The Asset Management Industry
SERVING INDIVIDUAL INVESTORS
INVESTMENT COMPANY INSTITUTE

MEMO# 1422

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INSTITUTE COMMENTS ON LEGISLATION THAT WOULD PERMIT THE CREATION OF ONE OR MORE SELF-REGULATORY ORGANIZATIONS FOR INVESTMENT ADVISERS

September 27, 1989 TO: INVESTMENT ADVISER MEMBERS NO. 49-89 INVESTMENT ADVISER ASSOCIATE MEMBERS NO. 51-89 RE: INSTITUTE COMMENTS ON LEGISLATION THAT WOULD PERMIT THE CREATION OF ONE OR MORE SELF-REGULATORY ORGANIZATIONS FOR INVESTMENT ADVISERS _____ On September 25, 1989, the Institute submitted the attached letter to Senators Dodd and Heinz in response to their request for our views on the merits of the "Investment Adviser Self- Regulation Act" (S.1410), as well as alternative proposals. (See Memorandum to Investment Adviser Members No. 36-89 and Investment Adviser Associate Members No. 35-89, dated June 23, 1989) In our letter, we acknowledge that, although the current structure of investment adviser regulation is generally adequate, additional resources are necessary to ensure that investment advisers are inspected on a regular basis and that enforcement actions can be brought when violations are discovered. We stated that increases in the funding and staffing of the SEC had not been adequate to permit the SEC to keep up with the growing complexity of the growing securities market or with tremendous increases in trading volume and the number of regulated entities. As a result, we stated our support for the proposed House Budget Committee Reconciliation Bill, which would provide a framework under which the SEC's resources could be increased to meet the needs for funding perceived by Congress. If SEC resources cannot be increased, we stated that Congress should enact legislation enabling the establishment of self-regulatory organizations for investment advisers with inspection and enforcement powers only. We recommended that such an SRO should not have substantive rulemaking authority over investment advisers; such authority should remain with the SEC. In the letter, we strongly opposed enactment of legislation which would mandate the establishment of standard-setting SROs for investment advisers. We stated that, aside from the demonstrated need for an increase in inspection and enforcement resources to assure compliance with existing requirements, the present system of federal and state regulation of investment advisers is appropriate. We further stated that no need has been demonstrated for any additional substantive regulation of investment advisers. Finally, we stated that any legislation amending the Advisers Act to authorize the creation of SROs should repeal the present blanket exclusion from that act for banks. Since banks have become the country's largest investment advisers through advisory activities outside of their traditional trust

relationships, we stated that banks should be required to register with the SEC under the Investment Advisers Act and become members of an SRO. We expect that hearings will be held during 1989 on this proposed legislation. We will keep you informed of any developments. Robert L. Bunnen, Jr. Assistant General Counsel Attachment (in .pdf format)
