

MEMO# 22973

October 7, 2008

Treasury Notice Of No Adverse Tax Consequences To Insurance-Dedicated Funds Participating In Federal Guaranty Program

[22973]

October 7, 2008

TO: MONEY MARKET FUNDS ADVISORY COMMITTEE No. 32-08
VARIABLE INSURANCE PRODUCTS ADVISORY COMMITTEE No. 28-08
SEC RULES MEMBERS No. 115-08 RE: TREASURY NOTICE OF NO ADVERSE TAX
CONSEQUENCES TO INSURANCE-DEDICATED FUNDS PARTICIPATING IN FEDERAL GUARANTY
PROGRAM

The Treasury Department today issued the attached notice (2008-92) announcing that insurance-dedicated money market funds may participate in the Federal Government's Exchange Stabilization Fund without violating the diversification requirements of Internal Revenue Code section 817(h). The Notice applies both to funds whose beneficial interests are held exclusively by one or more segregated asset accounts of one or more insurance companies and to funds with other investors permitted by Treasury Regulation section 1.817-5(f)(3).

The Exchange Stabilization Fund program is designed to provide shareholders in those money market funds that choose to opt into the program with a guarantee of \$1 per share. The program is restricted to participating funds' assets as of September 19, 2008, and to their shareholders of record on that date. Importantly, from a tax perspective, any payments made to a participating money market fund will be tied to the fund's NAV and not to the terms or performance of any particular assets held by the fund.

Notice 2008-92 provides that federal tax authorities will not assert that participation in the program by an insurance-dedicated money market fund causes a segregated asset account

investing in the money market fund to fail the diversification requirements of section 817(h). Similarly, the Notice provides that federal tax authorities will not assert that such a fund's participation in the program causes the holder of a variable contract supported by the segregated asset account investing in the fund to be treated as an owner of the fund.

Keith Lawson
Senior Counsel - Tax Law

[Attachment](#)

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.