

MEMO# 3587

March 12, 1992

INVESTMENT ADVISER REGULATIONS ADOPTED IN INDIANA

March 12, 1992 TO: INVESTMENT ADVISER MEMBERS NO. 10-92 RE: INVESTMENT ADVISER
REGULATIONS ADOPTED IN INDIANA

As we previously informed you, the Indiana Securities Commission had proposed rules regarding investment adviser registration and regulation, which would become effective on January 1, 1992. (See Memorandum to Investment Adviser Members No. 38-91 and Investment Adviser Associate Members No. 41-91, dated September 11, 1991.) Attached is a copy of the final rules. Under the rules, an investment adviser and an investment adviser representative must pass the Series 65 exam or the Series 7 and Series 63 exams, unless the applicant was properly registered with the Commissioner as an investment adviser prior to October 1, 1991 or listed on Schedule D to Form ADV of a registered adviser as of October 1, 1991, whichever is applicable. In addition, an applicant may submit a written request to the Commissioner for a waiver from the examination requirement. Several of the final rules are modeled after rules under the Investment Advisers Act, including the rule governing the books and recordkeeping requirements (Rule 204-2), the brochure rule (Rule 204-3), the performance fee rule (Rule 205-3), the rule governing custody arrangements (Rule 206(4)-2) and the agency cross transaction rule (Rule 206(3)-2). The rules also include a list of dishonest or unethical practices similar to that contained in the NASAA Model Rules under the Uniform Securities Act. In addition, the Indiana rules require all advisers to file financial statements, which must be certified if the adviser has custody or requires payment of advisory fees six months in advance and in excess of five hundred dollars. Advisers are also required to maintain written supervisory procedures. Finally, several investment adviser rules have been repealed, including the "holding out" provision adopted in 1989. Amy B.R. Lancellotta Associate General Counsel Attachment

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