

MEMO# 4821

May 25, 1993

PROPOSED DISTRICT OF COLUMBIA INVESTMENT ADVISER RULES

May 25, 1993 TO: INVESTMENT ADVISERS COMMITTEE NO. 13-93 DISTRICT OF COLUMBIA
INVESTMENT ADVISER ASSOCIATE MEMBERS RE: PROPOSED DISTRICT OF COLUMBIA
INVESTMENT ADVISER RULES _____ As we previously informed you, the District of Columbia recently enacted legislation to regulate investment advisers. (See Memorandum to Investment Adviser Members No. 21-93 and Investment Adviser Associate Members No. 14-93, dated April 14, 1993.) The District's Public Service Commission recently proposed the attached rules to implement the new statute. The rules would require that advisers register on Form ADV and that investment adviser representatives register on Form U-4. Designated principals and investment adviser representatives would have to pass the Series 65 examination. (The proposed rules provide a six month grace period for passage of the Series 65 exam for applications received on or before December 31st.) The investment adviser registration fee would be \$250 per year (\$125 for applications filed before December 31, 1993) and the investment adviser representative registration fee would be \$35 per year (\$20 before December 31, 1993). Advisers would have to pay a \$50 fee to obtain an "opinion" or "no action" letter from the Commission or its Securities Division. The rules also would: - permit performance fees, subject to conditions that are similar to those provided by federal Rule 205-3; - impose custody requirements similar to those in federal Rule 206(4)-2; - impose a suitability requirement similar to the one in NASAA's 1987 rules under the Uniform Securities Act; - permit agency cross transactions subject to conditions similar to those in federal Rule 206(3)-2; and - require that advisers with custody maintain net capital (as defined in Rule 15c-3 under the Securities Exchange Act) of \$25,000, and post a \$10,000 surety bond if its net capital does not exceed \$35,000. (This requirement is apparently in addition to the requirement that all advisers with custody obtain a \$10,000 surety bond.) The rules are subject to two public notice periods, together lasting 45 days and ending on June 21, 1993. We understand that final rules will be issued soon after that date. Please provide any comments you might have by Thursday, June 3, 1993. My direct number is 202/955-6251. Thomas M. Selman Assistant Counsel Attachment