U.S. SECURITIES AND EXCHANGE COMMISSION

REPORT

ON

THE FEASIBILITY AND ADVISABILITY OF THE COMPLETE SEGREGATION OF THE FUNCTIONS OF DEALER AND BROKER

PURSUANT TO SECTION 11 (e) OF THE SECURITIES EXCHANGE ACT OF 1934

WASHINGTON, D. C.
June 20, 1936

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SECURITIES AND EXCHANGE COMMISSION,
Washington, D. C., June 20, 1936.

SIR: I have the honor to transmit herewith the results of the Commission's study of the feasibility and advisability of the complete segregation of the functions of dealer and broker. This report is in pursuance of section 11 (e) of the Securities Exchange Act of 1934.

This report has been prepared, under the direction of the Commission, by David Saperstein, Director of the Trading and Exchange Division, with the assistance of Sherlock Davis, Abner H. Goldstone, Charles R. McCutcheon, and Thomas H. Gammack. Studies were also prepared by Dr. Kemper Simpson, Economic Adviser to the Commission, and Willis J. Ballinger, Chief of Special Studies. Inasmuch as these latter studies contribute to the sum of knowledge upon the general subject, the Commission is making them available to those who may be interested in viewing a somewhat different approach to the general subject.

The present report is preliminary in character. Analysis of the problem which the Congress directed the Commission to study reveals that it raises considerations fundamental to our entire economic mechanisms for security distribution and trading. The extent of the problem makes it necessary at this time to refrain from judgments upon those aspects which deserve further study and further exploration. The report therefore limits itself to the conclusions that seem called for by the data now available.

For the cooperation it has received in the collection of data the Commission wishes to express its appreciation to the exchanges, to groups and organizations of investment bankers and security dealers, and to others not affiliated with the security industry but having an expert concern with its problems.

By direction of the Commission:

J. M. LANDIS,
Chairman.

The PRESIDENT OF THE SENATE,
The SPEAKER OF THE HOUSE OF REPRESENTATIVES.
Washington, D. C.

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REPORT

ON THE FEASIBILITY AND ADVISABILITY OF THE COMPLETE SEGREGATION OF THE FUNCTIONS OF DEALER AND BROKER

INTRODUCTION

Section 11 (e) of the Securities Exchange Act of 1934 directs the Securities and Exchange Commission to make a study of the feasibility and advisability of the complete segregation of the functions of dealer and broker, and to report the results of its study and its recommendations to the Congress.

Prior to the passage of the act, Congress gave consideration to the inclusion of a provision prohibiting any member of a national securities exchange or any broker transacting business through the medium of an exchange member from acting as a dealer in securities.[1] During the hearings before the Senate Committee on Banking and Currency and the Committee on Interstate and Foreign Commerce of the House of Representatives, it was urged that segregation of the dealer and broker functions would seriously disrupt the financial machinery of the country and that sufficient information was not available to enable the committees to recommend such far-reaching legislation. Accordingly, the provision for complete segregation was deleted and the entire subject was referred to the Commission for study.

The complexity and magnitude of the study become apparent when the statutory definitions of the terms "dealer" and "broker" are considered. A "dealer" is defined by the act as a person engaged in the business of buying and selling securities for his own account.[2] A "broker" is a person engaged in the business of effecting transactions in securities for the account of others.[3] In view of these

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[1] S. 2693 and H. R. 7852, 73d Cong., 2d sess., provided:

"SEC. 10. It shall be unlawful for any member of a national securities exchange or any person who as a broker transacts a business in securities through the medium of any such member to act as a dealer in or underwriter of securities, whether or not registered on any national securities exchange. It shall be unlawful for any member of a national securities exchange to act as a specialist unless registered as such with the exchange, subject to such rules and regulations as the Commission may prescribe, and it shall be unlawful for any specialist on a national securities exchange (a) to effect on the exchange any transaction except on fixed price orders or (b) to disclose to any other person information in regard to orders placed with him which is not available to all members of the exchange. An exchange may provide that officers or employees of the exchange may perform the functions of specialists subject to such rules and regulations as the Commission may prescribe."

[2] Section 3 (a) (5): "The term 'dealer' means any person engaged in the business of buying and selling securities for his own account, through a broker or otherwise, but does not include a bank, or any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as a part of a regular business."

[3] Section 3 (a) (4): "The term 'broker' means any person engaged in the business of effecting transactions in securities for the account of others, but does not include a bank."

definitions, the great majority of persons engaged in the securities business in the United States combine the functions of dealer and broker. Hence, a survey of the activities of all such persons is pertinent to this study.

The characteristic activities of a dealer in securities are similar to those of a dealer or jobber in merchandise. The dealer sells securities to his customer which he has purchased or intends to purchase elsewhere or buys securities from his customer with a view to disposing of them elsewhere. In any such transaction he acts for his own account and not as agent for the customer. He receives no brokerage commission but relies for his compensation upon a favorable difference or spread between the price at which he buys and the amount for which he sells. The risk of loss is entirely his own.

On the other hand, a broker employed to execute an order for the purchase or sale of securities is the agent of his customer. He does not undertake to sell to or buy from his customer but rather to negotiate a contract of purchase or sale between the customer and a third party. The transaction is solely for the account of the customer who becomes the owner of securities purchased by the broker on his behalf, is entitled to the profits realized and is liable for the losses incurred. The broker has no beneficial interest in the transaction except the commission or other remuneration which he receives for his services.

The relationship between broker and customer is fiduciary in its nature. The legal incidents of that relationship are well-established in existing law. They are of the same character as those which pertain to any agent to whom money or other property is entrusted for the purposes of the agency. In the performance of his duties, the broker is held to the same high standard of conduct as the law imposes upon attorneys, administrators, executors, guardians, bankers, public officials, and other persons vested with fiduciary powers. He is required to exercise the utmost fidelity and integrity. He is under a duty to act solely for the benefit of his principal in all matters connected with his agency. The degree of care and skill which he is expected to employ has been defined by the New York Court of Appeals as follows:

> "Those who dealt with him contracted for, and had a right to expect a degree of care commensurate with the importance and the risks of the business to be done, and a skill and capacity adequate to its performance. That care and skill is such as should characterize a banker operating for others in a financial center, and different in kind from the ordinary diligence and capacity of the ordinary citizen."[4]

[4] *Isham* v. *Post*, 141 N. Y. 100, at p. 105.

If employed to sell securities a broker may not, without complete disclosure to his customer, purchase such securities for his own account; and if authorized to purchase securities, he may not supply them from his own account without such disclosure. A transaction effected in contravention of this principle is voidable at the election of the customer although he sustained no actual damage and the broker perpetrated no actual fraud. The policy of the law is to prevent an agent from acquiring any independent interest which might tempt him to act adversely to the interests of his employer. The wisdom of this policy is particularly manifest in the field of securities where, by virtue of the intricate nature of transactions, the complex machinery for distribution, and the manifold factors affecting price, the average investor is compelled to rely heavily upon his broker's skill, judgment and fidelity.

In the present status of the law, however, considerable latitude remains for the exercise of the functions of broker and dealer by the same person. Where he discloses to his customer that he is acting as dealer and obtains the customer's consent, a broker may take or supply for his own account securities named in a brokerage order. Again, he may serve a customer as broker in one transaction and as dealer in another, subject always to the requirement that the capacity in which he is acting be clearly delineated. He may also act as broker in relation to some customers and as dealer in relation to others. Moreover, he is at complete liberty to deal for his own account with persons other than his customers.

Where the broker and dealer functions are combined in a single person, his own interests may conflict with the interests of those to whom he owes a fiduciary duty. This conflict may react to the disadvantage of his brokerage customers in a variety of ways. A broker who trades for his own account or is financially interested in the distribution or accumulation of securities, may furnish his customers with investment advice inspired less by any consideration of their needs than by the exigencies of his own position. The securities, equities and credit balances of his customers may be endangered by the risks which he incurs in making excessive commitments for his own account. A complicating factor in these situations is that the average investor too frequently is unaware of the distinction between the broker and dealer relationships and hence takes no account of the possibility that the advice and service proffered by a broker may be affected with a powerful, independent interest at variance with his fiduciary obligation. As a method of safeguarding the investor from dangers of this type, complete segregation of the broker and dealer functions has been proposed.

[Complete segregation would entail the relinquishment of all dealer activities by any person engaged in the brokerage business. A completely segregated broker would be limited to acting as an agent and would be prohibited both on exchanges and in over-the-counter markets from trading for his own account or participating as a dealer in the flotation or sale of new issues or engaging as a principal in distributing operations. Similarly, a completely segregated dealer would be permitted to act only as a principal and would be forced to abstain from the business of executing transactions for the account of others, either on exchanges or in over-the-counter markets. The central problem of the present study is to determine whether such divorcement of function is feasible and advisable.]

Scope and Sources of the Study

The study which has been made for the purpose of this report has included a survey of the broker and dealer functions as exercised on exchanges; a survey of the broker and dealer functions as exercised in over-the-counter markets; a survey of the power of the Commission under existing law to deal with problems arising from the combination of functions; an appraisal of the economic implications of segregation and a statement of conclusions and recommendations.

To facilitate its study of the combination of functions on exchanges, the Commission devised four report forms through the medium of which comprehensive information has been compiled regarding the trading activities of members of the New York Stock Exchange and the New York Curb Exchange, the firms of which such members are partners and the nonmember partners of member firms.[5]

One form of report called for a recapitulation of the daily purchases and sales for the account of all specialists, odd-lot dealers and other members, their firms and their partners in all stocks dealt in on the New York Stock Exchange and the New York Curb Exchange, respectively.[6] Reports of this type, which were furnished to the Commission by both exchanges covering the period from June 24 to December 21, 1935, recapitulated the daily transactions set forth in 28,060 reports filed with the New York Stock Exchange by its members and in 19,107 reports filed with the New York Curb Exchange by its members.

Another form of report called for a recapitulation of the weekly purchases and sales for the account of all specialists, odd-lot dealers,

[5] A member firm is a firm of which at least 1 general partner is a member of an exchange.

[6] For sample report see Form 1–H, Appendix A–1.

and other members, their firms and their partners in 20 selected stocks dealt in on the New York Stock Exchange and 9 dealt in on the New York Curb Exchange.[7] A total of 241 such reports were received by the Commission covering the period from June 27 to December 18, 1935.

The third and fourth forms were designed to procure information concerning the activities of specialists. The former required a summary of the daily purchases and sales in round lots by specialists for the account of others and for their own account in the stocks in which they specialized; a summary of their daily purchases and sales in odd lots; and a disclosure of their daily positions at the opening and close of the market.[8] A total of 5,119 reports of this kind were furnished to the Commission during the period from June 24, to December 21, 1935, by 251 specialists registered in 162 stocks on the New York Stock Exchange and by 26 specialists registered in 25 stocks on the New York Curb Exchange.

