



September 15, 2021

The Honorable Richard Neal
Chairman
House Committee on Ways and Means
Washington, DC 20510

Dear Chairman Neal,

The undersigned organizations are very concerned about the severe consequences of the application of Sec. 138312 (Prohibition of IRA Investments Conditioned on Account Holder's Status). We believe the provision will harm investors saving for retirement and ask that this provision be removed.

Collectively, as organizations, we represent issuers that offer Main Street investors direct access to real estate, public and private credit and other real assets that have a low correlation to the equity markets. Most investors in these products are informed investors but have an average net worth/income typical of middle-class Americans. These products are a vital diversification tool for even those with moderate retirement savings as they seek to meet their retirement goals. For example, over the last 20 years, some categories of real estate as measured by the NCREIF Fund Index – Open-end Diversified Core Equity (NFI-ODCE) have had a low correlation of .20 to the S&P 500 according to Morningstar, Inc.

It is our understanding that Sec. 138312 is intended to limit the ability of investors with very high levels of income or net worth to derive tax benefits through investments in tax-qualified accounts such as Individual Retirement Accounts (IRAs). We believe this provision will also have severe negative consequences for the average retirement saver.

It would negatively impact the ability of retail investors to access virtually any type of asset other than the most basic publicly traded asset. Specifically, it would impact real estate offerings and other institutional quality assets, both public and private, that are as part of a well-diversified retirement plan. This provision will ultimately and severely limit the diversification opportunities for Main Street retirement savers who view their IRA as a key tool for securing a dignified retirement – more than it will limit the diversification ability of the very high level of income or net worth group who are able to diversify outside of their IRA.

A significant percentage of investments that are uncorrelated with the stock market and may offer premium returns are currently purchased in IRAs and other tax-qualified retirement accounts. These investments provide retail investors with diversified assets that have historically been available only to institutional investors and the wealthy. Section 138312 will tilt the investment landscape further in favor of those groups. Removing access to these portfolio diversifying tools will only harm retirement saver investment performance and enlarge the performance gulf between the wealthy/institutions and other individuals. The vast majority of defined benefit

pension plans rely heavily on private assets to deliver a secure retirement to their beneficiaries.¹ This provision would prohibit IRA savers from accessing the same diversifying assets. Discriminating against IRA savers is simply unfair.

The section-by-section summary released with the proposal indicates that federally registered issuers or registered investment companies, such as mutual funds, would not be subject to this provision as currently written. This is in fact not correct. The legislative language contains no language *limiting* the application of Sec. 138312's restriction on investments in products that restrict eligibility based on net worth, income level or education. We are concerned that the provision as drafted is significantly broader than was intended; there are certainly registered investment products, offered through SEC registered issuers and investment companies, who are subject to the same oversight as publicly traded securities and mutual funds, that would, under the provision, be ineligible for an IRA.²

We urgently ask that Sec. 138312 be removed from the legislative text. We appreciate your time and consideration of this urgent request. If you have any questions, please do not hesitate to contact me or Anya Coverman, IPA's Senior Vice President, Government Affairs and General Counsel, at (202) 548-7190.

Sincerely,



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¹ Retirement plan allocations to alternatives have increased from 7% to over 26% in the last 20 years. Towers Watson 2021 Global Pension Study. Note also that public defined benefit plans held an even higher proportion, at 28%, of their assets in alternatives as of 2020. <https://publicplansdata.org/quick-facts/national/>.

² For example, Sec. 138312 would apply to publicly-registered, non-listed Real Estate Investment Trusts ("REITs") and non-listed Business Development Companies ("BDCs"). These products are registered with the U.S. Securities and Exchange Commission, and subject to the same public company disclosure and reporting requirements. Their shares, however, are not listed on a national securities exchange. States impose restrictions on investor eligibility with thresholds as low as \$70,000 in income or net worth.