

MEMO# 10473

November 12, 1998

INSTITUTE LETTER REGARDING EQUITY FUND RATINGS

* See Charles Gasparino, S&P, Moody's Plan to Rate Stock Funds, Wall Street Journal, Oct. 28, 1998. The article is not included with the attached letter. [10473] November 12, 1998

TO: SEC RULES COMMITTEE No. 115-98 RE: INSTITUTE LETTER REGARDING EQUITY FUND RATINGS _____

The Institute recently sent the attached letter to NASD Regulation, Inc., regarding a Wall Street Journal article on proposed Standard & Poor's and Moody's Investors Service equity mutual funds ratings.* The article indicated that both ratings services are planning to offer such ratings in early 1999 for use in fund advertising and sales literature and expect funds to pay for the ratings. The letter expresses the Institute's concerns that the ratings do not appear to be permissible for use in either prospectuses or advertising unless the ratings services consent as experts to their use, which would expose the rating agencies to expert liability under the Securities Act of 1933. The letter also states that the ratings appear to violate the NASD's Ranking Guidelines, since the proposal would require funds to pay the rating services for the ratings, which the Ranking Guidelines prohibit. Additionally, the letter states that it would seem premature for the rating services to market equity fund ratings, given that the Securities and Exchange Commission has not yet approved an NASD proposal to permit the use of bond fund volatility ratings in fund supplemental sales literature. Joseph P. Savage Associate Counsel Attachment

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