

**MEMO# 3452**

January 17, 1992

## **UTAH REQUESTS COMMENTS ON DRAFT RULES REGARDING SCOPE OF INVESTMENT ADVISER REGULATION**

January 17, 1992 TO: INVESTMENT ADVISERS COMMITTEE NO. 3-92 UTAH INVESTMENT ADVISER ASSOCIATE MEMBERS RE: UTAH REQUESTS COMMENTS ON DRAFT RULES REGARDING SCOPE OF INVESTMENT ADVISER REGULATION

\_\_\_\_\_ As we previously informed you, the Utah Division of Securities has been considering modifying the applicability of the investment adviser provisions of the Utah Uniform Securities Act to certain professionals (e.g., accountants, attorneys, etc.) (See Memorandum to Investment Advisers Committee No. 50-91 and Utah Investment Adviser Associate Members, dated September 27, 1991.) Attached is an advance copy of proposed modifications to the rule governing investment adviser licensing requirements. The draft proposed amendments address several issues concerning the scope of Utah's investment adviser registration requirements. Specifically, the Division has clarified the "solely incidental" exemption for accountants, attorneys, engineers, teachers and other professionals as well as for broker-dealers. In addition, the Division has decided not to propose a broad "holding out" provision. Instead, the proposal requires registration as an investment adviser only if the person renders advice relating to securities. The Division explains in the cover memorandum to the draft proposed rules that the changes should be considered keeping in mind certain concepts relating to the types of activities that trigger the registration requirement (e.g., a person using the title "financial planner" is not required to register if he is not providing advice involving securities). The proposal also includes a liberal waiver provision from the Series 65 examination requirement that incorporates some of the suggestions of the Institute. Specifically, the rule authorizes the Division to grant a waiver from the examination requirement to persons that, prior to April 23, 1990, were licensed as an investment adviser in another jurisdiction, with the SEC or if other evidence is submitted, satisfactory to the Division, of the person's knowledge of the law pertaining to investment advisers and his competence to supervise investment adviser representatives. With respect to investment adviser representatives, the Division will have the authority to waive the examination requirement under certain specified conditions, such as if the applicant has received the designation CFA, ChFC or other similar designation suitable to the Division, or if the applicant is licensed with a broker-dealer and has passed the Series 63 and either the Series 6 or Series 7 and the only activity engaged in by the applicant is referral of clients to a licensed investment adviser. Comments are due on the draft proposed rule by March 4, 1992. Please provide me with any comments you have on the draft proposal by February 14, 1992. My direct number is 202/955-3523. Amy B.R. Lancellotta Associate General Counsel Attachment

---

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.