The last of these forms called for the time, amount, and price of every transaction effected on the exchange in certain securities and of every purchase and sale made by the specialist in each of such securities for his own account or the account of others; the bid and asked prices quoted by the specialist for his own account and for the account of his customers and the bid and asked prices quoted by any other member, immediately before and immediately after every transaction; the specialist's position after each transaction, short sales effected by him, the amount bought and sold by him in error and the amount bought and sold by him pursuant to stop orders.[9] Daily reports of this type were furnished to the Com-

[7] For sample report see Form 2–H, Appendix A–2.

The New York Stock Exchange reported on the following stocks:

American Can Co., common.
American Telephone & Telegraph Co., capital.
American Tobacco Co. (The), common B.
American Radiator & Standard Sanitary Corporation, common.
Anaconda Copper Mining Co., capital.
Consolidated Gas Co. of New York, common.
General Electric Co., common.
General Motors Corporation, common.
International Nickel Co. of Canada, Ltd. (The), common.
Pennsylvania R. R. Co., capital.
Radio Corporation of America, common.
Sears, Roebuck & Co., capital.
Southern Pacific Co., common.
Standard Brands, Inc., common.
Standard Oil Co. (New Jersey), capital.
Texas Corporation (The), capital.
Transamerica Corporation, capital.
Union Carbide & Carbon Corporation, capital.
United States Steel Corporation, common.
Woolworth (F. W.) Co., capital.

The New York Curb Exchange reported on the following stocks:

American Cyanamid Co., B nonvoting common.
American Gas & Electric Co., common.
Atlas Corporation, common.
Creole Petroleum Corporation, capital.
Electric Bond & Share Co., common.
Niagara Hudson Power Corporation, common.
Pittsburgh Plate Glass Co., common.
Sunshine Mining Co., capital.
Technicolor, Inc., common.

[8] For sample report see Form 3–H, Appendix A–3.

[9] For sample report see Form 4–H, Appendix A–4.

mission by 30 specialists in 19 stocks dealt in on the New York Stock Exchange between July 2, 1935, and September 7, 1935, inclusive, and by 6 specialists in 6 stocks dealt in on the New York Curb Exchange from July 9, 1935 to September 7, 1935, inclusive.[10] A total of 1,083 such reports were received from the New York Stock Exchange specialists which reports detailed 31,724 transactions involving 5,337,100 shares; and a total of 312 were received from the New York Curb Exchange specialists which detailed 3,782 transactions involving 698,000 shares.

The applications filed by exchanges for registration as national securities exchanges or for exemption from registration were also examined for information with respect to the trading practices prevailing on such exchanges and the rules relating thereto.

The study of the exercise of the broker and dealer functions in over-the-counter markets was aided by information contained in the registration statements filed with the Commission by 5,325 brokers and dealers whose registration became effective on January 1, 1936.

Conferences were held with members of the investing public, over-the-counter brokers and dealers, investment bankers, exchange officials, exchange members, and other persons engaged or interested in the securities business. Available published information was examined. A review was made of the results of the investigation into securities practices conducted by the Senate Committee on Banking and Currency and of the hearings before that Committee and the House Committee on Interstate and Foreign Commerce which culminated in the enactment of the Securities Exchange Act of 1934.

[10] *The New York Stock Exchange Specialists* reported on the following stocks:

Allied Chemical & Dye Corporation, common.
American Radiator & Standard Sanitary Corporation, common.
American Rolling Mill Co., common.
American Tobacco Co., common.
American Tobacco Co., common B.
Auburn Automobile Co., common.
Bendix Aviation Corporation, common.
Caterpillar Tractor Co., capital.
Commercial Investment Trust Corporation, common.
Commercial Solvents Corporation, common.
Consolidated Gas Co. of New York, common
Delaware & Hudson Co., capital.
Douglas Aircraft Co., Inc., capital.
du Pont de Nemours (E. I.) & Co., common (voting).
Electric Auto-Lite Co. (The), common.
Libbey-Owens-Ford Glass Co., common.
Pennsylvania R. R. Co., capital.
Sears, Roebuck & Co., capital.
Union Carbide & Carbon Corporation, capital.

The New York Curb Exchange Specialists reported on the following stocks:

American Cities Power & Light Corporation, class B.
American Cyanamid Co., B nonvoting common.
American Gas & Electric Co., common.
Lake Shore Mines, Ltd., capital.
Niagara Hudson Power Corporation, common.
Technicolor, Inc., common.

PART I

THE EXERCISE OF THE BROKER AND DEALER FUNCTIONS ON EXCHANGES

CHAPTER I

CLASSIFICATION AND FUNCTIONS OF MEMBERS

On January 1, 1936, 23 exchanges were registered with the Commission as national securities exchanges, 5 exchanges were exempt from registration and 4 exchanges had been granted temporary exemption from registration until February 1, 1936.[1] The total number of memberships, regular and associate, on all exchanges as of that date was 6,082.[2]

Active exchange members may be classified according to their primary functions as commission brokers, floor brokers, floor traders, odd-lot dealers, odd-lot brokers, bond brokers and dealers, and specialists. In addition, a number of members may also be classified as inactive. The activities of each of these classes will be hereinafter described.

No limitations are imposed by the rules of any exchange upon the number of capacities in which members may transact business. Until recently, members were not required to be registered in any category. In April 1935, a rule was recommended by the Commission

[1] Registered exchanges:

Baltimore Stock Exchange.
Board of Trade of the City of Chicago.
Boston Stock Exchange.
Buffalo Stock Exchange.
Chicago Curb Exchange.
Chicago Stock Exchange.
Cincinnati Stock Exchange.
Cleveland Stock Exchange.
Denver Stock Exchange.
Detroit Stock Exchange.
Los Angeles Stock Exchange.
New Orleans Stock Exchange.
New York Curb Exchange.
New York Real Estate Securities Exchange, Inc.
New York Stock Exchange.
Philadelphia Stock Exchange.
Pittsburgh Stock Exchange.
St. Louis Stock Exchange.
Salt Lake Stock Exchange.
San Francisco Curb Exchange.
San Francisco Stock Exchange.
Standard Stock Exchange of Spokane.
Washington Stock Exchange.

Exempt exchanges:

Honolulu Stock Exchange.
Milwaukee Grain & Stock Exchange.
Minneapolis-St. Paul Stock Exchange.
Richmond Stock Exchange.
Wheeling Stock Exchange.

Temporarily exempted exchanges:

Colorado Springs Stock Exchange.
Manila Stock Exchange.
San Francisco Mining Exchange.
Seattle Stock Exchange.

[2] This figure includes 1,549 memberships on the Board of Trade of the City of Chicago held by persons who may deal principally or exclusively in commodities.

for adoption by every national securities exchange prohibiting any member from acting as a specialist in a security unless he is registered as such by the exchange; and a similar rule was recommended in respect of any member desiring to act as an odd-lot dealer.[3] These rules have since been adopted by all exchanges upon which the specialist or odd-lot system is in operation.[4] Apart from these registration requirements and subject only to the physical and financial limitations imposed by their primary activities, members may freely combine any of above-mentioned capacities. Their business may be further diversified by participation in over-the-counter transactions of various kinds.

Members of exchanges situated outside of New York almost without exception engage in multiple types of activity on the exchanges and in the over-the-counter markets. On the New York Stock Exchange and the New York Curb Exchange the functional classification of members is more sharply defined. The greater magnitude of exchange business results in a natural concentration of members' activities in particular fields. As the volume of business increases, the tendency toward specialization of function becomes more manifest. Seldom, however, does this tendency reach the point where the functions of broker and dealer are completely disassociated.

The functional classification of the members of the New York Stock Exchange as of October 1, 1935, is shown in the following table:[5]

Classification of New York Stock Exchange members according to primary functions as of Oct. 1, 1935

Primary function	Total exchange members	Member partner of firms	Individual members
Commission broker	391	391	------
Floor broker ($2 broker)	158	30	128
Floor trader	35	4	31
Odd-lot dealer	25	25	------
Odd-lot broker	115	6	109
Bond broker and dealer	76	70	6
Specialist	348	248	100
Active members	1,148	774	374
Inactive members	227	163	64
Total	1,375	937	438

A brief description of the activities of each class of exchange members will be useful in determining the manner in which they combine the functions of broker and dealer. While the discussion which follows has special reference to the classes of members on the New York Stock Exchange, it is applicable to the New York Curb and, in fact, to all exchanges where such classes exist.

[3] For text of these rules see Appendix O-1, ninth and thirteenth rules.

[4] For names of exchanges upon which the specialist system is in operation see footnote 40, p. 25, *infra*; for names of exchanges upon which the specialist odd-lot dealer system is in operation see footnote 72, p. 42, *infra*.

[5] Based on figures furnished to the Commission by officials of the New York Stock Exchange. The number in each class is subject to change from time to time as members vary the nature of their primary activities.

1. The Commission Broker.

The commission broker primarily engages in the business of effecting transactions for the public.

Three hundred ninety-one members of the New York Stock Exchange act primarily as commission brokers.[6] In each case the member is a partner of a firm and these firms are the principal media through which the public buys and sells securities on the exchange. Many of these firms maintain large organizations, branch offices, and communication systems to facilitate the transaction of their business and to keep their customers informed of developments in the market. Many also employ customers' men to solicit business and furnish market advice; support statistical departments to analyze securities for the benefit of partners and customers; and publish market letters and circulars which discuss market conditions and are intended to stimulate interest in securities. They commonly extend credit to enable customers to purchase and carry securities; borrow and lend securities for customers; and act as depositories for the safekeeping of customers' securities.

In addition to executing brokerage orders for customers, commission houses may perform a diversity of functions. They may act as principals in underwritings, in the primary and secondary distribution of securities, and in trading operations for firm account. They may serve as fiduciaries in furnishing investment advice to customers, in conducting discretionary accounts and in managing investment trusts. These interrelationships may be further complicated when such firms extend credit to their customers, hold customers' securities in pledge or hold customers' free funds on deposit; or when partners of such firms trade for their own account or act as directors or officers of corporations whose securities are listed on exchanges.

The financial interests of a commission house, the activities of which are thus diversified, may run counter to the best interests of those for whom it acts as agent. Such a commission house may solicit brokerage customers to purchase securities which it has underwritten or is distributing or in which it has a position or an option. In furnishing investment advice, its recommendations may be colored by its security commitments. It may sell its own securities to accounts over which it has discretion. Substantial participation in underwriting or distributing operations or excessive trading for its own account may impair the solvency of a firm, thereby jeopardizing the securities, equities, and credit balances of customers. A commission house managing an investment trust may use the trust as an

[6] See table, p. 2, *supra*.

outlet for issues which the firm has underwritten or is distributing; or it may employ the buying power of the trust to maintain the price of such issues.

