

MEMO# 31582

January 28, 2019

ICI Draft Comment Letter on SEC Proposal Regarding Variable Insurance Products Summary Prospectus - Your Comments Requested by February 5

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January 28, 2019 TO: Variable Insurance Products Advisory Committee RE: ICI Draft Comment Letter on SEC Proposal Regarding Variable Insurance Products Summary Prospectus - Your Comments Requested by February 5

The SEC recently proposed rule and form amendments to modernize disclosure regarding variable annuity and variable life insurance contracts (“Proposal”). The centerpiece of the Proposal is new Rule 498A (“VIP Summary Prospectus Rule”), which would allow issuers of variable annuity contracts and variable life insurance policies to use a summary prospectus to satisfy prospectus delivery obligations.^[1] The SEC requested comment on the Proposal by February 15th.

ICI has drafted a comment letter in response to the Proposal, focusing on the implications of the Proposal for registered investment companies that serve as portfolio companies underlying variable insurance products (VIPs). The draft comment letter is attached and is summarized briefly below. Please provide your written comments on the draft letter to Sarah Bessin (sarah.bessin@ici.org) by next Tuesday, February 5th.

ICI’s letter strongly supports the VIP Summary Prospectus Rule. We believe that the simplified disclosure and delivery requirements under the VIP Summary Prospectus Rule, particularly as they relate to underlying portfolio companies that fund VIPs, would benefit investors by allowing them to receive information in a more understandable manner. Our letter provides several recommendations to further improve the utility of the VIP Summary Prospectus by promoting consistency with existing disclosure requirements and practices relating to underlying portfolio companies.

Specifically, we recommend that the SEC revise the proposed requirements for the appendix (“Appendix”) to the VIP Summary Prospectus^[2] to:

- Permit VIP issuers to include a statement informing investors how and where they may obtain more current portfolio company performance information;

- Permit VIP issuers to provide, in addition to performance information for each portfolio company for the past 1-year, 5-year and 10-year periods, performance information for the life of the portfolio company, if longer than 10 years;
- Permit VIP issuers to include a portfolio company's net expense ratio after any waivers and/or reimbursements;
- Require disclosure only of those portfolio company sub-advisers that manage a significant portion of the portfolio; and
- Revise the proposed legend in the appendix to reflect that all VIPs have associated fees and expenses.

The letter also recommends that the SEC modify several other proposed VIP disclosure requirements regarding portfolio companies. First, we recommend that the SEC clarify that, when disclosing information in Forms N-4 and N-6 regarding expense waivers or/or reimbursements applicable to portfolio companies, registrants would not be required to specify a particular date through which these limitations will remain in effect. Second, we request that the SEC clarify that changes to a portfolio company's expense ratio need not be identified in the updating summary prospectus. Third, we support the SEC's proposal to require disclosure in Forms N-4 and N-6 regarding the potential for substitutions.

The letter strongly supports the SEC's proposal to adopt an optional delivery method for portfolio company prospectuses. Under this approach, a VIP issuer would be required to include in the Appendix certain key information about the portfolio companies available under the contract, and make the summary and statutory prospectuses for the portfolio companies available online at the same website address as the VIP materials. We recommend that the SEC provide flexibility regarding the website address on which these portfolio company materials may be posted.

We also recommend that the Commission adopt an approach to VIP contracts that no longer are actively sold to new investors that is consistent with the VIP Summary Prospectus Rule. We request your feedback on which potential approach we should recommend to the SEC. We also recommend that the SEC amend exemptive rules applicable to variable life insurance contracts to permit the common practice of "mixed and shared" funding without the need for SEC exemptive relief.

Sarah A. Bessin
Associate General Counsel

[Attachment](#)

endnotes

[1] For a summary of the Proposal, please see ICI Memorandum No. 31506 (Nov. 29, 2018), available at https://www.ici.org/my_ici/memorandum/memo31506.

[2] The Appendix is intended to provide investors with a succinct overview of portfolio companies available under a VIP among which a VIP owner may allocate his or her purchase payments.

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