

MEMO# 1814

April 2, 1990

PROPOSED INVESTMENT ADVISORS DISCLOSURE AND ENFORCEMENT ACT OF 1940

April 2, 1990 TO: INVESTMENT ADVISERS COMMITTEE NO. 12-90 RE: PROPOSED
INVESTMENT ADVISORS DISCLOSURE AND ENFORCEMENT ACT OF 1940

Attached is a copy of proposed legislation introduced on March 30 by Representative Boucher entitled the "Investment Advisors Disclosure and Enforcement Act of 1990," and a copy of the accompanying statement. The proposed legislation would add to section 208 of the Investment Advisers Act of 1940 specific disclosure requirements relating to the suitability of advice, representations as to qualifications, services or fees, third-party reports or recommendations, guarantees as to results, and compensation arrangements, including estimates of total costs. The legislation would also provide for a private right of action against advisers for violations of paragraph (1) or (2) of section 206 of the Advisers Act and for violations of certain of the disclosure provisions added to section 208 of the Act. In addition, the bill would amend the definition of "investment adviser" to include persons "in the business of financial planning, financial consulting, investment advising, investment consulting, investment planning, money managing, or financial advising" or who use any of these terms as descriptive of such person's business. Finally, the proposed legislation would permit the Commission to assess civil penalties in administrative proceedings. We will keep you informed of developments. Kathy D. Ireland Associate General Counsel Attachments

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