

MEMO# 6470

December 16, 1994

IDAHO DRAFTS PROPOSED AMENDMENT TO SECURITIES ACT RELATING TO INVESTMENT ADVISERS

December 16, 1994 TO: INVESTMENT ADVISERS COMMITTEE No. 60-94 IDAHO INVESTMENT ADVISER ASSOCIATE MEMBERS RE: IDAHO DRAFTS PROPOSED AMENDMENT TO SECURITIES ACT RELATING TO INVESTMENT ADVISERS

The Institute has been provided a draft of proposed changes to the Idaho Securities Act that the Idaho Securities Bureau (the "Bureau") would like to have considered during the 1995 legislative session. Several of the proposed provisions relate to the activities of investment advisers. These provisions are summarized below. Section 30-1407 -- The proposed amendments to this section would delete a provision in current law that permits the director to waive the bonding requirement for those investment advisers with custody of or discretionary authority over clients' funds or securities. Section 30-1410 -- The proposed amendments to this section would require the contents of an application to "be kept current and in effect at all times." Section 30-1411 -- This section would amend the renewal provisions to require that an adviser file a financial statement, that is no more than 90 days old within 120 days after fiscal year end. Under current law, such statements are filed at the time of renewal (i.e., at calendar year end). Section 30-1412 -- As proposed, this section would amend existing law to give the Bureau "free access to all records of the registrant" and allow the Bureau to make copies of such records as they see fit during any examination. Section 30-1413 -- The amendments to this section, which relate to the Bureau's authority to deny, revoke, or suspend a registration, would (1) provide that an investment adviser "has respondeat superior responsibility over its salesmen" and (2) provide there is no time limit within which the Bureau may bring an action under this Section. Similarly, Section 30-1442 would be amended to provide there is no time limit within which the Bureau must bring an injunctive action. The Bureau's proposal also includes amendments that would: (1) permit hearing officers to order restitution in addition to their current authority to impose a fine or order the denial, suspension or revocation of a registration (30-1414); (2) prohibit withdrawing a registration without permission of the Director (30-1427); (3) delete a provision limiting the Director's ability to issue stop orders (30- 1432); (4) permit the Director to deny by order any exemption (30-1435); (5) grant the Director subpoena authority (30-1441); and (6) permit the Director to disregard dissimilar statutes of other states or the federal government when interpreting Idaho law and when necessary in the public interest (30-1457). A copy of the Bureau's proposed legislation is attached. Please provide me with comments on this proposal by Friday, December 30, 1994. I can be reached by phone at 202/326-5825 or by fax at 202/326-5828 Tamara K. Cain Assistant Counsel Attachment

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