

**MEMO# 16489**

September 3, 2003

## **SEC EXTENSION OF PILOT PROGRAM FOR BOND MUTUAL FUND VOLATILITY RATINGS; DRAFT ICI COMMENT LETTER**

[16489] September 3, 2003 TO: ADVERTISING COMPLIANCE ADVISORY COMMITTEE No. 11-03 SEC RULES COMMITTEE No. 70-03 UNIT INVESTMENT TRUST COMMITTEE No. 14-03 RE: SEC EXTENSION OF PILOT PROGRAM FOR BOND MUTUAL FUND VOLATILITY RATINGS; DRAFT ICI COMMENT LETTER In 2000, the Securities and Exchange Commission approved the adoption of NASD Rule 2210(c)(3) and Interpretive Material 2210-5 ("IM"), which permit NASD members to include bond fund volatility ratings in supplemental sales literature.<sup>1</sup> This rule and IM were initially approved on an 18-month trial basis that was scheduled to expire on August 31, 2001. Prior to the expiration, the NASD filed with the SEC a two-year extension of this expiration date – which extended the pilot until August 31, 2003.<sup>2</sup> On August 7, 2003, the NASD again filed with the SEC a two-year extension of the expiration date, which was effective upon filing.<sup>3</sup> As a result of this latest extension, the new expiration date for the pilot program is August 31, 2005. While the extension was granted effective earlier this month, the SEC's Release announcing it seeks comment on this latest extension. Comments are due to the SEC by September 11th. The Institute has attached, for your review, a draft of a comment letter opposing another extension of the pilot program. This letter is substantively identical to the comment letter we filed in 2001 opposing the previous extension. Persons with comments on the draft letter should provide them to the undersigned no later than Monday, September 8th by phone (202-326-5825) or e-mail (tamara@ici.org). According to the SEC's Release, as with the previous extension of the expiration date, this extension is necessary because the staff of the NASD does not believe its has received 1 See Memorandum to Advertising Compliance Advisory Committee No. 14-00 and SEC Rules Committee No. 59-00 [11814], dated April 14, 2000. 2 See Memorandum to Advertising Compliance Advisory Committee No. 16-01, SEC Rules Committee No. 70-01, and Unit Investment Trust Committee No. 20-01 [13932], dated September 7, 2001. 3 See SEC Release No. 34-48353 (August 15, 2003), 68 Fed. Reg. 50568 (August 21, 2003) (the "SEC's Release"). 2 enough filings to evaluate adequately the rule's effectiveness. (Since February 2000, the NASD has only received 41 submissions from three NASD members.) It attributes the lack of filings to the low interest rates over the last two years, which, in the view of the NASD, have given bond mutual funds little reason to use these ratings. The NASD's staff believes that over the next two years, however, there is a "reasonable probability" that the industry will experience "an environment in which there is greater demand for sales literature that includes bond mutual fund volatility ratings," which will better enable the NASD to evaluate the rule's effectiveness; hence the NASD's request for another two-year extension. Tamara K. Salmon Senior Associate Counsel Attachment (in .pdf format)

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