

MEMO# 4125

September 23, 1992

HOUSE APPROVES INVESTMENT ADVISER BILL

September 23, 1992 TO: BOARD OF GOVERNORS NO. 71-92 SEC RULES MEMBERS NO. 41-92 INVESTMENT ADVISER MEMBERS NO. 44-92 INVESTMENT ADVISER ASSOCIATE MEMBERS NO. 36-92 RE: HOUSE APPROVES INVESTMENT ADVISER BILL

_____ Last night, the House passed the "Investment Adviser Regulatory Enhancement and Disclosure Act of 1992", which is designed to improve the SEC's oversight of the investment adviser industry through the payment of annual fees by registered investment advisers. In general, the bill would (1) permit the SEC to impose an annual fee on advisers, based on assets under management and determined pursuant to a schedule ranging from \$300 to \$7,000; (2) require the SEC to establish a schedule for adviser inspections and permit the NASD to conduct adviser inspections of its own members; (3) impose an express suitability standard under the Investment Advisers Act; (4) authorize the SEC to require investment advisers with custody or discretion to obtain fidelity bonds; and (5) require registered advisers to provide prescribed brochure disclosure and issue transaction and periodic reports to clients. We are pleased to report that the bill does not contain certain controversial provisions, including that which was of most concern to the Institute: the establishment of an express private right of action against advisers who engage in certain fraudulent transactions. Nevertheless, we continue to be concerned about the suitability requirement and the transaction and periodic reporting requirements. As we previously informed you, the Senate passed a more targeted bill last month, which does not include, among other things, a suitability requirement or transaction and periodic reporting requirements. (See Memorandum to Board of Governors No. 57-92, SEC Rules Members No. 36-92, Investment Adviser Members No. 39-92, Investment Adviser Associate Members No. 31-92, dated August 13, 1992.) In view of the fact that Congress is expected to adjourn on October 5th, we anticipate conference committee consideration of this legislation by then. We are hopeful that the differences between the two bills, namely the suitability requirement and the transaction and periodic reporting requirement, will be satisfactorily resolved in conference. We will keep you informed of developments in this matter. Matthew P. Fink
President