

MEMO# 19344

November 9, 2005

NASD PROPOSAL RELATING TO BOND FUND VOLATILITY RATINGS

©2005 Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice. [19344] November 9, 2005 TO: SEC RULES COMMITTEE No. 62-05 FIXED-INCOME ADVISORY COMMITTEE No. 18-05 ADVERTISING COMPLIANCE ADVISORY COMMITTEE No. 6-05 UNIT INVESTMENT TRUST COMMITTEE No. 16-05 RE: NASD PROPOSAL RELATING TO BOND FUND VOLATILITY RATINGS The Securities and Exchange Commission has issued a notice of the filing of a proposed rule change by the NASD seeking permanent approval of rules concerning bond mutual fund volatility ratings.¹ Comments on the proposed rule change must be received by the SEC no later than November 28, 2005. If you have any questions regarding the proposal or any comments you would like the Institute to consider including in its letter on the proposal, please contact Ari Burstein by phone at 202-371-5408 or by e-mail at aburstein@ici.org by November 18. In February, 2000, the SEC approved on a pilot basis: (1) NASD Interpretive Material 2210-5, which permits members and their associated persons to include bond fund volatility ratings in supplemental sales literature if certain conditions exist; and (2) NASD Rule 2210(c)(3), which sets forth the filing requirements and review procedures applicable to sales literature containing bond mutual fund volatility ratings. IM-2210-5 and Rule 2210(c)(3) initially were approved on an 18-month pilot basis and have been renewed several times, most recently until December 29, 2005. The Release states that based on its findings during the period since Rule 2210(c)(3) was first approved, NASD has concluded that the rule's provisions are appropriate and do not require further amendment before being made permanent. In particular, NASD believes that the rule has facilitated the dissemination of useful and understandable information to investors and has prevented the dissemination of inappropriate or misleading information. The Release also states that NASD continues to believe that the rule should not apply to in-house ratings, as those ratings do not raise the same concerns as third-party ratings and therefore do not merit application of the bond fund volatility ratings rule. Finally, NASD believes that it is 1 Securities Exchange Act Release No. 52709 (November 1, 2005), 70 FR 67509 (November 7, 2005) ("Release"). The NASD's proposal can be found on the SEC's website at <http://www.sec.gov/rules/sro/nasd/34-52709.pdf>. 2 unnecessary at this time to apply the rule to other types of investment companies, such as unit investment trusts. The Release specifically requests comment on whether the timeliness requirements of IM-2210-5(b)(2) should be modified to mirror the requirements of Rule 482 under the Securities Act of 1933, in light of changes to that rule since the adoption of IM-2210-5 and Rule 2210(c)(3). In particular, the Release asks whether all supplemental sales literature that includes a bond fund volatility rating should be required either to show a rating that is current to the most recently ended calendar quarter prior to use and disclose where the reader may find the

most recent month-end rating, or provide the most recent month-end rating in the sales literature. Ari Burstein Associate Counsel

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