

MEMO# 13441

April 26, 2001

MSRB PROPOSAL TO REQUIRE DEALERS TO FORWARD ISSUER "OFFICIAL COMMUNICATIONS" TO MUNICIPAL SECURITIES INVESTORS

[13441] April 26, 2001 TO: FIXED-INCOME ADVISORY COMMITTEE No. 5-01 RE: MSRB PROPOSAL TO REQUIRE DEALERS TO FORWARD ISSUER "OFFICIAL COMMUNICATIONS" TO MUNICIPAL SECURITIES INVESTORS The Municipal Securities Rulemaking Board has issued a notice and request for comment on draft amendments to MSRB Rule G-15, in connection with the responsibilities of brokers, dealers and municipal securities dealers (collectively, "dealers") to forward "official communications" to municipal securities investors.¹ The MSRB's proposal would require dealers to take reasonable efforts to forward official communications, such as default notices that are sometimes sent to beneficial owners by issuers or trustees, when requested to do so by the issuer or trustee. The MSRB's proposal is attached, and it is summarized below. The comment period ends June 7, 2001. If there are comments that you would like the Institute to consider in its comment letter, please submit them to Barry Simmons at (202) 326- 5923 (phone), (202) 326-5827 (fax), or bsimmons@ici.org (email), by Friday, May 11, 2001. The MSRB's draft amendments to Rule G-15 would define "official communication to beneficial owners" to include notices of technical default, or defaults as to payment of interest or principal, requests for votes by bondholders, update memoranda from the trustee of a defaulted issue, as well as other official communications to bondholders of bonds that are not in default. In addition, the draft amendment would require a dealer, upon receiving an official communication to beneficial owners and an appropriate request to forward such communication, to use reasonable efforts to forward promptly such communication to those persons for whom the dealer is safekeeping the securities. For this purpose, the draft amendment provides the following non-exhaustive list of relevant factors in determining whether "reasonable efforts" were used in forwarding such communication: CUSIP Numbers -- The draft amendment reiterates the importance of CUSIP numbers and notes that dealers should use their best efforts to correctly identify any CUSIP numbers that are missing from an official communication. Compensation -- The draft amendment would permit dealers to receive adequate compensation in return for forwarding an official communication. It imposes a \$500 threshold, 1 Official Communications, dated March 28, 2001. 2below which the dealer is obliged to retransmit the official communication immediately, while concurrently seeking compensation. Above that level, the dealer may wait for receipt of the compensation before sending the communication. Sufficient Copies of Official Communication -- In the event a dealer receives an insufficient number of copies of an official communication, the draft amendment would permit it to request additional copies from the issuer or trustee, or if it

chose, provide duplication services for investors. Non-Objecting Beneficial Owners -- In lieu of forwarding official communications to investors, the draft amendment would permit a dealer to send to the issuer a list of non-objecting beneficial owners along with their contact information. Because some investors prefer not to have their name and security positions disclosed, the draft amendment would require dealers to obtain an investor's non-objecting status in writing and maintain it as a record. Beneficial Owners Residing Outside the United States -- Consistent with NASD rules in the equity markets for forwarding proxy materials, the draft amendment would not require a dealer to forward official communications to investors residing outside the U.S. Barry E. Simmons Associate Counsel Attachment Attachment (in .pdf format)

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