

MEMO# 1254

July 14, 1989

NEW JERSEY ADOPTS PERFORMANCE FEE COMPENSATION RULE

July 14, 1989 TO: INVESTMENT ADVISER MEMBERS NO. 37-89 INVESTMENT ADVISER
ASSOCIATE MEMBERS NO. 36-89 RE: NEW JERSEY ADOPTS PERFORMANCE FEE
COMPENSATION RULE _____ Effective
June 19, 1989, New Jersey has adopted a performance fee compensation rule for
investment advisers. A copy of the rule is attached. While the New Jersey rule generally
mirrors Rule 205-3 under the Investment Advisers Act of 1940, it differs from the federal
rule in two material ways. First, the New Jersey rule requires that an investment advisory
client who enters into a performance fee arrangement with an investment adviser have a
net worth at the time the contract is entered into which exceeds \$1 million. As you know,
the federal rule requires that an investment advisory client have either \$500,000 or more
to place under management with the adviser or \$1 million in net worth at the time of
entering into a performance fee arrangement. The New Jersey rule also excludes a
prospective client's home, farm, car and furnishings from the net worth computation. The
federal rule is silent on this issue. Second, "independent agent" has been deleted and
replaced with "representative" to make it clear that investment adviser representatives
may be required to register or otherwise comply with certain provisions in the New Jersey
investment adviser law. Robert L. Bunnan, Jr. Assistant General Counsel Attachment

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