

MEMO# 10992

May 19, 1999

SENATE PASSES FINANCIAL SERVICES REFORM LEGISLATION

[10992] May 19, 1999 TO: BOARD OF GOVERNORS No. 36-99 FEDERAL LEGISLATION MEMBERS No. 16-99 PRIMARY CONTACTS - MEMBER COMPLEX No. 54-99 PUBLIC INFORMATION COMMITTEE No. 24-99 RE: SENATE PASSES FINANCIAL SERVICES REFORM LEGISLATION

The Senate passed S. 900, the "Financial Services Modernization Act of 1999," in early May. The bill, approved by a 54-44 vote, repeals the Glass-Steagall Act's restrictions on bank and securities firm affiliations. S. 900 also amends the Bank Holding Company Act to permit affiliations among financial services companies, including banks, registered investment companies, securities firms and insurance companies. Provisions having the greatest effect on investment companies or the securities industry are summarized below. Holding Company Regulation Under S. 900, the Federal Reserve Board (FRB) is the "umbrella" regulator of bank holding companies, which are authorized to engage in activities that are "financial in nature." The existing authority of the FRB is carefully prescribed when it exercises its general supervisory authority to regulate, examine or take enforcement action against regulated, non-bank subsidiaries of the holding company—such as investment advisers, broker/dealers and insurance companies. Any FRB action against a regulated subsidiary requires a determination by the FRB that the subsidiary poses a material risk to an affiliated bank or the domestic or international payments system. Importantly, these provisions, with narrow exceptions, also apply to the general supervisory authority of the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency and the Office of Thrift Supervision. Finally, the legislation recognizes the Securities and Exchange Commission's (SEC) primary examination authority over investment companies. Community Reinvestment Act (CRA) S. 900 would not apply the CRA to investment companies or other non-bank entities. The legislation exempts banks outside metropolitan areas with less than \$100 million in assets from CRA requirements. The Senate also approved an amendment that requires the public disclosure of all CRA-related agreements that are worth more than \$10,000 annually. Privacy The Senate bill includes consumer privacy provisions similar to those in H.R. 10, the House version of financial reform legislation. The legislation provides criminal and civil penalties for pretext calls—when callers pose as customers to obtain confidential information from banks and other financial service providers. S. 900 also directs federal banking agencies to establish a consumer grievance process to deal with privacy violations. In addition, the GAO is directed to prepare a report on the effectiveness of remedies for pretext calling. Commercial Baskets S. 900 does not permit bank holding companies to have commercial affiliates but does allow for a change in the definition of "financial in nature"; that is, permissible activities undertaken by the financial services holding company. The bill grants the FRB wide regulatory latitude to determine permissible activities under the holding company structure

which should cover most ongoing "commercial" activities. Unitary Thrifts S. 900 prohibits companies engaged in commercial activities from owning a single or "unitary" thrift. However, the bill includes a grandfather clause allowing commercial companies that currently own a thrift or have applications pending as of May 4, 1999 to continue operations. In the markup of S. 900, the Senate modified this grandfather provision to prohibit the sale and transfer of thrifts owned by commercial companies to any other company that engages in commercial activities. * * * * * The companion bill to S. 900 is H.R. 10. H.R. 10 was passed by the House Banking Committee in March and is currently being considered by the House Commerce Committee. The Commerce Committee expects to report the bill by mid-June with full House consideration following shortly. We will keep you informed of further developments. Matthew P. Fink President

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