 31

[31573]

January 23, 2019 TO: Tax Committee

Variable Insurance Products Advisory Committee RE: Draft Letter to IRS on Single Security Initiative and Diversification Under Section 817(h) - Comments Requested by January 31

Attached for your review is a draft letter from the Institute and the Securities Industry and Financial Markets Association (SIFMA) requesting clarification of guidance recently provided by the Treasury Department and the Internal Revenue Service (IRS) regarding the Single Security Initiative.[\[1\]](#) The IRS issued Revenue Procedure 2018-54 to address concerns about application of the diversification requirements under section 817(h) to Uniform Mortgage-Backed Securities (UMBS) acquired in the To-Be-Announced (TBA) market. Once trading begins, a taxpayer who acquires UMBS through the TBA market will not know the actual issuer(s) of the securities until 48 hours prior to settlement, thus potentially impacting a segregated asset account's ability to satisfy the diversification requirements.

In general, the revenue procedure permits taxpayers to elect to apply a "deemed issuer ratio" to UMBS acquired in the TBA market for purposes of section 817(h) diversification testing. This deemed issuer ratio, if the election is made, would apply to the UMBS for as long as the securities are held by the taxpayer and regardless of the actual securities delivered under the TBA contract.

The joint letter explains that the guidance in Rev. Proc. 2018-54 does not address the more pressing diversification issue arising from the TBA contracts themselves. It also describes the operational difficulties that taxpayers will face if they apply the deemed issuer ratio election to UMBS acquired through the TBA market. SIFMA and the Institute thus ask the Treasury Department and the IRS to provide that:

1. Taxpayers may elect to apply the deemed issuance ratio to UMBS TBA contracts before the underlying UMBS have been physically delivered; and
2. The deemed issuance ratio election applies separately to a TBA contract and the UMBS that are delivered pursuant to that contract, so that the election could apply to

an open TBA contract prior to the UMBS being delivered without the election also applying to the UMBS once physically delivered.

Please provide any comments on the draft letter to the undersigned (kgibian@ici.org or 202-371-5432) no later than **Thursday, January 31, 2019**.

Karen Lau Gibian
Associate General Counsel

[Attachment](#)

endnotes

[1] See Institute Memorandum No. 31439, dated October 17, 2018, which can be found at: https://www.ici.org/my_ici/memorandum/memo31439.

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