

COMMENT LETTER

January 19, 2005

ICI's Comments to MSRB on 529 Plan Ad Rules, January 2005

January 19, 2005

Ernesto A. Lanza, Esquire
Senior Associate General Counsel
Municipal Securities Rulemaking Board
1900 Duke Street, Suite 600
Alexandria, Virginia 22314

Re: MSRB Notice 2004-43 Relating to Performance Data in Advertisements For Municipal Fund Securities

Dear Mr. Lanza:

The Investment Company Institute¹ appreciates the opportunity to express support for the Municipal Securities Rulemaking Board's proposed amendments to Rule G-21, relating to advertisements.² In particular, the MSRB Notice proposes to require that advertisements for municipal fund securities that show performance data include a phone number or website where an investor may obtain more current performance information. The proposal is consistent with the Institute's September 2004 comments on related proposed amendments to Rule G-21.³

Facilitating access to more current performance information will benefit investors, thereby better protecting them from reliance upon stale performance information. It will also increase uniformity between the MSRB's advertising requirements and those imposed on mutual funds.⁴ Uniformity is appropriate because municipal fund securities and mutual funds share many common features, including the manner in which they are advertised to investors. Subjecting these investment products to similar regulatory standards reduces both potential investor confusion and the burdens of conflicting regulatory requirements for persons that offer and sell both types of securities. In addition, because the NASD is charged with inspecting securities firms for compliance with both MSRB and SEC advertising rules, uniform standards also will facilitate the NASD's ability to conduct such inspections. For these reasons, we strongly support adoption of the MSRB's current proposal.

Compliance Date

Should the MSRB adopt the proposed amendments, we strongly recommend that it coordinate the compliance date with the compliance date for the related advertising rule amendments that the MSRB recently filed with the Securities and Exchange Commission.⁵ Taken together, these proposals will require changes to the contents of advertisements, to a dealer's operational systems to obtain and disseminate the updated performance information, and to a dealer's website or telephone system to provide such updated information. Such coordination will avoid the need for a two-step implementation process, which would only serve to increase a municipal securities dealer's compliance burdens and costs without enhancing investor protection.

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The Institute appreciates the opportunity to comment on the MSRB's proposal. If you have any questions concerning these comments, please do not hesitate to contact the undersigned by phone at (202) 326-5825 or by e-mail at tamara@ici.org.

Sincerely,

Tamara K. Salmon
Senior Associate Counsel

cc: Jill C. Finder, Assistant General Counsel

ENDNOTES

¹ The Investment Company Institute is the national association of the American investment company industry.

² See MSRB Notice 2004-43, Request for Comments on Draft Amendments Relating to Performance Data in Advertisements of Municipal Fund Securities (Dec. 16, 2004) (the "MSRB Notice").

³ See [Letter](#) from Tamara K. Salmon, Senior Associate Counsel, ICI, to Ernesto A. Lanza, Senior Associate General Counsel, dated September 10, 2004, commenting on MSRB Notice 2004-16, Request for Comments on Draft Amendments Relating to Advertisements of Municipal Fund Securities and Draft Interpretive Guidance on Disclosures in Connection with Out-of-State Sales of College Savings Plan Shares (June 10, 2004).

⁴ See Rule 482 under the Securities Act of 1933, which governs the contents of mutual fund performance advertisements.

⁵ See Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Advertisements of Municipal Fund Securities Under MSRB Rule G-21, 69 Fed. Reg. 78499 (Dec. 30, 2004).