

MEMO# 19778

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MSRB and NASD Agree to Harmonize Regulations Governing the Sale of 529 Plan Securities and Mutual Funds

©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. [19778] February 27, 2006 TO: 529 PLAN ADVISORY COMMITTEE No. 3-06 529 PLAN MEMBERS No. 3-06 RE: MSRB AND NASD AGREE TO HARMONIZE REGULATIONS GOVERNING THE SALE OF 529 PLAN SECURITIES AND MUTUAL FUNDS The Municipal Securities Rulemaking Board and NASD have issued a joint statement pledging their cooperation to harmonize the MSRB's regulation of 529 plan securities with the NASD's regulation of mutual funds.* This action is being taken based on the view of the MSRB and the NASD that "529 Plan sales raise the same general types of broker-dealer sales practice issues, including suitability, as those that arise in the sale of mutual funds and therefore the harmonization of [MSRB] rules and NASD rules would further protect the public." In particular, the MSRB and NASD have agreed to the following:

- The MSRB will adopt rules and interpretations concerning 529 Plans that are equivalent to NASD rules and interpretations concerning mutual fund sales practices adopted in the future, unless the MSRB finds those rules and interpretations to be prohibited by law or inappropriate as a result of fundamental differences between mutual funds and 529 Plans. If the MSRB finds an NASD mutual fund rule to be prohibited or inappropriate, the MSRB will adopt any permissible and appropriate portions of that rule and adopt, when possible, alternative rules and interpretations providing substantially equivalent investor protections. The MSRB will work with state issuers of 529 Plans to encourage and facilitate any action by them necessary to assure regulatory consistency.
- As a means of fostering uniformity and consistency of purpose, the MSRB and NASD will each provide the other with an opportunity to comment on relevant proposed regulations and interpretations concerning 529 Plans and mutual funds before they are published or filed with the SEC. * The joint statement is available on the MSRB's website at:

<http://www.msrb.org/msrb1/whatsnew/JointStatement.asp>. 2 • The MSRB and NASD will cooperate and coordinate any response to a request for information or rulemaking by the SEC concerning 529 Plans. Tamara K. Salmon Senior Associate Counsel