

MEMO# 1957

June 19, 1990

ALABAMA TO REGULATE INVESTMENT ADVISERS

- 1 - June 19, 1990 TO: INVESTMENT ADVISER MEMBERS NO. 25-90 INVESTMENT ADVISER ASSOCIATE MEMBERS NO. 23-90 RE: ALABAMA TO REGULATE INVESTMENT ADVISERS

Effective January 1, 1991, the State of Alabama will require registration of investment advisers and investment adviser representatives pursuant to the newly enacted Alabama Securities Act. A copy of the relevant provisions of the Act is attached. The Act requires each investment adviser to register with the Alabama Securities Commission unless (1) all his clients are investment companies, other investment advisers, broker-dealers, banks, trust companies, savings and loan associations, insurance companies, employee benefit plans over \$1,000,000, government agencies and other institutional investors or (2) he has no place of business in Alabama and directs no business communications in Alabama to more than 5 clients in Alabama. An "investment adviser" is generally defined under the Act as a person who, for compensation, advises others regarding securities. The term also includes financial planners who hold themselves out as providing investment advisory services. Excluded from the definition of investment advisers are depository institutions, lawyers, accountants, engineers and teachers whose performance of investment advisory services is incidental to the practice of their profession, broker-dealers and the news media. "Investment adviser representatives" are generally defined as employees or partners of an investment adviser and who make securities recommendations, manage client portfolios determine which recommendation or advice regarding securities should be given and solicit business (unless selling activities are incidental and the person is a registered dealer). Under the new law, investment advisers must pay an annual registration fee of \$200 and investment adviser representatives must pay a \$50 annual registration fee. The Alabama Securities Commission shall issue rules indicating whether all or any class of registrants must be bonded in an amount of \$50,000 or more. - 2 - The Commission is also responsible for establishing minimum financial requirements for investment advisers and determining whether materials in addition to those required by the Investment Advisers Act of 1940 must be filed with the Commission. These regulations are expected in the latter part of this year. In addition, the Act prohibits performance fees, unless permitted by rule or order of the Commission and provides for a private right of action. We will keep you informed of further developments. W. Richard Mason Assistant General Counsel Attachment