

MEMO# 13656

June 21, 2001

INSTITUTE LETTER ON NABL'S MODEL BOND OPINION REVIEW

[13656] June 21, 2001 TO: FIXED-INCOME ADVISORY COMMITTEE No. 9-01 RE: INSTITUTE LETTER ON NABL'S MODEL BOND OPINION REVIEW The Investment Company Institute has prepared a letter to the Opinions and Documents Committee of the National Association of Bond Lawyers ("Committee") expressing its views on the Committee's review of NABL's Model Bond Opinion Report. The Institute's letter is attached, and it is summarized below. In the letter, the Institute expresses its appreciation for being included in the review process and urges continued participation as the Committee continues its year-long review. The letter praises the important "gatekeeper" role played by bond counsel in reviewing bond transactions and issuing unqualified opinions, but expresses concern that if bond counsel were to abandon this traditional role by shifting toward a two-tiered (i.e., qualified and unqualified) bond counsel opinion, it would have adverse consequences on Institute members. The letter explains that a qualified opinion standard would force funds to assume a higher risk of taxability than is presently assumed. Also, bond offerings that carry qualified opinions will likely have impaired liquidity in the secondary market as a result of the reduced due diligence regarding their tax-exempt status. Moreover, the introduction of qualified bond counsel opinions would likely result in an entirely new class of sub-standard bond deals. This could result in increased IRS enforcement activity leading to more bonds being found taxable, which, in turn, could cause a dramatic erosion of public confidence in the safety of tax-exempt securities, particularly in tax-exempt mutual funds and money market funds. The letter thus urges the Committee not to change NABL's Model Bond Opinion Report or bond counsel's role in issuing opinions on bond offerings. Instead, the Institute asks the Committee to consider other alternatives, such as developing a streamlined, cost-effective private letter ruling process, seeking additional guidance from the Treasury Department, or eliminating the risk of taxability for bondholders altogether. Barry E. Simmons Associate Counsel Attachment 2Attachment (in .pdf format)