

MEMO# 1148

May 11, 1989

IDAHO EXCLUDES CPAS FROM INVESTMENT ADVISER LAW

May 11, 1989 TO: INVESTMENT ADVISER MEMBERS NO. 28-89 INVESTMENT ADVISER ASSOCIATE MEMBERS NO. 27-89 RE: IDAHO EXCLUDES CPAs FROM INVESTMENT ADVISER LAW _____ On March 29, 1989, Idaho Governor Cecil Andrus signed Idaho House Bill No. 276 into law. A copy of HB 276 is attached. The legislation amends the Idaho investment adviser law to exclude from the definition of investment adviser "a certified public accountant or licensed public accountant who holds himself out to the public as a certified public accountant or licensed public accountant." The legislation also amends the existing law to delete "accountant" from the exclusion previously available to an accountant. That exclusion was available to an accountant who gave investment advice about securities only on a basis which was "solely incidental" to the practice of his or her profession. As you may know, the accountant industry has been actively seeking state law exclusions from the definition of investment adviser based on their argument that they are already regulated by the American Institute of Certified Public Accountants and/or by various state boards of public accountancy. The Institute and many others have argued strenuously that while these accountancy boards may regulate accountants with regard to tax and financial advice, they do not regulate accountants with regard to advice given about securities. Idaho is the first state to permit a total exclusion for accountants, although Maryland and other states are considering similar action. We will keep you informed of any developments. Robert L. Bunnan, Jr. Assistant General Counsel Attachment