

MEMO# 4769

May 6, 1993

HOUSE APPROVES INVESTMENT ADVISERS BILL

May 6, 1993 TO: BOARD OF GOVERNORS NO. 43-93 SEC RULES MEMBERS NO. 42-93 INVESTMENT ADVISER MEMBERS NO. 25-93 INVESTMENT ADVISER ASSOCIATE MEMBERS NO. 16-93 RE: HOUSE APPROVES INVESTMENT ADVISERS BILL

On May 4, the House of Representatives passed by voice vote H.R. 578, the "Investment Adviser Regulatory Enhancement and Disclosure Act of 1993." The legislation is similar to the bill that the House passed last year. Congress did not pass advisers legislation last year because of differences between the House and Senate bills that could not be reconciled. The key provisions of the bill would: (1) authorize the SEC to impose an annual fee on investment advisers; (2) require the SEC to establish a schedule for investment adviser inspections; (3) impose an express suitability requirement under the Investment Advisers Act; (4) require registered investment advisers to provide prescribed brochure disclosure and issue transaction and periodic reports to clients; (5) authorize the SEC to require investment advisers with custody of client funds or securities or with discretionary authority over client assets to obtain fidelity bonds, and (6) facilitate one-stop filing of reports and records. The legislation includes two additional provisions that were not included in last year's bill. First, the one-stop filing provision has been amended to require the entity designated by the SEC to be responsible for one-stop filing to establish and maintain a toll-free number to receive inquiries regarding disciplinary and other information involving investment advisers. Second, the SEC is directed to submit a report to Congress (1) analyzing the risks to investors when an investment adviser is made sole recipient of communications from the custodian of client securities and funds and when an investment adviser or affiliate thereof serves as the custodian and (2) making any recommendations it believes are necessary to eliminate or reduce those risks. There has not been any activity in the Senate on S. 423, the "Investment Adviser Oversight Act of 1993," which is a more narrowly focused bill than the House bill in that it principally would require investment advisers to pay an annual fee and would impose a fidelity bonding requirement on certain advisers. However, S. 423 could move quickly since it is currently anticipated that the Senate will pass the same bill as last year. We would then expect Conference consideration to reconcile the differences between the House and Senate bills. We will keep you informed of developments on this matter. Matthew P. Fink President