

FIRST REGULAR SESSION

# HOUSE BILL NO. 824

102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE O'DONNELL.

1939H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To amend chapter 409, RSMo, by adding thereto one new section relating to investment disclosures.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 409, RSMo, is amended by adding thereto one new section, to be known as section 409.115, to read as follows:

**409.115. 1. As used in this section, the following terms mean:**

(1) "Incorporates a social objective", the consideration of socially responsible criteria in the investment or commitment of client funds for the purpose of obtaining an effect other than a maximized financial return to the client;

(2) "Investment adviser" or "adviser", the same meaning as under section 409.1-102;

(3) "Investment adviser representative" or "representative", the same meaning as under section 409.1-102;

(4) "Socially responsible criteria", any criterion that is intended to further, or is branded, advertised, or otherwise publicly described by the investment adviser or the adviser's investment adviser representative as furthering, any of the following:

(a) International, domestic, or industry agreements relating to environmental or social goals;

(b) Corporate governance structures based on social characteristics; or

(c) Social or environmental goals.

2. An investment adviser or the adviser's investment adviser representative fails to disclose a material fact to clients or prospective clients if the adviser or the adviser's

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

18 representative incorporates a social objective or a nonfinancial objective into the  
19 adviser's or adviser's representative's recommendations and solicitations to clients for  
20 the purchase or sale of a security or commodity or the selection by the adviser or the  
21 adviser's representative, or the recommendation or advice by the adviser or the  
22 adviser's representative to the adviser's or adviser's representative's clients regarding  
23 the selection, of a third-party manager or subadviser to manage the investments in the  
24 adviser's or the adviser's representative's clients' accounts.

25 3. The disclosure obligation under subsection 2 of this section is satisfied by  
26 providing prior disclosure and obtaining written consent and acknowledgment from the  
27 client. Written consent shall be obtained:

28 (1) At the establishment of the advisory relationship; and

29 (2) Prior to:

30 (a) Effecting any discretionary investment;

31 (b) Providing any recommendation or advice regarding the purchase or sale of a  
32 security or commodity in a client's account; or

33 (c) Selecting, or recommending or advising on the selection, of a third-party  
34 manager or subadviser to manage the investments in a client's account.

35 4. Written consent required under subsection 3 of this section shall contain  
36 language that is substantially similar to the following:

37 "I, (NAME OF CLIENT), consent to my adviser or adviser's representative  
38 incorporating a social objective or nonfinancial objective into any discretionary  
39 investment decision my adviser or adviser's representative makes for my account; any  
40 recommendation or advice my adviser or my adviser's representative makes to me for  
41 the purchase or sale of a security or commodity; or the selection my adviser or my  
42 adviser's representative makes, or recommendation or advice my adviser or my  
43 adviser's representative makes to me regarding the selection, of a third-party manager  
44 or subadviser to manage the investments in my account. Also, I acknowledge and  
45 understand that incorporating a social objective or nonfinancial objective into  
46 investment decisions, recommendations, advice, and/or the selection of a third-party  
47 manager or subadviser to manage the investments in my account will result in  
48 investments and recommendations/advice that are not solely focused on maximizing a  
49 financial return for me or my account."

50 5. The conduct set forth in this section is not inclusive. Engaging in conduct such  
51 as nondisclosure or incomplete disclosure of material fact or other deceptive practices is  
52 dishonest or unethical business practice.

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