

MEMO# 14006

October 2, 2001

INSTITUTE DRAFT COMMENT LETTER ON MSRB REVISED DRAFT GUIDANCE ON APPLICATION OF MSRB RULES TO TRANSACTIONS WITH SOPHISTICATED MUNICIPAL MARKET PROFESSIONALS

URGENT - IMMEDIATE ACTION REQUESTED [14006] October 2, 2001 TO: FIXED-INCOME ADVISORY COMMITTEE No. 14-01 RE: INSTITUTE DRAFT COMMENT LETTER ON MSRB REVISED DRAFT GUIDANCE ON APPLICATION OF MSRB RULES TO TRANSACTIONS WITH SOPHISTICATED MUNICIPAL MARKET PROFESSIONALS The Investment Company Institute has prepared the attached draft comment letter on the Municipal Securities Rulemaking Board's revised draft release that provides interpretive guidance on MSRB Rule G-17, and the application of various MSRB rules to transactions with sophisticated municipal market professionals ("SMMP").¹ Please provide any comments on the draft letter to Barry Simmons by phone at (202) 326-5923, by fax at (202) 326-5827, or by email at bsimmons@ici.org by COB Thursday, October 4, 2001. The Institute's draft letter recommends that the MSRB - 1. Restrict the SMMP safe harbor to electronic trading platforms. 2. Narrowly define the term non-recommended secondary market transactions by - a. expressly limiting the content of any communication between a dealer and investor to the basic information required to identify the security that is traded (i.e., name of the security, name of the issuer and any credit or liquidity provider, CUSIP number, interest rate, call dates, sinking fund dates, and maturity date); and b. excluding from that term any transaction where the involved dealer has a special nexus to the security being offered, including dealers who (i) have a current contractual relationship with the issuer of the security, (ii) have participated in due diligence sessions with the issuer within the previous 90 days, and (iii) have access to information from the issuer about the security that is not generally available to the public. 1 Notice and Draft Interpretive Guidance on Rule G-17 - Disclosure of Material Facts and Interpretive Guidance Concerning Sophisticated Municipal Market Professionals, dated July 6, 2001 ("Revised Draft Guidance"). 2 3. Require that any dealer who seeks to rely on the SMMP safe harbor in transacting non-recommended secondary market transactions to provide assurance to its customer that it is not aware of any material facts about a security that is not disclosed generally to the public. 4. Exclude from the SMMP safe harbor dealers who effect transactions in private placement securities and securities exempt from the disclosure requirements of Rule 15c2-12 under the Securities Exchange Act of 1934, such as variable rate demand obligations. Barry E. Simmons Associate Counsel Attachment Attachment (in .pdf format)

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