

MEMO# 3539

February 24, 1992

MISSOURI PROPOSES LEGISLATION TO AMEND INVESTMENT ADVISER PROVISIONS

February 24, 1992 TO: INVESTMENT ADVISERS COMMITTEE NO. 9-92 MISSOURI
INVESTMENT ADVISER ASSOCIATE MEMBERS RE: MISSOURI PROPOSES LEGISLATION TO
AMEND INVESTMENT ADVISER PROVISIONS

Legislation was recently introduced in Missouri to amend certain provisions of the Missouri Uniform Securities Act relating to investment advisers. A copy of the bill (H.R. 1500) is attached. Summarized below are several significant changes proposed in the legislation.

Fraudulent Activities The legislation will expand the list of activities in which it is unlawful for an investment adviser to engage to include: (1) principal transactions; and (2) holding himself out as a "financial planner", "financial adviser", "financial consultant" or to use terms descriptive of these activities unless registered as an investment adviser or investment adviser representative, or licensed by another state agency (e.g., a CPA, a lawyer, an insurance agent), subject to certain conditions regarding compensation.

Investment Adviser Representatives Investment adviser representatives will be required to registered under the Act. The initial and renewal registration fee for IA representatives is proposed to be \$50. (The renewal fee for investment advisers will be increased from \$100 to \$200, which is the initial registration fee.)

Minimum Financial Requirements The Commissioner will be authorized to establish minimum financial requirements for investment advisers, which may vary depending upon factors such as whether the adviser has custody of client assets or has discretionary authority.

Examination Waivers The bill allows the Commissioner to waive the examination requirement for a class of persons if it is determined that the examination is not necessary for the protection of advisory clients.

Private Right of Action A private right of action will be included in the Act for fraudulent activities and for violations of certain provisions of the Uniform Securities Act relating to investment advisers (including provisions on prohibited activities, registration requirements, unlawful representations concerning registration or exemption and filing of sales and advertising literature). Under this provision, an investor could recover the consideration paid for the investment advice and any loss due to such advice, together with interest at 8% per year from the date of payment of the consideration plus costs and reasonable attorneys' fees, less the amount of any income received from such advice.

Status A hearing was held before the Commerce Committee on this bill on February 19. In addition, a bill to amend the Act to include financial planners within the definition of "investment adviser" (which is also included in H.R. 1500) was also considered at that hearing. (See Memorandum to Investment Advisers Committee No. 7-92 and Missouri Investment Adviser Associate Members, dated February 10, 1992). These bills have not yet been reported out of Committee. * * * The Institute is considering submitting

written comments to the Missouri legislature on H.R. 1500. Please provide me with your comments on the bill for possible inclusion in the Institute's submission by March 4, 1992. My direct number is 202/955-3523. We will keep you informed of developments. Amy B.R. Lancellotta Associate General Counsel Attachment

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