PRIVATE SECURITIES LITIGATION/Judiciary Committee Referral

SUBJECT: **Private Securities Litigation Reform Act of 1995 . . . S. 240. D'Amato motion to table the Specter motion to commit to the Judiciary Committee.**

ACTION: MOTION TO TABLE MOTION TO RECOMMIT AGREED TO, 69-19

SYNOPSIS: As reported with an amendment in the nature of a substitute, S. 240, the Private Securities Litigation Reform Act, will enact changes to current private securities litigation practices in order to discourage unjust suits and to provide better information and protection from fraud for investors.

Senator Specter moved to commit the bill to the Judiciary Committee.

During debate on the motion, Senator D'Amato moved to table the motion to refer. A motion to table is not debatable; however, some debate preceded the making of the motion. Generally, those favoring the motion to table opposed the motion to commit; those opposing the motion to table favored the motion to commit.

Those favoring the motion to table contended:

Extensive hearings have already been held on this bill over the past 4 years, and testimony has been heard from lawyers on both sides. Its legal basis has already been examined. A sequential referral at this point is not only unnecessary, it will kill the bill by adding in much greater delay. If our colleagues wanted to examine this bill in the Judiciary Committee, they should have done so long ago. They had 4 years; it is too late to act now. Therefore, we urge the tabling of this motion to commit.

Those opposing the motion to table contended:

This bill will make very significant changes to the Federal Rules of Civil Procedure. The Banking Committee does not commonly consider such changes. The Rules of Civil Procedure are very complex, and are usually only amended upon the recommendations

(See other side)

YEAS (69)

Republicans (46 or 94%)		Democrats (23 or 59%)
Abraham	Hatfield	Baucus
Ashcroft	Hutchison	Conrad
Bennett	Inhofe	Dodd
Brown	Jeffords	Dorgan
Burns	Kassebaum	Exon
Campbell	Kyl	Feinstein
Chafee	Lugar	Ford
Coats	Mack	Glenn
Cochran	McConnell	Harkin
Cohen	Murkowski	Johnston
Coverdell	Nickles	Kerry
Craig	Packwood	Kohl
D'Amato	Pressler	Levin
DeWine	Roth	Lieberman
Dole	Santorum	Mikulski
Domenici	Simpson	Moseley-Braun
Faircloth	Smith	Moynihan
Frist	Snowe	Murray
Gorton	Stevens	Nunn
Grams	Thomas	Pell
Grassley	Thompson	Reid
Gregg	Thurmond	Robb
Hatch	Warner	Rockefeller

NAYS (19)

Republicans (3 or 6%)	Democrats (16 or 41%)
McCain	Akaka
Shelby	Biden
Specter	Boxer
	Breaux
	Bryan
	Byrd
	Daschle
	Feingold
	Graham
	Heflin
	Hollings
	Kennedy
	Leahy
	Sarbanes
	Simon
	Wellstone

NOT VOTING (11)

Republicans (4)	Democrats (7)
Gramm-[2]	Bingaman-[2]
Helms-[2]	Bradley-[2]
Kempthorne-[2]	Bumpers-[2]
Lott-[2]	Inouye-[2]
	Kerrey-[2]
	Lautenberg-[2]
	Pryor-[2]

VOTING PRESENT(1)

Bond

EXPLANATION OF ABSENCE:

1—Official Buisiness
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:

AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

of judges after lengthy review. For instance, S. 240's revision of the rules of evidence relating to mandatory rule 11 sanctions may result in a "losers-pay" scheme. Other worrisome changes include changes in rule 23 (the class action rule), rule 9 (related to pleadings), and rule 26 (related to discovery). The Banking Committee is expert in securities issues, but it is not expert in the Rules of Civil Procedure. Before letting these rules changes go through, we should receive expert advice from the Judiciary Committee. Therefore, we oppose the motion to table the motion to refer.