

**MEMO# 19396**

November 22, 2005

## **DRAFT LETTER ON NASD BOND FUND VOLATILITY RATINGS PROPOSAL**

©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. [19396] November 22, 2005 TO: ADVERTISING COMPLIANCE ADVISORY COMMITTEE No. 7-05 FIXED-INCOME ADVISORY COMMITTEE No. 19-05 SEC RULES COMMITTEE No. 65-05 UNIT INVESTMENT TRUST COMMITTEE No. 17-05 RE: DRAFT LETTER ON NASD BOND FUND VOLATILITY RATINGS PROPOSAL As we previously informed you,<sup>1</sup> the SEC has published for comment a proposed rule change filed by the NASD seeking permanent approval of the pilot program permitting bond fund volatility ratings in supplemental sales literature.<sup>2</sup> The Institute has prepared a draft comment letter on the proposal. The most significant aspects of the draft letter are summarized below and a copy of the draft letter is attached. Comments on the proposed rule change are due to the SEC no later than November 28, 2005. If you have any comments on the draft letter, please contact the undersigned by phone at 202-371-5408 or by e-mail at [aburstein@ici.org](mailto:aburstein@ici.org) no later than November 25. Based on investor protection concerns raised by the use of volatility ratings in fund sales literature, the draft letter opposes the permanent approval of NASD Rule 2210(c)(3) and Interpretive Material 2210-5, which are the subject of the pilot program, and recommends instead that the NASD prohibit the use of bond fund volatility ratings altogether. The draft letter states that if, notwithstanding our opposition, the SEC determines to approve the pilot program on a permanent basis, it is important that all of the critical investor protections of the original pilot program remain intact. In addition, in order to help ensure that investors are properly protected, the draft letter strongly recommends amending the Rule to prohibit the use of a single symbol, number or letter to describe a volatility rating. Ari Burstein Associate Counsel Attachment (in .pdf format) 1 Memorandum to SEC Rules Committee No. 62-05, Fixed-Income Advisory Committee No. 18-05, Advertising Compliance Advisory Committee No. 6-05 and Unit Investment Trust Committee No. 16-05, dated November 9, 2005 [19344]. 2 Securities Exchange Act Release No. 52709 (November 1, 2005), 70 FR 67509 (November 7, 2005).