

**MEMO# 2007**

July 9, 1990

## **VIRGINIA ALLOWS PERFORMANCE BASED FEES**

July 9, 1990 TO: INVESTMENT ADVISER MEMBERS NO. 28-90 INVESTMENT ADVISER  
ASSOCIATE MEMBERS NO. 26-90 RE: VIRGINIA ALLOWS PERFORMANCE BASED FEES

The Virginia Corporation Commission promulgated regulations effective July 1, 1990 regarding performance based fees. A copy of Rule 1301 is attached. Also attached is revised Rule 1100 regarding initial registration of investment adviser representatives. Virginia Rule 1301 is virtually identical to Rule 205-3 of the Investment Advisers Act of 1940 which permits an adviser to receive performance based compensation provided that certain conditions are satisfied relating to the client's financial sophistication and the amount of the client's assets to be managed. In addition, the contract must represent an arms-length agreement. Finally, the adviser must make prescribed disclosures to the client concerning the fee arrangement. Virginia Rule 1100 regarding application for registration as an investment adviser representative was revised to eliminate the opportunity for a formal hearing on applications. Instead, the grant or denial of applications for registration may be informally extended for up to 90 days to allow the State Corporation Commission to gather additional information. This period may be extended upon the applicant's written request. We will keep you informed of further developments. W. Richard Mason Assistant General Counsel Attachments

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