Undoubtedly, abuses incident to these multiple relationships are held in check by the standards of business conduct prevailing among reputable commission brokers. Practices on the part of a commission house which are detrimental to the interests of its brokerage customers would appear, in the final analysis, to be opposed to the dictates of enlightened self-interest. Nevertheless, such abuses have not been uncommon in the past.

2. The Floor Broker (Two-Dollar Broker).[7]

The floor broker, also known as the "two-dollar broker", primarily engages in the business of executing orders for other exchange members and member firms.

One hundred fifty-eight members of the New York Stock Exchange are engaged in business primarily as floor brokers.[8] Thirty are partners of firms and 128 are individuals not connected with any firm. The floor broker has little, if any, direct contact with the public. He is frequently a substantial trader for his own account.[9] Although from the available data it does not appear that the average floor broker trades as heavily for his own account as the average floor trader, it is reasonable to assume from their superior numbers that floor brokers in the aggregate trade in greater volume than do floor traders in the aggregate.[10] The characteristics of floor trading will be described below.[11]

The exercise of the broker and dealer functions by the floor broker may in some respects react to the disadvantage of members or customers of members whose orders he has accepted for execution. His concern with his personal trading may result in depriving them of his best efforts on their behalf. He may buy or sell for his own account in competition with orders which he has accepted for execution and may in fact be prompted to trade by his knowledge of such

[7] The name "two-dollar broker" is derived from the fact that the floor broker's compensation for purchasing or selling 100 shares of stock was formerly $2. Although a different rate of commission prevails at the present time, his old title still persists.

[8] See table, p. 2, *supra*.

[9] Data furnished to the Senate Committee on Banking and Currency by New York Stock Exchange members indicates that during the month of July 1933 the 10 most active members of the exchange classifying themselves as floor brokers bought 880,850 shares and sold 890,650 shares for their own account, a total of 1,771,500 shares bought and sold; while the 10 most active members classifying themselves as floor traders bought 1,014,359 shares and sold 1,118,095 shares for their own account, a total of 2,132,454 shares bought and sold. The single most active trader for his own account classified himself as a floor broker.

[10] According to data furnished to the Senate Committee on Banking and Currency by New York Stock Exchange members, for the month of July 1933 the 70 individual members of the exchange who classified themselves as floor brokers bought and sold for their own account a total of 3,614,411 shares, as compared with 3,310,709 shares bought and sold by the 26 individual members classifying themselves as floor traders.

[11] P. 14 *et seq.*

orders. While he is prohibited by law and by exchange rules from effecting a transaction for his own account in the same security and at the same price as are specified in an order which he has undertaken to execute, he may, notwithstanding, outbid or undersell his principal.

The activities of the floor broker, however, are usually subject to the scrutiny of other exchange members, particularly commission brokers, who employ him to execute their orders. The commission broker has a strong incentive for maintaining this surveillance because he is liable to his customer for a negligent or improper execution by the floor broker to whom he has entrusted the order. The floor broker who fails to execute orders properly and efficiently is likely to lose his brokerage business, since keen competition for such business exists among floor brokers. Accordingly, the opportunities for abuse on the part of the floor broker are to some extent diminished.

3. The Floor Trader.

The floor trader primarily engages in the business of buying and selling securities for his own account on the floor of the exchange.

Thirty-five members of the New York Stock Exchange act primarily as floor traders.[12] The floor trader has no contact with the public, extends no credit, and usually does not maintain an independent office. He is a professional speculator who deals in securities for quick profits. He constantly seeks opportunities for rapid turnover and he prefers to liquidate a position swiftly whether his trading shows a profit or a loss. His activities are seldom restricted to a particular security or group of securities and, unlike the specialist, he professes no responsibility for the maintenance of a fair and orderly market. He does not solicit brokerage business and his brokerage function is distinctly of minor importance. He has few personal customers but occasionally is entrusted with the execution of large orders by members or firms who desire to conceal their presence in the market. Generally, however, the floor trader prefers to remain independent. Hence, he is not restrained in his trading by the forces of competition for brokerage business or the necessity for retaining the good will of customers.

4. The Odd-Lot Dealer.

The business of the odd-lot dealer consists of filling orders in amounts of less than the unit of trading at a fraction above or below the effective round-lot price. A brief explanation of the odd-lot system on the New York Stock Exchange is desirable at this point.[13]

[12] See table, p. 2, *supra*.

[13] On all other exchanges where the specialist system is in operation, odd lots are handled by specialists. A description of the specialist odd-lot dealer system will be found at p. 42, *infra, et seq.*

The unit of trading in stocks on the New York Stock Exchange is 100 shares except in certain inactive stocks designated by the Committee of Arrangements, in which the unit of trading is 10 shares.[14] An order to buy or sell a security in any amount less than the unit of trading is an "odd-lot" order as contrasted with a "round-lot" or "full-lot" order which involves the purchase or sale of a security in the unit of trading or some multiple thereof.

Odd-lot orders are actually executed at the post where the stock is dealt in on the floor of the Exchange. When a customer desires to buy or sell an odd lot he gives the order to his commission broker who in turn transmits it to the representative of an odd-lot dealer stationed at the appropriate post on the floor. The odd-lot dealer's representative, known as the odd-lot broker, fills the order by taking or supplying the stock for the account of the odd-lot dealer.

The price which the customer pays to or receives from the odd-lot dealer is determined either by the price at which a round lot sells subsequent to the entry of the order or, at the customer's option, by the bid or offered quotation for a round lot. Where the execution of his order depends upon a subsequent round-lot sale, the odd-lot buyer pays a fraction of a point more and the odd-lot seller receives a fraction of a point less than the round-lot price. This fraction, which is usually ⅛ in the active stocks, is called the "odd-lot differential" and it constitutes the odd-lot dealer's compensation in the transaction. Since the odd-lot dealer acts as principal, he charges no commission; but the commission broker who acts as the customer's agent in the transaction receives a commission from the customer.

Odd-lot orders other than those to be executed on the bid or offer are automatically executed whenever the effective round-lot sale takes place. The effective round-lot sale, or the sale upon which the execution of the odd-lot order depends, is determined by the nature of the odd-lot order. For an odd-lot market order the effective round-lot sale is the one immediately following the physical receipt of the order by the odd-lot broker at the proper post on the floor. Such an order is filled at the odd-lot differential above or below the price of the round-lot sale. To illustrate:

A customer gives an order to buy 10 shares "at the market." The next round-lot sale after the order reaches the odd-lot broker takes place at 40. The customer, through his broker, pays 40⅛ to the odd-lot dealer.

A customer gives an order to sell 10 shares "at the market." The next round-lot sale after the order reaches the odd-lot broker takes place at 40. The customer, through his broker, receives 39⅞ from the odd-lot dealer.

[14] Odd lots of stocks in which the unit of trading is 10 shares are handled by the specialists at the post where such stocks are traded, and the description of the odd-lot system in the text is not applicable to such odd-lot dealings.

An order to buy or sell an odd lot at a designated price is a limited order. The effective round-lot sale for such an order is the next sale which takes place at the odd-lot differential above or below the designated price after the order is physically received by the odd-lot broker at the proper post on the floor. Such an order is executed at the designated price.[15] For example:

A customer gives an order to buy 10 shares at 40 which is transmitted to the odd-lot broker. As soon thereafter as a round lot sells at 39⅞ or below the customer buys the stock from the odd-lot dealer at 40.

A customer gives an order to sell 10 shares at 40 which is transmitted to the odd-lot broker. As soon thereafter as a round lot sells at 40⅛ or above the customer sells the stock to the odd-lot dealer at 40.

In the event that a customer prefers not to wait for the sale of a round lot to obtain the execution of an odd-lot order he may enter an order to buy on the offer or sell on the bid. No differential is charged in such case and the orders are executed directly at the prevailing bid or offer.

Twenty-five members of the New York Stock Exchange are partners of firms engaged in the business of dealing in odd lots.[16] The bulk of the business in odd lots on the New York Stock Exchange is handled by three odd-lot houses, each of which maintains a substantial number of representatives on the floor.[17] These firms do not deal with the public directly, but derive their business from commission houses which in turn act as agents for persons desiring to buy or sell odd lots. Transactions of the odd-lot firms are confined to the purchase and sale of lots smaller than the unit of trading and the purchase and sale of round lots to offset such odd-lot transactions. They conduct no brokerage business either in round lots or in odd lots, although not prohibited by Exchange rules from doing

[15] It sometimes happens that a stock sells "through the limit" of an odd-lot order. This means that the exact price necessary for the execution of such order was skipped and that the round-lot sale occurred at a better price. The odd-lot order is executed when the round-lot sale at the better price occurs. The customer, however, does not receive the benefit of the better price but merely receives the price designated in his order except in a case where the effective round-lot sale at the better price is the very first sale after the order reaches the odd-lot broker on the floor. For example: After an odd-lot order to buy 10 shares at 40 reaches the odd-lot broker, round-lot sales occur at 40 and at 39, skipping the price of 39⅞ which is the exact price necessary for the execution of the order. The order is executed when the sale at 39 takes place, but the customer pays 40, the price designated in his order. If, however, the very first sale after the order reaches the odd-lot broker is at 39, the customer receives the benefit of the better price and pays 39⅛, the price of the round lot plus the odd-lot differential.

[16] See table, p. 2, *supra*.

[17] In addition to these odd-lot dealers, four specialist firms on the New York Stock Exchange deal in odd lots but the volume of odd-lot business handled by them is relatively insignificant, aggregating, for a period of 23 weeks, 567,180 shares as compared with 61,821,871 shares handled by the three odd-lot houses.

so.[18] Hence, none of the problems incident to the combination of functions are attributable to the odd-lot houses.

5. The Odd-Lot Broker.

The business of the odd-lot broker consists primarily of executing orders for the account of the odd-lot house with which he is associated. He is the representative of the odd-lot firm on the floor of the exchange and his functions have been referred to in the foregoing description of the odd-lot system on the New York Stock Exchange. He may or may not be a partner in the odd-lot firm but he devotes his services exclusively to filling its orders on the floor of the exchange.

One hundred fifteen members of the New York Stock Exchange act as odd-lot brokers for odd-lot dealer firms.[19] One hundred nine of these members are not partners of any firm and six are partners of member firms. The odd-lot broker has no public customers. He is compensated for his services by the odd-lot dealer firm which employs him to execute its orders. He may trade for his own account, but the vigilance of his employer is ordinarily an effective safeguard against abuse.

