

**MEMO# 5391**

December 9, 1993

# **INSTITUTE COMMENTS ON NASAA AMENDMENTS TO FORM ADV RELATING TO WRAP FEE DISCLOSURES**

December 9, 1993 TO: INVESTMENT ADVISERS COMMITTEE NO. 38-93 SEC RULES  
COMMITTEE NO. 110-93 RE: INSTITUTE COMMENTS ON NASAA AMENDMENTS TO FORM ADV  
RELATING TO WRAP FEE DISCLOSURES

As you may recall, in November the Board of Directors of NASAA issued for comment proposed revisions to Form ADV and the instructions thereto, as well as proposed revisions to Rule 203(b)-2 of the NASAA Model Amendments to the Uniform Securities Act, to require certain disclosures of sponsors of wrap fee and mutual fund asset allocation programs. (See Memorandum to Investment Advisers Committee No. 33-93 and SEC Rules Committee No. 100-93, dated November 5, 1993.) Attached is a copy of the Institute's letter on these proposed revisions. As proposed by NASAA, the Form ADV would be amended to add a new Schedule H which defines the disclosures that must be made by an adviser who sponsors either a wrap fee program or a mutual fund asset allocation program in which the adviser is affiliated with an investment company. The Institute's letter asserts that it is inappropriate to include mutual fund asset allocation programs in the scope of this proposal. The Institute's letter discusses the differences between wrap fee and mutual fund asset allocation programs and explains that under current law, clients of mutual fund asset allocation programs are provided sufficient information concerning the program, its sponsor, its affiliation with an investment company, and the fees charged by the adviser. The Institute further asserts that the disclosures that would be required by Schedule H of the sponsor of a mutual fund asset allocation program are either inappropriate, inapplicable, or required under current law through Part II of Form ADV. Finally, the Institute's letter notes that under the proposal, clients of mutual fund asset allocation programs may receive less disclosure than they receive under current law. This would result because the Schedule H disclosures would be provided to customers via a brochure that must be provided to the customer in lieu of Part II of Form ADV and that does not include all of the relevant disclosures currently required by Part II of Form ADV. NASAA is expected to present this proposal, along with any revisions made based upon comments received, to its membership at its business meeting in April 1994. Of course, any recommended changes to the Form ADV approved by the NASAA membership will require rulemaking action by the Securities and Exchange Commission. Tamara K. Cain Assistant Counsel Attachment

abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.