

MEMO# 29496

November 17, 2015

Draft Comment Letter to IRS on Money Market Funds and Variable Insurance Products -- Comments Requested

[29496]

November 17, 2015

TO:

MONEY MARKET FUNDS ADVISORY COMMITTEE No. 34-15

SEC RULES COMMITTEE No. 34-15

TAX COMMITTEE No. 41-15

VARIABLE INSURANCE PRODUCTS ADVISORY COMMITTEE No. 19-15

RE:

DRAFT COMMENT LETTER TO IRS ON MONEY MARKET FUNDS AND VARIABLE INSURANCE PRODUCTS -- COMMENTS REQUESTED

Attached for your review is a draft letter to the Internal Revenue Service ("IRS") regarding the effect of the recently adopted Securities and Exchange Commission ("SEC") money market fund rules on variable insurance products. The Institute recently met with attorneys at the IRS to discuss this issue. As was discussed at the meeting, the letter addresses the industry's concerns that the evolving market for U.S. government securities, in light of the new SEC money market fund rules, will make it increasingly difficult or impossible for insurance company segregated asset accounts investing in those money market funds to satisfy the diversification requirements under section 817(h). The letter thus asks the IRS to provide a safe harbor diversification test for such products.

Specifically, we ask the IRS to issue a revenue procedure indicating that it will treat a segregated asset account as adequately diversified for purposes of section 817(h) to the extent that:

- i. The segregated asset account invests in an entity (a "fund") that qualifies for look-through treatment under Treas. Reg. § 1.817-5(f) and that is registered with the SEC under the Investment Company Act of 1940 (the "'40 Act");
- ii. The prospectus or other offering document of that fund (as any such document is in

effect on the diversification testing date specified in Treas. Reg. § 1.817-5(c)(1) or within 30 days after such date) states that the fund intends to qualify as a government money market fund under SEC Rule 2a-7;

- iii. The fund is authorized to invest at all times in all securities that are government securities under section 2(a)(16) of the '40 Act that are eligible money market fund securities; and
- iv. The fund's investment advisor or manager will determine, in its sole discretion but consistent with the fund's prospectus or other offering document, which government securities in which it will invest.

This revenue procedure would apply only to those variable insurance product funds that are intended to qualify as government money market funds under the SEC rules and would not alter the diversification test under Treas. Reg. § 1.817-5(b) for other types of funds.

Comments Requested

Please provide any comments on the draft letter to the undersigned (kgibian@ici.org or 202/371-5432) no later than the opening of business on Friday, November 20, 2015.

Karen Lau Gibian
Associate General Counsel – Tax Law

[Attachment](#)

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