6. The Bond Broker and Dealer.

The broker and dealer functions are ordinarily found in combination among exchange members who transact business primarily in bonds. Seventy-six members of the New York Stock Exchange are classed as bond brokers and dealers of whom 70 are members of firms and 6 conduct business as individuals.[19]

A substantial proportion of the total volume of transactions in bonds admitted to trading on the New York Stock Exchange and the New York Curb Exchange is accounted for by purchases and sales in the over-the-counter markets. Since the exchange market in many bonds is less continuous than in stocks, firms handling orders to buy or sell large blocks of bonds frequently resort to direct negotiations with potential sellers and buyers in the over-the-counter markets.

[18] On October 10, 1933, a rule was adopted by the Governing Committee of the Exchange which provides in substance as follows:

No member or member firm engaged in the business of dealing in listed securities in odd lots shall act as a broker in such securities; and no such member shall execute on the floor of the exchange for his own account or for the account of others, any round-lot order in such securities. No member associated with any such member or firm as their representative on the floor of the exchange in odd lots in specific securities, shall effect any round-lot transaction in such securities; and no such representative shall execute any round-lot order on the floor of the exchange for the account of such member or firm in any of the securities in which such member or firm is an odd-lot dealer.

The Governing Committee has determined, however, that this rule shall not become effective until further action by the committee. See New York Stock Exchange Directory and Guide, pp. C–109 and C–132, note. 11.

[19] See table, p. 2, *supra*.

They also maintain inventory positions in order to enable them to satisfy the requirements of their customers. The result is that bond brokers and dealers commonly combine the brokerage and dealer functions both on the exchanges and in the over-the-counter markets. The bond broker and dealer on the floor of the exchange functions as commission broker, when he acts for the customers of his own firm; as floor broker, when he acts for other firms; and as floor trader, when he takes positions for himself or his firm.

7. The Specialist.

The specialist characteristically confines his activities to a particular security or group of securities in which he transacts business both as broker and as dealer.

The problems presented by the combination of functions in the specialist are separately treated in a later portion of this report.[20]

8. The Inactive Member.

This class of members includes those who have retired from active business; those who hold their memberships in order to derive the benefit of greatly reduced commission charges in their personal dealings; those who purchase memberships with a view to profiting by an increase in their market price; and those who are connected with investment banking houses which utilize the memberships to procure the privileges of member firms. There are 227 members of the New York Stock Exchange classed as inactive, of whom 163 are member partners of firms and 64 are individuals.[21]

Inactive members are frequently large traders for their own account in which event their savings in commissions yield a fair rate of return on the price of their seats. Rarely do inactive individual members serve as brokers on the exchange and hence they present no problem relative to the combination of functions. Those who are partners of investment banking houses, however, would be affected by a requirement for segregation since such houses sometimes transact a large brokerage business on the exchange in conjunction with their dealer and underwriting business in the same manner as the commission firms whose activities have been described.

9. Summary.

From the foregoing discussion it appears that the functions of broker and dealer are most frequently found in combination among commission brokers, floor brokers, and bond brokers and dealers. It will also be shown at a later point in this report that the combination of functions is characteristic of specialists.[20] Less frequently both

[20] See p. 25, *infra, et seq.*

[21] See table p. 2, *supra.*

functions are exercised by floor traders who only occasionally execute brokerage orders and by odd-lot brokers who only occasionally trade for their own account. Odd-lot dealers rarely, if ever, exercise the brokerage function. Inactive members who are connected with investment banking firms sometimes may act in both capacities but inactive members who are not associated with firms effect transactions exclusively for themselves.

CHAPTER II

EXTENT AND SIGNIFICANCE OF DEALER ACTIVITIES ON EXCHANGES

1. Possible Methods of Segregating the Broker and Dealer Functions.

Preliminary to a discussion of the extent and significance of dealer activities on exchanges, it is important to note that complete segregation of the broker and dealer functions on exchanges if found to be feasible and advisable, might be accomplished in two ways. One method would be to eliminate the dealer function entirely by restricting membership on exchanges to brokers.[1] This proposal has been justified by its proponents upon the ground that the proper function of an exchange is to furnish a market place in which only the orders of the investing public should be executed. Segregation of this type would affect virtually all members including those floor traders, odd-lot dealers, and inactive members who confine their activities to the dealer function. The alternative method would be to compel exchange members to elect between the broker and dealer functions and to prohibit the commingling of such functions by any member. This method would affect only those members who exercise both the dealer and brokerage functions. Since the first method would involve the complete abolition of the dealer function on exchanges and the second its continuance apart from the broker function, an intelligent appraisal of the feasibility and advisability of segregation in either form requires a consideration of the extent and significance of dealer activities on exchanges.

2. Volume of Members' Trading.[2]

Through the medium of reports furnished by the New York Stock Exchange, the New York Curb Exchange, and their respective members, the Commission was enabled to assemble a considerable amount of data with respect to the trading activities of such members dur-

[1] This method was proposed in an early draft of the Exchange Act to which reference has heretofore been made. See Introduction, footnote 1, p. xiii, *supra*.

[2] Except as otherwise specifically indicated, the term "members" is used in this report to designate exchange members, member firms and nonmember partners of member firms; and the term "members' trading" is used to designate round-lot transactions for the account of members, member firms, and nonmember partners of member firms effected either by themselves or through the medium of other members acting as brokers.

ing the latter half of the year 1935.[3] In connection with a discussion of these data, a brief description of the general characteristics of the stock market during that period will be helpful.

Stock prices rose steadily, interrupted only by minor reactions of short duration. The Standard Statistics average of 90 stocks on the New York Stock Exchange advanced from 83.2 on June 24 to 102.1 on December 14, a gain of 18.9 points. The low for the period was 80.6 on June 27 and the high was 106.9 on November 19, a range of 26.3 points. There were 84 days of advancing prices, 55 days of declining prices, and 5 days when prices remained stationary. The rise in prices during this period was part of an extended upward movement which began about March 15, 1935.

The total reported volume of trading on the New York Stock Exchange between June 24, 1935, and December 14, 1935, was 240,269,802 shares. Trading activity on the Exchange averaged less than 1½ million shares daily for the first 16 weeks but expanded substantially thereafter. The smallest reported volume for any full trading session was 683,370 shares on July 1 and the largest was 3,947,950 shares on November 14. The average volume for each of the 144 trading days was approximately 1,668,000 shares.

During the same period, price movements and trading activity on the New York Curb Exchange manifested the same general characteristics as on the New York Stock Exchange. The total reported volume on that Exchange between July 8, 1935, and December 14, 1935, was 45,012,000 shares. The smallest reported volume for any full trading session was 163,000 shares on July 22, the largest was 1,157,000 shares on November 8 and the average volume for each of the 133 trading sessions was 338,000 shares.

Between June 24, 1935, and December 14, 1935, members' trading in all stocks on the New York Stock Exchange (exclusive of transactions by odd-lot dealers[4]) ranged from 21.8 percent to 26.3 percent of the weekly reported volume of purchases and sales and totaled 24 percent of the reported purchases and sales for the 25-week period. The average weekly percentage of members' trading was also 24 percent.[5]

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[3] June 24, 1935, to Dec. 21, 1935, for the New York Stock Exchange; July 8, 1935, to Dec. 21, 1935, for the Curb Exchange. It should be recognized that the various phenomena observed with respect to members' trading during this period might not necessarily be found during other periods when the stock market displayed different characteristics from those described on p. 12; and that generalizations based upon the statistical data employed may not be applicable to particular or isolated cases.

[4] Transactions in round lots for the account of odd-lot dealer firms which generally aggregate about 3 percent of the total have not been included in the category of "members' trading" for the reason that such transactions are generally effected for the purpose of off-setting odd-lot orders of nonmember customers.

[5] See Appendix B-1 for weekly volume and percentage figures.

It should be noted that whenever in this report a ratio is given between members' trading and reported volume such ratio is subject to adjustment in the following

On the New York Curb Exchange, the amount of members' trading in all stocks from July 8, 1935, to December 14, 1935, varied between 20.7 percent and 25.9 percent of the weekly reported volume and comprised 23.4 percent of all reported purchases and sales for the entire period. The average weekly percentage of such trading was 23.5 percent.[6] These ratios, it will be observed, are substantially the same as on the New York Stock Exchange.[7]

The volume of members' trading varied widely in different types of stocks. In stocks enjoying broad distribution and considerable public interest the ratio of their trading to total reported trading was considerably above their average ratio for all stocks. On the New York Stock Exchange members' trading in 20 stocks of this character (exclusive of odd-lot dealers' transactions) between June 27, 1935, and December 18, 1935, amounted to 30.5 percent of all reported purchases and sales in those stocks.[8] The greatest percentage of members' trading in any single stock in this group was 41.43 percent. On the Curb Exchange, members traded in 8 stocks of the same character between July 8, 1935, and December 14, 1935, to the extent of 35.9 percent of the total reported purchases and sales in those stocks.[9] The greatest percentage of members' trading in any single stock in this group was 43.70 percent.

While it was not found feasible to gather comparable figures for the smaller exchanges, there is no reason to believe that the situation has changed materially on such exchanges since July 1933, when the relative volume of members' trading was considerably less in proportion to total volume than on either of the New York exchanges. The figures compiled by the Senate Committee on Banking and Currency for the month of July 1933, disclose that the percentage of members' trading to all shares bought and sold on the New York

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respect: The figures for members' trading include all transactions for the account of members whether reported by the ticker or not; while the figures for reported volume do not include "stopped" sales or other transactions which, due to error or other circumstance, are not reported by the ticker. The volume of these "stopped" sales and other unreported transactions amounted to 17,131,801 shares or 8.15 percent of the reported volume on the New York Stock Exchange for the 5 months ending Nov. 30, 1935. Such "stopped" sales and other unreported transactions totaled 738,398 shares or 2.05 percent of the reported volume on the New York Curb Exchange for the 4 months ending Nov. 30, 1935.

[6] See Appendix B-2, for weekly volume and percentage figures. *Cf.* footnote 5, *supra*.

[7] This statement is subject to the qualification that in the percentages of members' trading on the Curb Exchange there are included round-lot transactions of specialists to offset odd-lot orders of customers. As in the case of off-setting round-lot transactions of odd-lot dealers on the New York Stock Exchange, the off-setting transactions of Curb specialists are not strictly in the category of "members' trading" and they are only included therein because of the extreme difficulty of segregating them from other transactions of the specialist. They are estimated at about 3 percent of the total reported purchases and sales and adjustment can be made accordingly.

[8] See Appendix B-3, for names of stocks and weekly volume and percentage figures. *Cf.* footnote 5, *supra*.

