

MEMO# 4845

June 4, 1993

PROPOSED FEDERAL TELEMARKETING LEGISLATION

June 4, 1993 TO: BROKER/DEALER ADVISORY COMMITTEE NO. 20-93 COMPLIANCE
COMMITTEE NO. 11-93 OPERATIONS COMMITTEE NO. 21-93 SEC RULES COMMITTEE NO.
51-93 TRANSFER AGENT ADVISORY COMMITTEE NO. 35-93 UNIT INVESTMENT TRUST
COMMITTEE NO. 27-93 RE: PROPOSED FEDERAL TELEMARKETING LEGISLATION

Attached for your information and review are three bills currently pending in Congress that are designed to curb telemarketing fraud. It is likely that telemarketing fraud legislation in some form will be passed this year. The attached bills are described briefly below. S. 568, the "Telemarketing and Consumer Fraud and Abuse Prevention Act," requires the Federal Trade Commission to prescribe rules governing telemarketing practices and also to prescribe rules prohibiting "fraudulent telemarketing acts or practices," which are to be defined in those rules. The bill contains a complete exemption for securities industry participants including, among others, a broker, dealer or investment company, in connection with the offer, sale or purchase of any security, or an investment adviser providing investment advice relating to any security. (See Section 12(c)(2)(A) on page 15 of the bill.) S. 568 was recently passed by the Senate Commerce Committee, and it is expected to come before the full Senate in the near future and eventually to go to conference with H.R. 868, described below. H.R. 868, the "Consumer Protection Telemarketing Act," is similar to S. 568, in that it directs the FTC to promulgate rules prohibiting deceptive and abusive telemarketing activities. Although the bill provides that securities industry participants would not be subject to such FTC rules, it requires the Securities and Exchange Commission to promulgate "substantially similar" rules within six months after the effective date of any rules adopted by the FTC (subject to certain exceptions). (See Section 3(d) on page 4 of the bill.) H.R. 868 was passed by the House earlier this year. S. 557, the "Senior Citizens Against Marketing Scams Act of 1993," is aimed primarily at fraudulent telemarketing practices targeting senior citizens. It imposes criminal penalties for violations, and does not contain a securities industry exemption. Although the bill does not appear to be moving at this time, it is possible that it will become part of a telemarketing fraud legislative package. Please review these bills and contact me as soon as possible if you have any comments or concerns about their impact on your business. Frances M. Stadler Assistant Counsel Attachments