

MEMO# 4585

March 11, 1993

LEGISLATION INTRODUCED IN MISSOURI TO AMEND INVESTMENT ADVISER REGULATION

March 11, 1993 TO: INVESTMENT ADVISERS COMMITTEE NO. 5-93 MISSOURI INVESTMENT ADVISER ASSOCIATE MEMBERS RE: LEGISLATION INTRODUCED IN MISSOURI TO AMEND INVESTMENT ADVISER REGULATION

_____ Legislation has been introduced in Missouri to amend certain provisions of the Missouri Uniform Securities Act relating to investment advisers. The bill is substantially similar to the bill considered by the Missouri legislature last year. (See Memorandum to Investment Advisers Committee No. 9-92 and Missouri Investment Adviser Associate Members, dated February 24, 1992.) A copy of the bill is attached. Summarized below are several significant changes proposed in the legislation.

Investment Adviser Representatives Investment adviser representatives would be required to register under the Act. The initial and renewal registration fees for IA representatives is proposed to be \$50. (The renewal fee for investment advisers will be increased from \$100 to \$200, which is the initial registration fee.)

Fraudulent Activities The legislation will expand the list of activities in which it is unlawful for an investment adviser to engage, including: (1) engaging in principal or agency cross-transactions; and (2) holding himself out as a "financial planner", "financial adviser", "financial consultant" or using terms descriptive of these activities unless he is covered by one of the exceptions provided therein.

Minimum Financial Requirements; Surety Bond The Securities Commissioner would be authorized to establish minimum financial requirements for investment advisers, which could vary depending upon whether an adviser has custody of or discretionary authority over funds or securities. The Commissioner's existing authority to require investment advisers to post a surety bond would be limited to those advisers who have custody of or discretionary authority over client funds or securities.

Disclosure The bill would authorize the Securities Commissioner to require that certain information be furnished or disseminated as necessary or appropriate in the public interest or for the protection of clients.

Private Right of Action A private right of action similar to the one included in the NASAA Model Amendments to the Uniform Securities Act would be included in the Act for fraudulent activities and for violations of certain provisions of the Act relating to investment advisers (including provisions dealing with prohibited activities, registration requirements, unlawful representations concerning registration or exemption and filing of sales and advertising literature).

Status The bill is expected to be reported out of Committee this week without significant changes and to be considered by the full House shortly. It is our understanding that comparable legislation has not been introduced in the Senate. * * * If you have any comments on the Missouri legislation, please call the undersigned at 202/955-3523 or Tom Selman at 202/955-6251. We will keep you informed of developments

on the bill. Amy B.R. Lancellotta Associate Counsel Attachment

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