[9] See Appendix B-4, for names of stocks and weekly volume and percentage figures. *Cf.* footnote 5, *supra*.

Stock Exchange was 27.01 percent, on the New York Curb Exchange 27.48 percent, and on 27 other exchanges 12.36 percent.[10]

Trading activities of members include floor trading and trading off the floor. It is necessary to distinguish between these types of trading because they manifest different characteristics and present different problems. Separate treatment is also necessitated by the fact that the existing powers of the Commission with respect to floor trading are broader than its power to control trading off the floor.[11]

Of the total reported purchases and sales on the New York exchanges during the period studied, the percentages of members' trading on the floor and off the floor were as follows:

MEMBERS' TRADING [1]	*New York Stock Exchange Percent*	*New York Curb Exchange Percent*
Floor Trading:		
By members other than specialists	9.3	5.5
By specialists	9.4	13.0
Trading off the floor	5.3	4.9
Total	24.0	23.4

[1] *Cf.* footnote 5, p. 12.

3. The Problem of Floor Trading.

Contrary to popular belief, floor trading is not confined to the relatively small group of members classified as "floor traders." Substantially all classes of active members engage in floor trading. The dealings of specialists in the securities in which they are registered constitute floor trading, as do also the transactions effected by all other members for their own account while on the floor. The problem of the specialist and the specialist odd-lot dealer will receive separate consideration.[12] Transactions of the three large odd-lot dealer firms on the New York Stock Exchange, the partners of which do not act as specialists, are excluded from the ensuing discussion since such firms seldom trade for their own account except in connection with their business of handling odd-lot orders for customers.

Floor trading has been subjected to criticism in the past upon various grounds. Several contentions have also been urged in its favor. An analysis of these conflicting arguments and of the pertinent data compiled by the Commission will aid in determining whether it is feasible or advisable to eliminate floor trading on

[10] Report No. 1455 of the Senate Committee on Banking and Currency, 73d Cong., 2d sess. pp. 19–21.

[11] For a discussion of these powers see p. 54, *infra*, *et seq.*

[12] See pp. 25 and 42, *infra*.

exchanges or to compel members to elect between the dealer and broker functions while on the floor.

a. Analysis of Objections to Floor Trading.

(*i*) *Objection that members who trade while on the floor enjoy certain competitive advantages over all other persons.*—These advantages allegedly include the fact that such members do not pay any commission upon orders executed by themselves; that they are able to trade extensively with less capital than nonmembers; and that by virtue of their presence on the trading premises they have instant access to information concerning the trend of prices and can act more expeditiously on the basis of such information than persons off the floor.

The cost to a member of effecting transactions for his own account is materially less than the cost to a nonmember customer. The nonmember pays a minimum commission fixed by the rules of the exchange. On the New York Stock Exchange the minimum commission rate on an ordinary purchase or sale of stocks runs from 3 cents per share for stocks selling under $1, by gradations to 30 cents per share for stocks selling between $200 and $250 plus 5 cents additional per share for each additional $50 in price for stocks selling above $250. These rates are not applicable to transactions for the account of members or member firms. A member who executes his own orders does not pay any commission but customarily pays a clearing charge unless he or his firm is a clearing member. The clearing charge, which is subject to agreement, is generally between $1 and $1.50 for a purchase and sale of 100 shares consummated on the same day. If securities are held overnight the clearing charge for the purchase and sale of 100 shares is generally $3.75. Thus, for example, the cost to a member who acts for himself in effecting a purchase and sale on the same day of 100 shares of a stock selling at $100 is approximately $1 or $1.50, whereas the cost to a nonmember of effecting a purchase and sale of the same security is $50.[13] It is evident, therefore, that a member trading for his own account is in a position to trade with greater frequency, to assume commitments at smaller cost, to profit from smaller price changes, and to incur less risk of loss, than a nonmember.

The allegation that members on the floor are able to trade extensively with less capital than nonmembers also appears to be well-founded. This situation for the most part results from the fact that floor trading is largely of the in-and-out type known as daylight trading.[14] If a security purchased by a member is sold before the

[13] Exclusive of Federal and State taxes.

[14] The term "daylight trading" is used to designate transactions for the purchase of a security balanced by transactions for the sale of such security or short sales effected and covered, within the course of a single trading session.

close of the same trading session he is not called upon to pay the purchase price; nor is he required to margin his purchase under the regulations thus far promulgated with respect to the extension and maintenance of credit for the purchasing or carrying of securities. He may purchase securities far in excess of his ability to carry so long as he evens his position by corresponding sales before the end of the trading session. As a consequence, insofar as they confine themselves to daylight trading, members are enabled to trade more extensively in relation to their capital than nonmembers. This advantage has, in some measure, been diminished by a rule in force on most exchanges prohibiting reckless and unbusinesslike dealings and by a rule adopted by all exchanges at the request of the Commission prohibiting purchases and sales for the account of a member which are excessive in view of his financial resources.[15] The sanctions of these rules are, of course, not applicable to nonmembers. But while it is true that a nonmember may likewise be a daylight trader, the firm through which he trades will be likely to require the deposit of adequate collateral to secure his transactions.[16]

Finally, the assertion that his presence on the trading premises gives the member on the floor substantial advantages over nonmembers is certainly not without substance. He sees instantly the outbreak of activity in a stock, the nature of the trading, and the direction of prices. He is in a position to discount or revise his market appraisals almost instantaneously. Upon the basis of information which he derives while on the floor he can increase, decrease, or cancel his orders more rapidly than a nonmember to whom the same information is only made available at a later time. This is particularly true when the "tape is late", i. e., when reports of transactions which are conveyed to the outside world by means of a ticker system are delayed because of unusual activity on the floor. During

[15] The text of the first rule as found in the Rules of the Governing Committee of the New York Stock Exchange is as follows:

"Reckless and unbusinesslike dealing is inconsistent with just and equitable principles of trade."

The text of the rule adopted upon the recommendation of the Commission is as follows:

"No member, and no firm of which he is a partner, and no partner of such firm shall effect on the exchange purchases or sales for any account in which such member, firm, or partner is directly or indirectly interested, which purchases or sales are excessive in view of the financial resources of such member, firm, or partner or in view of the market for such security."

A member guilty of conduct or proceeding inconsistent with just and equitable principles of trade is subject to suspension or expulsion. A violation of the second rule quoted carries a similar penalty.

[16] A firm is less likely to require the deposit of adequate collateral from a member than from a nonmember because of the former's ownership of an exchange membership. The rules of nearly all the important exchanges create a right in the nature of a lien on the membership of every member in favor of every other member and firm for the repayment of claims arising out of contracts entered into between the parties in the ordinary course of business; and this right is prior to the claims of nonmember creditors.

such periods the member on the floor has immediate knowledge of the latest prices while the nonmember must rely upon prices which may no longer be current. Since there are no news tickers on the floor, members contend that important developments in industry, finance, or politics affecting the course of security prices are revealed more expeditiously to persons outside the trading premises. It should be noted, however, that such tickers are found immediately adjacent to the trading premises, that news of this character may be relayed to members on the floor by their office partners or employees almost as quickly as it appears and that the reaction of the investing public as expressed in increased buying or selling orders is quickly manifest to members on the floor.

(*ii*) *Objection that floor trading is essentially speculative in character.*—It is generally conceded that floor trading is essentially speculative in character. In their dealings on the floor, members ordinarily trade at frequent intervals profiting from comparatively small price fluctuations. Their trading is preponderantly of the in-and-out variety, i. e., purchases are followed by corresponding sales and vice versa within the course of a trading session. They endeavor to even up their transactions as rapidly as possible.[17]

Between June 24, 1935, and December 14, 1935, floor trading in all stocks by members (other than specialists and odd-lot dealers in the securities in which they were registered) represented 9.3 percent of the reported purchases and sales on the New York Stock Exchange.[18] On the Curb Exchange, floor trading in all stocks by members (aside from specialists in the securities in which they were registered) constituted 5.5 percent of the reported purchases and sales between July 8, 1935, and December 14, 1935.[19]

[17] These statements are, of course, subject to the qualification that members with adequate resources purchase securities from time to time which they retain for purposes of investment. Their trading activities on the floor, however, are usually as described in the text.

J. Edward Meeker, late economist of the New York Stock Exchange, in The Work of the Stock Exchange, says of the floor trader:

"Hence, as a quick 'in-and-out' dealer in securities, he is essentially a product of the modern continuous market which by a process of evolution has been established on the exchanges. * * * It is, of course, a fact that he often buys and sells the same day, and, in consequence, does not usually need to receive or deliver securities but employs the Stock Clearing Corporation as his agent to look after these matters for him. * * *" (pp. 205–206).

In its work on The Security Markets, the Twentieth Century Fund, Inc., states with respect to the floor trader:

"Their usual trading technique is to seek a profit from a small price fluctuation and a quick turnover of a relatively large commitment. In other words, in their capacity as traders they prefer to 'go in and out' of stocks at frequent intervals and to even up their transactions each day, rather than to hold a position for any length of time beyond a trading session" (pp. 234–235).

[18] See Appendix C–1 for weekly volume and percentage figures. *Cf.* footnote 5, p. 12, *supra.*

[19] See Appendix C–2 for weekly volume and percentage figures. *Cf.* footnote 5, p. 12, *supra.*

The table in Appendix C–1 discloses that week by week the number of shares purchased by New York Stock Exchange members on the floor taken as a group approximated the number sold. For the entire period members bought 22,980,234 shares and sold 22,008,565 shares. The maximum divergence between their purchases and sales occurred during the week ending November 16 when they purchased on balance 182,070 shares.[20] During that week members bought a total of 1,386,340 shares and sold a total of 1,204,270 shares. The smallest divergence is noted for the week ending September 7th, when their total purchases were 617,066 shares and their total sales 616,050 shares, leaving them purchasers on balance of 1,016 shares.[21]

On the New York Curb Exchange, as indicated in Appendix C–2, members' maximum purchases on balance amounted to 48,240 shares for the week ending August 10 during which they bought a total of 166,560 shares and sold a total of 118,320 shares. The minimum divergence between their purchases and sales occurred during the week ending November 23, when their total purchases were 161,250 shares and their total sales 161,635 shares, leaving them sellers on balance of only 385 shares. For the whole period Curb members purchased 2,537,005 and sold 2,453,060 shares.

Corroborative evidence of the in-and-out nature of trading by members is found in data compiled by the Senate Committee on Banking and Currency. These data include the number of shares bought and sold by each member of the New York Stock Exchange during the month of July 1933. In the overwhelming majority of cases the reporting member, whether his trading was large or small, sold almost exactly the same number of shares as he bought. Similar data furnished by members of other exchanges demonstrate that this tendency of members to even their positions over comparatively short periods of time persists among members of practically all exchanges.

