

COMMENT LETTER

July 25, 2005

ICI Comment Letter on MSRB Advertising Rule Amendments (pdf)

July 25, 2005 Mr. Jonathan G. Katz Secretary U.S. Securities and Exchange Commission 100 F Street, NE Washington, DC 20549-9303 Re: Advertisements of Municipal Fund Securities Under MSRB Rule G-21 File No. SR-MSRB-2005-09 Dear Mr. Katz: The Investment Company Institute¹ is writing to express our support for the Municipal Securities Rulemaking Board's proposed amendments to its advertising rule, Rule G-21, that were recently published for comment by the Securities and Exchange Commission.² In particular, the Institute supports the MSRB requiring that advertisements for municipal fund securities that show performance data include a phone number or Web address where an investor may obtain more current performance information. The proposal is consistent with a recommendation the Institute made to the MSRB in September 2004 when the MSRB proposed amendments to Rule G-21.³ The Institute supports facilitating investor access to more current performance information. By requiring that investors be provided this information, the MSRB's proposal will also make more uniform, to the extent practicable, the MSRB's advertising requirements with those applicable to mutual funds.⁴ Uniformity is appropriate because municipal fund securities and mutual funds share many common

¹ The Investment Company Institute is the national association of the American investment company industry. More information about the Institute is attached to this letter.

² See Self Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Proposed Rule Change Relating to Month-End Performance Data for Municipal Fund Securities Under MSRB Rule G-21, SEC Release No. 34-51951 (June 30, 2005), 70 Fed. Reg. 39833 (July 11, 2005) (the "Release").

³ See Letter from Tamara K. Salmon, Senior Associate Counsel, ICI, to Ernesto A. Lanza, Senior Associate General Counsel, MSRB, 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 mutual fund performance advertisements. We note that, in order to accommodate concerns raised by state issuers and their distributors with the timeliness of the communication of performance information, the MSRB's proposal differs slightly from Rule 482. We support these differences because we understand they are necessary to address practical limitations in the 529 plan market that are not present in the mutual fund market.

Mr. Jonathan G. Katz July 25, 2005 Page 2 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 proposed amendments. The Institute also supports the MSRB conforming the effective date of the proposed amendments with the effective date for other changes made to Rule G-21 earlier this year.⁵ Such conformity is appropriate because both sets of amendments will require changes to the content 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. Coordinating their effectiveness avoids 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. * * * * 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, /s/ Tamara K. Salmon Tamara K. Salmon Senior Associate Counsel cc: Jill C. Finder, Assistant General Counsel, MSRB 5 SEC Approves Amendments to Rule G-21 Relating to Advertisements of Municipal Fund Securities, MSRB Notice 2005-31 (May 27, 2005), which is available at: <http://www.msrb.org/msrb1/whatsnew/2005-31.asp>. The Investment Company Institute The Investment Company Institute (ICI) is the national association of the American investment company industry. ICI members include 8,521 open-end investment companies (mutual funds), 651 closed-end investment companies, 144 exchange-traded funds, and 5 sponsors of unit investment trusts. Mutual fund members of the ICI have total assets of approximately \$8.036 trillion (representing more than 95 percent of all assets of US mutual funds); these funds serve approximately 87.7 million shareholders in more than 51.2 million households.

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