

MEMO# 19421

December 1, 2005

INSTITUTE 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. [19421] December 1, 2005 TO: ADVERTISING COMPLIANCE ADVISORY COMMITTEE No. 8-05 FIXED-INCOME ADVISORY COMMITTEE No. 20-05 SEC RULES MEMBERS No. 122-05 UNIT INVESTMENT TRUST MEMBERS No. 25-05 RE: INSTITUTE LETTER ON NASD BOND FUND VOLATILITY RATINGS PROPOSAL The Institute has filed a comment letter with the SEC on a proposed rule change filed by the NASD seeking permanent approval of a pilot program permitting bond mutual fund volatility ratings in supplemental fund sales literature.¹ The most significant aspects of the comment letter are summarized below and a copy of the letter is attached. Based on the Institute's long-standing position that the use of volatility ratings in fund sales literature raises serious investor protection concerns, the 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 letter states that if, notwithstanding the Institute's 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 order to further ensure that investors are properly protected, the letter recommends certain changes to Rule 2210(c)(3) and IM-2210-5. Specifically, the letter recommends prohibiting the use of a single symbol, number or letter to describe a volatility rating. In addition, in response to a request for comment in the Release, the letter supports modifying the timeliness requirements of IM-2210-5(b)(2) to mirror the requirements of Rule 482 under the Securities Act of 1933 to further ensure that investors are not relying on stale volatility ratings. Ari Burstein Associate 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 19421, or call the ICI Library at (202) 326-8304 and request the attachment for memo 19421. ¹ Securities Exchange Act Release No. 52709 (November 1, 2005), 70 FR 67509 (November 7, 2005) ("Release").