

MEMO# 3479

January 28, 1992

INSTITUTE COMMENT LETTER ON PROPOSED CALIFORNIA INVESTMENT ADVISER REGULATIONS

January 28, 1992 TO: INVESTMENT ADVISERS COMMITTEE NO. 4-92 CALIFORNIA ASSOCIATE
INVESTMENT ADVISER MEMBERS RE: INSTITUTE COMMENT LETTER ON PROPOSED
CALIFORNIA INVESTMENT ADVISER REGULATIONS

_____ As we previously informed you, the California Department of Corporations has proposed several regulations relating to investment adviser activities. (See Memorandum to Investment Advisers Committee No. 59-91, California Associate Investment Adviser Members, dated December 9, 1991). The Institute submitted the attached letter on the proposed rules. In its letter, the Institute commended the Department's efforts to conform California investment adviser regulations to the regulations of the Securities and Exchange Commission and the North American Securities Administrators Association. We noted that regulation that is coordinated with federal requirements and conforms to the requirements of other states helps ensure compliance and ameliorates the regulatory burdens on investment advisers. Specifically, the Institute supported the proposed rules regarding agency cross transactions and financial and disciplinary disclosures, which are substantially similar to the federal requirements in these areas. With respect to the proposed rule enumerating certain activities that do not promote "fair, equitable or ethical principles", we questioned generally the need for such a rule since there are comprehensive anti-fraud provisions on both the federal and state levels that have proved adequate to deal with the problems that have arisen. However, if the Department is inclined to adopt such a provision, the Institute expressed its support for the proposal since it is substantially similar to NASAA Uniform Rule 102(a)(4)-1, but recommended that it be modified in two respects. First, we objected to the inclusion of a ceiling (i.e., 3%) as to what is deemed to be a reasonable fee charged by an investment adviser. Second, we requested that reports prepared by an affiliate of an adviser be explicitly excluded from the disclosure requirement in connection with the use of reports prepared by third parties. Amy B.R. Lancellotta Associate General Counsel
Attachment