

MEMO# 3926

July 13, 1992

INSTITUTE STATEMENT ON PROPOSED DISTRICT OF COLUMBIA INVESTMENT ADVISER LEGISLATION

July 13, 1992 TO: INVESTMENT ADVISERS COMMITTEE NO. 29-92 DISTRICT OF COLUMBIA
INVESTMENT ADVISER ASSOC. MEMBERS RE: INSTITUTE STATEMENT ON PROPOSED
DISTRICT OF COLUMBIA INVESTMENT ADVISER LEGISLATION

_____ As we previously informed you, the Council of the District of Columbia has proposed legislation to regulate investment advisers and investment adviser representatives. (See Memorandum to Investment Advisers Committee No. 26-92 and District of Columbia Investment Adviser Associate Members, dated June 24, 1992.) Attached is a copy of the Institute's written statement on the proposed legislation. In its statement, the Institute stressed the importance of a uniform system of regulation among the various states (and D.C.) and a system which is coordinated with the federal Investment Advisers Act. In this regard, we expressed support for the approach embodied in the D.C. bill in that it incorporates many of the same concepts and provisions as the Advisers Act and the Uniform Securities Act (and the NASAA model rules thereunder and amendments thereto). While we supported the approach in the bill, there were several specific provisions on which we commented. Among other things, the Institute recommended that (1) the ceiling for the bonding requirement in the bill, which would give the Commission authority to require surety bonds, be lowered from \$100,000 to an amount more in line with what other states have adopted through rulemaking; (2) the inclusion of a "net capital" requirement, as an alternative to the bonding requirement, be modified to focus on an adviser's "net worth" instead, since net capital requirements are designed for broker-dealers, not investment advisers; and (3) the criminal penalties of a fine not exceeding \$100,000 or imprisonment of not more than five years, or both, be amended to be consistent with the Uniform Act, which imposes penalties of a fine not exceeding \$5,000 or imprisonment of not more than three years, or both. We will keep you informed of developments. Amy B.R. Lancellotta Associate Counsel

Attachment