The extent to which the public interest may or may not be served by speculative activities on the exchanges is not now considered. This much is clear, however; that floor trading as a whole adds speculative buying and selling to the exchange market.

(*iii*) *Objection that floor trading accentuates price trends.*—The contention is frequently made that exchange members roam the floor in search of fruitful trading opportunities and that when activity breaks out in a security they are swift to gage the character of the orders and the direction of the price trend. If buying orders predominate and the trend appears to be upward they become purchasers, thereby increasing the demand for the security and accentuating the rise. *Per contra*, if the security is in supply and the trend appears to be downward, they become sellers and their sales increase the extent and velocity of the decline. Moreover, the argument is advanced that the extent to which members influence prices is not measured exclusively by their own trading but that such trading attracts buying or selling by others which in turn accentuates the price trend.

[20] Members are purchasers "on balance" when their total purchases exceed their total sales; they are sellers "on balance" when their total sales exceed their total purchases.

[21] It is probable that in individual cases, stock purchased was held for several days or for longer periods of time before being sold. It is unlikely, however, that such individual cases would appreciably change the general situation depicted in the text.

In testing the validity of these contentions, it is necessary to distinguish between the trend of prices from day to day or over a few days and the trend for longer periods. As previously shown, floor trading for the most part, is of the short-run, in-and-out variety and members customarily liquidate their positions as rapidly as profitable trading will permit. From this it has been argued that their purchases and sales tend to nullify each other in their effect upon the market and to exert little long-range influence upon prices.

Nevertheless, it should be borne in mind that floor trading may attract to the market many persons who are induced to buy or sell a security when it exhibits unusual activity or a pronounced tendency to rise or decline in price. This is particularly true of those who endeavor to forecast security prices upon the basis of information derived from the ticker tape. Thus, despite the fact that floor trading, as such, may exert little long-term influence, the trading of nonmembers attracted to the market by members' trading may materially accentuate price trends over longer periods.

A study was made to ascertain what relation exists between purchases and sales by members and day-to-day price trends. A tabulation was prepared of the daily changes in the combined position of New York Stock Exchange members resulting from transactions initiated while on the floor for a period of 144 days.[22] Such changes in position measure the extent to which members as a group were buyers or sellers on balance each day. A comparison was then made between these changes in position and the daily changes in the Standard Statistics Daily Stock Price Index. It was revealed that out of 84 days when the Index advanced, members, as a group, purchased more than they sold on 60 days and sold more than they purchased on 24 days. Out of 55 days when the Index declined, they purchased more than they sold on 25 days and sold more than they purchased on 30 days.[23] The trades of members on the floor, therefore, were with this daily trend of prices on 90 days or 64.8

[22] See Appendix D–1.

[23] Five days when the price index remained unchanged were eliminated from consideration. Members' purchases exceeded sales on 3 of those days and their sales exceeded purchases on 2.

percent of the time and against this daily trend on 49 days or 35.2 percent of the time.[24]

Out of 56 days when the Index changed one-half point or less, members traded with the trend on 29 days and against it on 27 days. Out of the remaining 83 days when the Index changed more than one-half point, they traded with the trend on 61 days and against it on 22 days. In other words, when fluctuations in price were small, floor trading was neither preponderantly with nor preponderantly against the trend, but when the market definitely moved in one direction or the other, floor trading was with the trend 73.5 percent of the time.

Out of 52 days when the aggregate position of members varied less than 10,000 shares, their trading on the floor paralleled the trend on 26 days and opposed it on 26 days. Out of 87 days when their aggregate position varied more than 10,000 shares, they moved with the trend on 64 days, or 73.6 percent of the time and against it on 23 days, or 26.4 percent of the time. Thus, when their position changes were small, such changes displayed no significant relation to the trend; but, when their changes in position were large, their trading on the floor was definitely with the trend.

A test was made to determine the direction of floor trading when a substantial change occurred both in the price of securities and in the position of members. Out of 24 days when the Index rose or fell one point or more and members' aggregate position increased or decreased by 25,000 shares or more, it was found that their trading on the floor was with the trend on 21 days and against it on 3 days, or, expressed in percentages, 87.5 percent and 12.5 percent of the time, respectively.

A similar study of members' trading on the floor of the New York Curb Exchange for 133 days shows that such trading bore a slightly closer relation to the daily trend of prices than on the New York Stock Exchange.[25] Their daily changes in position were with the price trend on 87 days or 68 percent of the time and were opposed to it on 41 days or 32 percent of the time. Curb members displayed the same inclination to trade with the trend when prices moved emphatically in one direction or the other and when their changes

[24] The term "trend" as employed in the study of floor trading on the New York Stock Exchange has reference to the trend as indicated by the Standard Statistics Daily Stock Price Index.

The relationship between changes in members' position and changes in the price index shown in Appendix D–1, is confirmed by calculating the correlation of floor-traders' daily balances with daily changes in the New York Herald Tribune composite average. Such correlation yields a coefficient of +0.55. The probability of this correlation being spurious is less than 0.01.

[25] See Appendix D–2. The term "trend" as employed in the study of floor trading on the New York Curb Exchange has reference to the trend as indicated by the New York Herald Tribune average of 25 New York Curb Exchange stocks.

in position were of a substantial nature. On 25 days when the price index moved more than 0.2 of a point and their changes in position were upward of 5,000 shares, members on the floor traded with the trend practically every day.[26]

While it appears, from the foregoing analysis, that members on the floor trade with the daily price trend more frequently than not,[27] the question remains whether floor trading initiates or follows the trend of prices. Instances have been brought to the Commission's notice in the course of its investigations in which price movements were initiated by the activities of members on the floor. Other instances have been noted in which the trading of members followed the trend. The evidence points both ways and the truth probably lies between. In any event it is evident that floor trading on most of the days under review accentuated the trend of market prices.

The foregoing analysis deals with the relation on each exchange between floor trading in all stocks considered as a group and the price movements of all stocks as depicted by a standard price index. In addition to the statistical data upon which the analysis is based, cases have been noted and more could undoubtedly be adduced in which the trading of members on the floor in particular stocks did not accentuate the price trend but acted rather as a stabilizing factor. To a consideration of such cases, this report will return below.[28]

It is pertinent to observe at this point that since the objections to floor trading hereinabove described grow out of the exercise of the dealer function exclusively, they would not be obviated by compelling members to elect between the broker and dealer functions. These objections might be met by the complete suppression of floor trading on exchanges, provided that trading off the floor did not develop characteristics of a like nature. Before considering the feasibility of such a step an attempt will be made to describe the contentions which have been urged in favor of floor trading.

b. Analysis of Contentions in Favor of Floor Trading.

(i) *Contention that floor trading contributes to the continuity of the exchange market and increases the liquidity of exchange securities.*—An exchange market possesses the quality of continuity if under

[26] The use of 0.2 of a point and 5,000 shares as standards for measuring substantial changes in price and position, respectively, is more or less arbitrary. These standards were selected because a change of 0.2 of a point in the price index and of 5,000 shares in members' positions on the New York Curb Exchange corresponded roughly with a change of 1 point in the price index and 25,000 shares in members' positions on the New York Stock Exchange.

[27] It is conceivable that an analysis of the relation between floor trading and the price trend in every stock individually might yield a total result contrary to that reached in the text; but there is slight likelihood of any such contrary result, whereas the task of making such an analysis would be enormous and was, in fact, impossible from the data on hand.

[28] See discussion under contention (ii), p 23, *infra*.

normal conditions, a given security can readily be purchased or sold at a price varying but slightly from the last previous quotation. A continuous market in turn imparts to securities increased liquidity.[29]

The presence in the market of a group of professional dealers, if their dealings are properly restrained and distributed, has a tendency to insulate the market to some extent against price fluctuations caused by the whim of a particular individual or the necessities of another. As has heretofore been shown, members' trading considerably augments the activity of the markets. On the New York Stock Exchange during the period studied, specialists contributed 9.4 percent, other members on the floor 9.3 percent, and members off the floor, 5.3 percent of the total volume. Activity, especially where it mirrors a genuine clash of judgment, promotes continuity and increases liquidity and consequently the trading of members can fairly be said to contribute to these qualities in some degree; but whether this contribution is important enough to outweigh the objections to such trading as it is now carried on is another question.

The extent to which floor trading contributes to the continuity of the market is gaged not merely by its volume but by the type of stocks among which that volume is distributed. In active stocks, it would seem that floor trading might be eliminated without materially impairing the continuity of prices, since the public interest in such stocks is sufficiently broad to insure a continuous market. Floor trading might add greatly to the continuity of the market for inactive stocks, but it is precisely these stocks that members avoid because they offer little opportunity for profitable in-and-out trading.

The bulk of floor trading is found in active stocks which enjoy wide public interest. This is evidenced by the fact that out of a total of 45,195,404 shares bought and sold by New York Stock Exchange members on the floor during 25 weeks, their trading to the extent of 9,663,850 shares was confined to 20 active stocks.[30] Since 1,175 stocks were listed on the Exchange as of December 1, 1935, over 21 percent of all floor trading took place in 1.7 percent of the total number of stocks.

This concentration was even more pronounced on the New York Curb Exchange. Over a period of 23 weeks floor trading aggregated 4,990,065 shares in all stocks, of which transactions in only 8 stocks accounted for 2,365,450.[31] As of December 15, 1935, 1,085 stocks were listed or admitted to unlisted trading privileges on the Curb Exchange and hence upward of 47 percent of all floor trading occurred in 0.7 percent of the total number of stocks.

[29] A discussion of these qualities and their significance is contained in pt. III, ch. III, *infra*. The desirability of any contribution to these qualities by any type of member trading must be viewed in the light of the considerations there detailed.

[30] See Appendix E–1.

[31] See Appendix E–2.

That the relative amount of floor trading is higher in active stocks than in the rest of the market is further confirmed by a comparison between the percentages of floor trading in the 20 active stocks in question and in all other stocks on the New York Stock Exchange. For a period of 25 weeks floor trading in the 20 active stocks amounted to 14.8 percent of the total reported purchases and sales in those stocks; whereas, floor trading in all other stocks amounted to 8.5 percent of the total reported purchases and sales in such stocks.[32] On the New York Curb Exchange, over substantially the same period, floor trading in 8 active stocks constituted 16.9 percent of the reported purchases and sales in such stocks as against 3.5 percent in all other stocks.[33] On both exchanges, therefore, the percentages of members' floor transactions in active stocks were relatively higher than in the remaining stocks.

