

[532] From: HoffmanH at SEC5 9/14/94 12:00PM (3147 bytes: 50 ln)  
To: GohlkeG at IM  
cc: HaynesL, McConnellJ at SEC2, BaumannS at SEC2  
Subject: IA LEGISLATION

----- Message Contents -----

Gene,

Per your request, this memo documents my discussion with you yesterday over my concern of there being a possible inconsistency between language found in the Senate discussion draft of the IA bill dated September 9, 1994, and the level of funding requested by your Division in FY-1995 for enhanced investment adviser activities.

Language in Sec. 203A.(a) of the Senate draft reads, "No appropriations Act may authorize fees to be collected under this section during any fiscal year unless the the amount appropriated by such Act for such costs for such fiscal year equals or exceeds the aggregate amount that may reasonably be expected to be collected by such fees." I understand that the schedule of fees contained in the IA legislation is expected to raise approximately \$16+ million annually. We earlier calculated that this amount would support 193 new IA staff.

In response to concerns from your Division over the practicality of hiring 193 staff in one fiscal year, the Commission identified 100 IA staff and \$8,595,000 in its FY-1995 budget request and is planning to request the balance of the IA staff and funding in its FY-1996 request. As enacted, the FY-1995 appropriations bill (Pub. L. 103-317) provides the SEC the use of \$8.6 million in collected IA fees upon enactment of legislation amending the 1940 IA Act and requires that any excess fees collected not be available for obligation until the beginning of the next fiscal year.

The apparent inconsistency is the possible collection of \$16+ million in fees and the use of just \$8.6 million in the FY-1995 appropriation bill. As I explained, I am concerned that if the existing draft language is enacted as written it will result in preventing the collection of any IA fees in FY-1995 and, thereby, delay the agency's ability to start hiring the needed additional staff.

Should you agree that an inconsistency exists, I suggested yesterday that the section of the IA language cited above be modified with qualifying language stating that it did not apply in the first year following enactment. Perhaps this can be raised as part of the other technical corrections that are still open for discussion.

Hank