

MEMO# 5268

October 26, 1993

SENATE BANKING COMMITTEE APPROVES INVESTMENT ADVISERS BILL

October 26, 1993 TO: INVESTMENT ADVISERS COMMITTEE NO. 30-93 RE: SENATE BANKING COMMITTEE APPROVES INVESTMENT ADVISERS BILL

_____ Last week, the Senate Banking Committee approved 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. Congress did not pass investment advisers legislation last year because of differences between the Senate and House bills that could not be reconciled. The key provisions of the bill include: (1) the imposition of an annual fee on 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. A new provision was added to the bill by the Senate Banking Committee that would provide the SEC with discretionary authority to exempt investment advisers from the fidelity bonding requirement "if (1) fidelity bonds are not readily or reasonably available in the urban or rural areas in which such investment advisers are located, or (b) the cost of obtaining a fidelity bond would have a substantial adverse impact on such investment advisers' competitive positions." As you may recall, the House passed an investment advisers bill in May that is similar, but not identical, to the Senate bill. (See Memorandum to Investment Adviser Members No. 25-93, dated May 6, 1993.) However, the House bill includes a suitability requirement and transaction and periodic reporting requirements that are troublesome. These issues will be addressed in conference after the full Senate has approved S. 423. A copy of the bill as approved by the Senate Banking Committee (with the amendment to the fidelity bonding provision described above appended thereto) is attached. We will keep you informed of developments on this matter. Amy B.R. Lancellotta
Associate Counsel Attachment