

MEMO# 11417

November 22, 1999

FORMATION OF WORKING GROUP ON SEC PRIVACY RULES

1 See Memorandum to SEC Rules Members No. 70-99, dated November 19, 1999 (summarizing the provisions of the Act most directly impacting investment companies and investment advisers). 2 Financial institutions must disclose their privacy policies with respect to protecting the confidentiality and security of their customers' "non-public personal information" and sharing that information with affiliates and others. [11417] November 22, 1999 TO: SEC RULES COMMITTEE No. 99-99 RE: FORMATION OF WORKING GROUP ON SEC PRIVACY RULES

President
Clinton recently signed into law the "Gramm-Leach-Bliley Act" which, among other things, repeals various restrictions on affiliations among commercial banks, securities firms, and insurance companies.¹ Title V, Subtitle A of the Act establishes new obligations for all companies that engage in financial activities with respect to protecting the privacy of their customers, whether or not those companies are affiliated with banks. A copy of Subtitle A of Title V is attached. The Act requires the SEC to adopt privacy rules in two instances. First, under section 501(b) of the Act, the SEC must "establish appropriate standards" relating to administrative, technical and physical safeguards to protect the security and confidentiality of customer records and information and to protect against unauthorized access to or use of such records or information. Second, section 504 contains a more general rulemaking mandate that requires the SEC, in consultation with the Federal Trade Commission and representatives of state insurance authorities, to promulgate rules to carry out the purposes of the privacy provisions of the Act. Among other things, these rules must address the form and timing of the privacy disclosures required by the Act.² In both cases, the SEC is tasked with this rulemaking responsibility with respect to the financial institutions subject to its jurisdiction, including investment companies and investment advisers. The Act requires that these rules be issued in final form not later than six months after enactment of the Act (i.e., by May 12, 2000). The Institute is considering submitting recommendations to assist the SEC staff in developing its privacy rule proposals. We are forming a working group of members to help us formulate any such recommendations (and, subsequently, our comments on the SEC's privacy rule proposals). If you or a designated alternate would like to participate in the SEC Privacy Rules Working Group, please complete and return the attached response form by fax to Laura Whitehead at (202) 326-5841 by November 29, 1999. We expect to hold a meeting or conference call of the Working Group next month.
Robert C. Grohowski Associate Counsel Attachments

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