The percentage of floor trading in each of the 20 active stocks on the New York Stock Exchange was compared with the percentage of floor trading in each of the others. It was found that, with few exceptions, the greater the activity in a stock the greater the relative amount of floor trading.[34]

Floor trading tended to increase in volume on the New York Stock Exchange at the same rate as general market activity increased. In other words, the percentage of floor trading to the activity of the market as a whole during the period was a more or less constant factor.[35]

In short, it was found that floor trading was principally centered in active stocks; that the greater the activity in a stock, the greater the relative amount of floor trading; and that such trading constituted a more or less constant percentage of the total volume of trading.

(ii) *Contention that floor trading contributes to the stability of market prices.*[36]—An important service which the member on the floor is purported to perform is that of preventing or mitigating sudden and unreasonable price fluctuations. Although he professes no responsibility for the maintenance of a fair and orderly market, it is contended that he lends stability to current prices by supplying stock to check temporary, unwarranted advances and by purchasing stock to check sudden and unreasonable declines.

[32] See Appendix E–1 for comparative figures. *Cf.* footnote 5, p. 12, *supra*.

[33] See Appendix E–2 for comparative figures. *Cf.* footnote 5, p. 12, *supra*.

[34] See Appendix E–3. *Cf.* footnote 5, p. 12, *supra*.

[35] See Appendix E–4 for method of determining relation between volume of floor trading and activity of the market.

[36] The quality of stability should be distinguished from that of continuity which is defined in contention (i), *supra*, p. 21. Stability connotes the maintenance of a fairly uniform price level over a period of time; continuity the absence of wide differentials between one sale and the next.

At any given moment, the demand for a security is unlikely to coincide with the supply at the current price. The interposition of members who trade for their own account allegedly lessens the fluctuations which would otherwise result from the ebb and flow of public buying and selling and promotes equilibrium between the forces of demand and supply from hour to hour and day to day.

This contention on behalf of floor trading gains some support from the evidence at hand. As has been indicated, floor trading in all stocks regarded as a group usually accentuates rather than mitigates day-to-day fluctuations in price.[37] Nevertheless, on approximately one-third of the days under observation, such trading moved against the trend and presumably exerted a stabilizing effect on prices.[38]

The Commission has been furnished with illustrations of the manner in which members on the floor have stabilized the market during periods of stress occasioned by unexpected events affecting particular securities or the market as a whole, by supplying bids or by purchasing stock when, temporarily, no other bids were available. For example, on February 17, 1936, the United States Supreme Court rendered a decision which was generally construed at the time as unfavorable to public utility corporations.[39] Upon the rendition of the decision, the securities of such corporations and others were offered for sale in tremendous volume. For a time the volume of selling orders in several important stocks was so great and their prices threatened to decline in so precipitous a fashion that it was deemed necessary by exchange officials to suspend trading temporarily. The officials thereupon called upon members on the floor to assist the specialists in stabilizing the market by bidding for stock at reasonable differentials from previous prices. Bids interposed by such members, it was pointed out, had the effect of steadying the market, encouraging holders to withdraw their offerings and preventing further sharp declines which might have resulted in widespread distress liquidation.

c. Summary of Considerations Affecting Floor Trading.

From the foregoing analysis it appears that:

(1) Members who trade for their own account while on the floor enjoy certain competitive advantages over the general public, in that (*a*) the cost of effecting purchases and sales is materially lower for them than for nonmembers; (*b*) they can trade extensively with less capital than nonmembers; and (*c*) their presence on the floor enables them to make and revise their market appraisals more promptly than nonmembers upon the first manifestation of any trend or shift in trend.

(2) Floor trading is predominantly of the in-and-out variety.

(3) Members on the floor, during the period studied, traded with the daily price trend more frequently than against it, and thus tended to accentuate the trend of market prices on a majority of the days considered. It is not clear, however, to what extent members on the floor initiated price trends and to what extent they merely followed such trends.

(4) Trading by members for their own account may fairly be said to contribute in some measure to the continuity of the market and to the liquidity of securities. The utility of floor trading in this regard was materially impaired during the period under observation by the fact that it was principally centered in active securities.

(5) Floor trading tended to stabilize the market during about one-third of the period under observation.

[37] See discussion under objection (iii), p. 18, *supra, et seq.*

[38] See Appendices D–1 and D–2.

[39] *Ashwander et al.* v. *Tennessee Valley Authority,* 80 U. S. (law ed.) 427.

4. The Problem of the Specialist.

The specialist system was in operation on 9 of the 23 national securities exchanges registered with the Commission on January 1, 1936.[40] As of that date, 322 specialists were registered on the New York Stock Exchange and approximately 290 on the other 8 exchanges where the system existed.[41]

a. Functions of the Specialist.

The specialist characteristically combines the functions of broker and dealer. As a broker he effects transactions for the account of other members and their customers in a particular stock or group of stocks in which he is registered as a specialist. As a dealer he effects transactions for his own account in such stock or stocks.[42] In contrast to other members of the exchange who move about freely, the specialist is stationed at a fixed post on the trading premises. Every stock dealt in on the New York Stock Exchange has at least 1

[40] Baltimore Stock Exchange, Chicago Stock Exchange, Los Angeles Stock Exchange, New York Curb Exchange, New York Stock Exchange, Philadelphia Stock Exchange, Pittsburgh Stock Exchange, San Francisco Curb Exchange, and San Francisco Stock Exchange.

[41] Although precise knowledge of the origin of the specialist system is lacking, the Twentieth Century Fund, Inc., in its work on The Security Markets states:

"The practice of specializing in one or a few issues of stock on the part of floor members is of comparatively recent origin. As late as 1910 the great mass of floor members, other than those representing commission firms, followed the practice of moving to any post which at the moment appeared attractive. There were at that time a considerable number of specialists in round lots and some who specialized in odd lots. But these areas were not clearly marked. Often an individual would specialize in both round lots and odd lots and, if time or opportunity afforded, he would do both brokerage business and trading on his own account in other issues. With the rapid growth in the number and size of industrial corporations, particularly after the war, there developed a much more urgent need for permanent representation in each stock; and the volume of business offered to one who would at all times represent an issue made this an attractive type of business. As a result, more and more members set themselves up as brokers and traders specializing in individual issues until by 1930 there were over 300 following this plan" (p. 405).

[42] The specialist may also deal for his own account in securities other than those in which he is registered. The present discussion, however, is concerned only with the activities of the specialist in securities in which he specializes.

specialist; stocks which enjoy considerable trading activity have as many as 6 competing specialists; and some specialists handle as many as 50 stocks.

The specialists occupy the pivotal position in the market for the stocks in which they specialize. As buyers and sellers for their own account or as agents in the execution of orders for others, specialists actually purchase and sell a substantial percentage of all stock traded in on the exchange and actually participate in a great majority of all trades. Even with respect to those transactions in which they are not parties, their bids and offers serve as standards for the appraisal of the market by others.

The specialist as broker is entrusted with various kinds of orders including market orders, limited price orders and stop-loss orders.[43] A brief description of each of these types of orders will assist in an understanding of the specialist's brokerage function.

A market order is an order to buy or sell a stated amount of a security at the most advantageous price obtainable as promptly as reasonably practicable. The number of market orders executed by the specialist is comparatively insignificant.[44] This is attributable to the fact that under normal trading conditions commission brokers can execute such orders expeditiously without the aid of the specialist. The market orders entrusted to the specialist are generally those most difficult to handle either because they involve inactive stocks or because they are to be executed at the opening of a trading session.

A limited price order is an order to buy or sell a stated amount of a security at a specified price or at a better price if obtainable. A limited price order to buy fixes the maximum price which the customer will pay; a limited price order to sell fixes the minimum price which the customer will accept. Such an order carries authority to buy at a lower price than the maximum or to sell at a higher price than the minimum. The bulk of the specialist's brokerage business consists of executing limited price orders.

A stop-loss order is an order to buy or sell a stated amount of a security at the market if and when a transaction occurs at a designated price. The purpose of such an order may be to limit the loss on an open commitment; to safeguard a profit on an open commitment; or to insure the making of a new commitment when a specified price level is reached. The most common circumstances under which

[43] Market orders are sometimes known as orders to buy or sell "at the market"; limited-price orders are also known as "limited orders"; and stop-loss orders are frequently called "stop orders" or orders to buy or sell "on stop." The latter should be distinguished from "stopped sales" which are defined in the glossary, *infra*.

[44] See statement of Raymond Sprague, specialist and member of the New York Stock Exchange at hearing on S. 2693 before the Senate Committee on Banking and Currency, 73d Cong., 2d sess., pt. 15, p. 6784.

stop-loss orders to buy or sell are employed can best be illustrated by a series of hypothetical cases.

In each of the following illustrations the current market price of a stock is assumed to be 50.

A, who holds 100 shares, desires to limit his loss or protect his profit if the price should decline. He therefore orders his broker to "sell 100 shares at 48—stop." This order is transmitted to the specialist to be executed by him at the best price obtainable but only if and when a transaction takes place at 48.

B, who is short 100 shares, desires to limit his loss or protect his profit if the price should rise. He therefore orders his broker to "buy 100 shares at 52—stop." This order is transmitted to the specialist to be executed by him at the best price obtainable but only if and when a transaction takes place at 52.

C, who may be neither long nor short of the stock, desires to buy 100 shares if the price should break through a so-called resistance point above the present market price. This desire is prompted by his belief that if the price penetrates the resistance point it will continue to rise. He therefore orders his broker to "buy 100 shares at 52—stop." If and when a transaction occurs at 52, the specialist will execute the order as a market order to buy.

D, who may be neither long nor short of stock, desires to sell 100 shares short if the price should break through a resistance point below the present market price. This desire is prompted by his belief that if the price penetrates the resistance point it will continue to decline. He therefore orders his broker to "sell 100 shares at 48—stop." If and when a transaction occurs at 48, the specialist will execute the order as a market order to sell.

The price at which a stop-loss order is executed, it should be noted, is not necessarily the price designated in the order. When a transaction occurs at the designated price the stop-loss order becomes a market order and the obligation of the specialist is merely to execute it at the most advantageous price obtainable as promptly thereafter as is reasonably practicable. Orders of this type are almost entirely handled by the specialist.

When a specialist receives an order for execution at a price above or below the current market, he records it in his book. The specialist's book discloses, with respect to each order he has accepted for execution, whether such order is to buy or sell, the price and amount of the stock to be bought or sold, the name of the firm or individual from whom the order was received, the period of time during which the order is to be effective, and if the order is a stop-loss order, an appropriate notation to that effect. Such market orders as the specialist handles are not inscribed in his book.[45]

[45] The competitive advantages which the specialist enjoys by virtue of his possession of the book are discussed at p. 30, *et seq.*, *infra*.

