

MEMO# 3087

September 11, 1991

HOUSE ENERGY AND COMMERCE COMMITTEE DRAFT GLASS-STEAGALL BILL

September 11, 1991 TO: BOARD OF GOVERNORS NO. 68-91 RE: HOUSE ENERGY AND
COMMERCE COMMITTEE DRAFT GLASS-STEAGALL BILL

As previously reported (see Memo to Board of Governors No. 59-91, dated August 13, 1991), the Glass-Steagall bill reported by the House Banking Committee has been referred to the House Energy and Commerce Committee and three other House Committees. The Energy and Commerce Committee has released a draft of its revisions to the bill. As we anticipated, the revision does not permit affiliations between banks and commercial firms and does permit securities affiliates of commercial banks to sponsor and underwrite mutual funds. However, the revised bill contains virtually all of the mutual fund firewalls which have been suggested by the Institute in the form of amendments to the Investment Company Act of 1940. For example: 1. The bill prohibits a bank from serving as custodian for an affiliated mutual fund except as permitted by the SEC. (The Institute will seek a modification allowing such a relationship with the SEC granted rule-making authority.) 2. A mutual fund is prohibited from knowingly acquiring securities during an underwriting where the issuer will use the proceeds to retire indebtedness owed to an affiliated bank. 3. A mutual fund may not borrow from an affiliated bank except as permitted by the SEC. 4. A mutual fund cannot use a name, title or logo that is the same or similar to the name, title or logo of any affiliated bank. 5. A bank common trust fund is required to register with the SEC as a mutual fund unless the fund is used as an _____ to the administration of bona fide trusts, is not advertising, is not offered for sale to the general public and is not charged any fees or expenses which, when added to the compensation charged by the bank to a participant account, would exceed the compensation that would have been charged to such account if it had not been invested in the fund. 6. A bank which causes a trust account to invest in the bank's affiliated mutual fund unless the advisory fee attributable to such investment is waived, unless the trust beneficiary receives full disclosure regarding the second fee and grants prior written consent. 7. A bank cannot convert a common trust fund into a mutual fund unless the bank waives any advisory fee received from the mutual fund, except where the trust beneficiaries receive full disclosure and consent in writing to the conversion. 8. A bank cannot lend money to a customer for the purpose of purchasing shares of the bank's affiliated mutual fund. 9. A bank cannot provide to employees who provide _____ advice to the bank's affiliated mutual fund nonpublic information involving the bank's lending activities. 10. A bank which serves as investment adviser to a mutual fund must register as an investment adviser with the SEC under the Investment Advisers Act of 1940. 11. The SEC is directed to conduct a study and report to Congress as to the appropriate treatment

under the securities laws for bank collective investment funds and separate accounts for retirement plans and of bank common trust funds. The Institute is meeting with members of the Energy and Commerce Committee to express general support for these provisions and to seek modification where appropriate. Attached are the portions of the revised bill and the accompanying explanation relating to mutual funds. We will keep you advised of developments. Matthew P. Fink Senior Vice President and General Counsel

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