

MEMO# 3263

November 12, 1991

INSTITUTE TESTIMONY ON CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION PROPOSALS

November 12, 1991 TO: INVESTMENT ADVISERS COMMITTEE NO. 55-91 RE: INSTITUTE
TESTIMONY ON CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION PROPOSALS

_____ As we previously informed you, the California Fair Political Practices Commission staff proposed an exemption for employees of investment advisers to California public funds from the disclosure provisions of the Political Reform Act, which the Institute had initially recommended to the Commission staff. (See Memorandum to Investment Advisers Committee No. 17-91, dated April 18, 1991.) The Institute recently testified in support of the proposed exemption at a Commission hearing held on November 6 to consider whether to adopt the proposed exemption. Attached is a copy of the Institute's testimony. The Institute testified that investment advisers should be exempt from the disclosure requirements since they are already required to disclose to their clients any potential conflicts of interest under federal and California securities laws. In addition, under the federal securities laws and common law, investment advisers have a fiduciary obligation to their clients to eliminate conflicts of interest that would harm a client's interests. Moreover, investors have a remedy at law or in equity in all fifty states, including California, if an adviser breaches its fiduciary duty. Finally, the Institute noted that overly burdensome disclosure requirements may discourage many of the most experienced advisers from providing services to California public funds. The Commission decided at the hearing to postpone any decision on the proposed exemption. It is likely that the proposed exemption will be considered again by the Commission next February. We will keep you informed of developments. Amy B.R. Lancellotta Associate General Counsel Attachment