

MEMO# 5371

December 6, 1993

SENATE APPROVES INVESTMENT ADVISERS BILL

December 6, 1993 TO: BOARD OF GOVERNORS NO. 112-93 INVESTMENT ADVISER ASSOCIATE MEMBERS NO. 45-93 INVESTMENT ADVISER MEMBERS NO. 56-93 SEC RULES MEMBERS NO. 94-93 RE: SENATE APPROVES INVESTMENT ADVISERS BILL

On November 20, the Senate passed S. 423, the "Investment Adviser Oversight Act of 1993." This bill is substantially similar to the bill that was passed by the Senate last year. (See Memorandum to the Board of Governors No. 57-92, SEC Rules Members No. 36-92, Investment Adviser Members No. 39-92 and Investment Adviser Associate Members No. 31-92, dated August 13, 1992.) Congress did not pass investment advisers legislation last year because differences between the Senate and House bills could not be reconciled. S. 423 is designed to improve the regulation of the investment adviser industry. The key provisions of the bill include: (1) the imposition of an annual fee on investment advisers, which will be based on assets under management and determined pursuant to a schedule ranging from \$300 to \$7,000, and (2) a fidelity bonding requirement for investment advisers with custody or investment discretion. In his floor statement expressing support for the bill, Senator Chris Dodd (D-CT), Chairman of the Securities Subcommittee of the Senate Banking Committee and the chief co-sponsor of the bill along with ranking member Senator Alfonse D'Amato (R-NY), stated that: [T]he SEC's examiner staff has not kept up with the industry's growth. [In 1981, there were 5,100 investment advisers registered with the SEC, today there are more than 19,000.] The SEC had 26 examiners in 1981, and has 48 examiners today. This means the SEC can inspect advisers, on average, only once every 28 years. Without enough cops on the beat, investor confidence is needlessly at risk, and capital formation suffers. This bill addresses this problem through increases in the fees paid by investment advisers. As we previously informed you, the House passed a similar, but not identical, investment advisers bill. (See Memorandum to Board of Governors No. 43-93, SEC Rules Members No. 42-93, Investment Adviser Members No. 25-93, and Investment Adviser Associate Members No. 16-93, dated May 6, 1993.) The House bill, however, includes a suitability requirement and transaction and reporting requirements that are troublesome. These issues will be addressed in conference after Congress reconvenes at the end of January, at the beginning of the second legislative session. Copies of the bill passed by the Senate and the statements of Chairman Dodd and Senator D'Amato in support of the bill are attached. We will keep you informed as this matter develops. Matthew P. Fink President Attachments

should not be considered a substitute for, legal advice.