

**MEMO# 20370**

September 15, 2006

## **Draft ICI Comment Letter on MSRB Proposed Amendments to Advertising Rule**

©2006 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. [20370] September 15, 2006 TO: 529 PLAN ADVISORY COMMITTEE No. 17-06 529 PLAN MEMBERS No. 18-06 RE: DRAFT ICI COMMENT LETTER ON MSRB PROPOSED AMENDMENTS TO ADVERTISING RULE As we previously informed you, the Municipal Securities Rulemaking Board recently issued for comment proposed amendments to its advertising rule, Rule G-21.\* The Institute has prepared a draft comment letter, which is attached and briefly summarized below. Comments on the proposed amendments are due to the MSRB by September 22nd. If you have any comments on the attached draft letter, please contact Frances Stadler (202/326-5822 or frances@ici.org) or Dorothy Donohue (202/218-3563 or ddonohue@ici.org) by the close of business on Tuesday, September 19th. The draft letter supports the proposed amendments. Specific comments are as follows: Basic disclosures. The draft letter strongly supports the proposed amendments clarifying that certain basic disclosures in Rule G-21 are not legends requiring the use of specific language in advertisements and that, instead, the information must be “effectively conveyed.” The letter states that this flexibility is particularly important in the context of time-limited broadcast advertisements. Tax-related disclosures. The draft letter strongly supports the proposed amendments clarifying that generalized statements regarding tax benefits require only a generalized statement that those benefits may be conditioned on meeting certain requirements. The letter also supports a proposed change to permit dealers to omit certain disclosure suggesting that investors consider whether their home states offer state tax or other benefits only available for investors in the home state 529 plan, in the case of advertisements that are distributed through means reasonably likely to result in the advertisements only being received by residents of the home state. \* See Memorandum to 529 Plan Advisory Committee No. 15-06, 529 Plan Members No. 16-06 [20302], dated August 18, 2006. 2 Generic advertisements. The draft letter supports permitting the use of generic advertisements. It recommends deleting the term “specific municipal fund security” from the generic advertising provisions. The letter states that this change would clarify that, while a generic advertisement cannot refer to a specific investment option or portfolio, the rule does not preclude mentioning a 529 plan, including by its brand name. Blind advertisements. The draft letter supports the blind advertisement concept. It recommends modifying the rule to clarify that contact information provided in a blind advertisement may include a website through which investors can place orders for municipal fund securities, provided that before making an initial investment through that website, an investor is required to acknowledge receipt of

the official statement. The letter also recommends that the MSRB clarify that the rule does not prohibit a blind advertisement from providing a reference to a phone number or website that includes the name of a broker, dealer or municipal securities dealer. Disclosure regarding changes in the tax law. In response to the MSRB's specific request for comment, the draft letter recommends elimination of disclosure of the possibility that beneficial tax treatment of 529 plans may lapse. The letter states that the recent repeal of the sunset provisions of the Economic Growth and Tax Relief Act of 2001 relating to 529 plans makes this disclosure no longer relevant. Frances M. Stadler Deputy Senior Counsel Attachment (in .pdf format) Note: Not all recipients receive the attachment. To obtain a copy of the attachment, please visit our members website (<http://members.ici.org>) and search for memo 20370, or call the ICI Library at (202) 326-8304 and request the attachment for memo 20370.

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