Many situations arise which impel exchange members to entrust their orders to the specialist for execution. A broker may have received more orders than he is able to handle without the assistance of the specialist. Frequently the price at which a customer has authorized his broker to buy or sell is away from the current price and it may not be reached for hours or even days. By entrusting a limited or stop-loss order to the specialist for execution a broker relieves himself of the burden of waiting at one post until the market reaches the designated price. Where a broker holds limited and market orders in different stocks, recourse to the specialist for execution of the limited orders is a virtual necessity. A member with orders to buy or sell at the opening of the market ordinarily finds it advisable to entrust the orders to the specialist if the opening promises to be very active or if the orders involve stocks at different posts. Members frequently employ the services of a specialist in order to secure the benefit of his knowledge, information, and experience. In all such cases the assistance of the specialist is of material benefit to other members and their customers, and there seems no reason to doubt that in the exercise of the brokerage function the specialist performs a useful service.

The problems with regard to the specialist grow out of his dealer activities. The dominant position which he occupies upon exchanges has concentrated attention upon the question of the economic value of these activities. A specialist, like every other broker, is forbidden to act as broker and dealer in the same transaction.[46] Critics of the existent specialist system contend that this prohibition is insufficient and that the incidence of specialists' dealings upon the market in general and upon the execution of customers' orders in particular renders it essential that they be prohibited altogether from acting as both broker and dealer. Advocates of the present system assert that the continuity of exchange markets and the liquidity of securities traded thereon are due in large part to the exercise of the dual functions by the specialists. An analysis of these conflicting contentions is appropriate at this point.[47]

[46] Under the rules of the larger exchanges a specialist is forbidden to act as both broker and dealer in the same transaction but he may purchase stocks named in a customer's order for his own account, provided he first endeavors to sell them for the customer in the open market at one-eighth higher than his own bid, and provided the price is justified by the condition of the market and the transaction is ratified by the member who gave him the order. Similarly, he may supply stocks named in a customer's order from his own account, provided he first endeavors to buy them for the customer in the open market at one-eighth lower than his own offer and subject to the same provisos respecting the condition of the market and ratification. In such cases he is regarded as acting as a dealer and not as a broker, and he cannot charge a commission. The member who gave him the order may repudiate the transaction if he is dissatisfied with the capacity in which the speciallist acted but in practice this is rarely done.

[47] The ensuing analysis relates to the dealings of the specialist in the securities in which he is registered as a specialist. Insofar as any specialist may deal in other securities his activities have already been discussed under the objections to, and contentions in favor of, floor trading, *supra*.

b. Analysis of Objections to Specialist System.

(*i*) *Objection that the specialist has the advantages of special knowledge and superior bargaining power in dealing for his own account in the securities in which he is registered.*—The specialist who trades for his own account shares with the other members on the floor the competitive advantages which they enjoy over the nonmember public.[48] Since he executes his own orders, he does not pay any commissions but merely pays a small clearing charge if he is not a clearing member. His trading being chiefly of the "daylight" variety, he may, in the manner of other members on the floor, trade more extensively in relation to his capital than a nonmember.[49] By virtue of his presence on the floor he is in a position to act more expeditiously than nonmembers on the basis of information affecting the market for the securities in which he specializes. Although the specialist is restricted in his movements to the area around his post and therefore does not possess the same opportunities as other members to view the entire market, this very lack of mobility keeps him in continuous and intimate contact with the market for the securities which he handles and enables him to become familiar with the effect of periodic, seasonal, and occasional phenomena on the prices thereof.

The great volume of shares which are bought and sold by the specialist and the number of trades in which he participates would appear to vest him with special knowledge of the market for the securities in which he specializes. The volume of shares bought and sold for their own account by New York Stock Exchange specialists in all stocks in which they were registered between June 24, 1935, and December 14, 1935, amounted to 9.4 percent of all reported purchases and sales.[50] Figures with respect to the purchases and sales executed by them for the account of others are not available for all stocks, but such figures have been received by the Commission for 88 representative stocks. Between June 24, 1935, and November 2, 1935, the specialists bought and sold for their own account 9,228,300 shares, or 10.6 percent of the total reported purchases and sales in those stocks. They also bought and sold for the account of others 27,526,500 shares, or 31.7 percent of the total. Thus, in 88 stocks the specialists actually handled purchases and sales involving 42.3 percent of the total reported purchases and sales in such stocks.[51]

These figures show the number of shares bought and sold by specialists but do not take into account the number of trades in

[48] *Cf.* p. 15 *et seq.*, *supra*.

[49] See discussion, p. 15, *supra*. See also footnote 15, p. 16.

[50] See appendix F–1 for weekly volume and percentage figures. *Cf.* footnote 5, p. 12, *supra*.

[51] See appendix G–1 for weekly volume and percentage of transactions by specialists for their own account and for the account of others in 88 stocks. *Cf.* footnote 5, p. 12, *supra*. For names of stocks see appendix I–1.

which they participated. A specialist who was a purchaser in one trade and a seller in another was a party to both although only half the number of shares bought and sold is properly attributable to him. Some idea of the number of trades in which specialists participate was derived from a count of all transactions on the New York Stock Exchange in 19 stocks during 57 trading sessions.[52] The reported purchases and sales in those stocks for the period aggregated 10,674,200 shares, of which the specialists bought and sold for their own account and for the account of others a total of 39.6 percent. By actual count, it was ascertained that out of a total of 31,724 trades, the specialists, either as buyers or sellers for their own account or the account of others, participated in 23,702 trades, or 74.7 percent of the total.

In addition to the foregoing advantages, the specialist on several exchanges is possessed of exclusive information derived from orders entrusted to him for execution and entered in his "book." By rule or established practice on the larger exchanges, the specialist is prohibited from divulging any information in regard to such orders except to a duly authorized official of the exchange.[53]

Knowledge of limited orders below and above the market may be a valuable guide to the experienced specialist in his personal trading. Thus, when he holds substantial bids below the market, he can purchase for his own account at a fraction above the highest bid with reasonable assurance that he will be able to liquidate his position without substantial loss, should the market move against him. When offers above the market are scarce, he has some indication that an upward movement will meet little resistance and he may govern his trading accordingly. With reference to stop-loss orders, a settled practice on the larger exchanges forbids any member from initiating any transaction which causes such an order to become a market order or from disclosing the existence of any such order to any person except a member to whom he entrusts it for execution. Nevertheless, the specialist's knowledge of stop-loss orders on his book may enable him to gage the unsettling effect on the price structure should transactions occur which would cause such orders to

[52] Material contained in 4–H reports. See footnote 10, p. XVIII, *supra*, for names of stocks.

[53] The charge has been made that prior to the passage of the Securities Exchange Act of 1934, this rule or practice was frequently violated. See "Security Speculation", John T. Flynn (1934), p. 232.

Section 11 (b) of the act provides:

"* * * It shall be unlawful for a specialist or an official of the exchange to disclose information in regard to orders placed with such specialist which is not available to all members of the exchange, to any person other than an official of the exchange, a representative of the Commission, or a specialist who may be acting for such specialist; but the Commission shall have power to require disclosure to all members of the exchange of all orders placed with specialists, under such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors."

become market orders. Frequently also, a specialist knows or can ascertain the source of a large order, particularly if he maintains personal contact with the officials or principal stockholders of corporations in the securities in which he specializes or if he can identify brokers acting for them.

It has been denied that knowledge of the orders on his book is advantageous to the specialist in trading for his own account. Among the reasons advanced in support of this position are:

(1) The fact that the orders held by the specialist involve only a small portion of the outstanding stock;[54]

(2) The fact that the specialist has no knowledge of orders overhanging the market which are not entrusted to him and which may be of a character directly opposite from those which he holds;[55]

(3) The fact that the orders held by the specialist are subject to cancelation and modification at any time before they are executed; and

(4) The fact that the specialist is bound to execute his customer's orders before he may trade for his own account.[56]

The validity of these reasons will be considered *seriatim*.

(1) It may readily be granted that the orders held by the specialist at a given time involve only a small portion of the stock outstanding in any sizable issue. This fact, however, is scarcely relevant to the question of whether knowledge of the orders on his book is advantageous to the specialist in judging the immediate direction of the market in a particular issue. Market activity, under normal trading conditions, takes place not in the entire outstanding issue of a security but in that portion known as the floating supply. The floating supply is composed principally of shares registered in the names of brokers or nominees, as distinguished from those registered in the names of the beneficial owners. In many stocks the floating supply constitutes only a fraction of the number of shares outstanding. Since the bulk of trading consists of the sale and resale of the floating supply the relative importance of the orders on the specialist's book should be measured in relation to the floating supply rather than in relation to the total amount of stock outstanding. Thus measured, the orders handled by the specialist are likely to assume a far greater degree of significance. Such orders, while not indicative

[54] Statement of Raymond Sprague, specialist and member of the New York Stock Exchange, at hearing on S. 2693 before the Senate Committee on Banking and Currency, 73d Cong., 2d sess., pt. 15, p. 6794. Similar statement at hearing on H. R. 7852 before the Committee on Interstate and Foreign Commerce of the House of Representatives, 73d Cong., 2d sess., p. 439.

[55] Statement of Raymond Sprague, specialist and member of the New York Stock Exchange, at hearing on S. 2693, 73d Cong., 2d sess., p. 15, pp. 6803, 6820. Similar statement by Paul Adler, specialist and member of the New York Stock Exchange, at p. 6795. Similar statement by Mr. Sprague at hearing on H. R. 7852, 73d Cong., 2d sess., p. 435.

[56] Statement of Richard Whitney, former president of New York Stock Exchange, at hearing on S. 2693, 73d Cong., 2d sess., pt. 15, pp. 6635, 6661. Similar statement at hearing on H. R. 7852, 73d Cong., 2d sess., pp. 215, 216, 221.

of the trend over a long period of time, do indicate the immediate sensitivity of the market for the stock which the specialist handles.

(2) Specialists have asserted that despite their exclusive knowledge of buying and selling orders on their books, their judgment of the probable price trend is imperfect because they do not know the character of orders held by other brokers and cannot foretell the type of orders which will be brought into the market by a change in price. The orders not entrusted to them may be of a character opposite from those which they hold, and it is contended that the former rather than the latter generally show the trend. In corroboration of this argument, they point out that a common phenomenon of the market in some stocks is that prices advance in spite of the fact that the specialist's book contains a preponderance of selling orders, and decline in spite of the fact that the specialist's book contains a preponderance of buying orders. Thus, it is argued, the specialist whose trading is influenced merely by the orders which he holds is often wrong.

The argument is scarcely convincing in view of the great volume of orders actually handled by the specialist, the great number of transactions to which he is a party, his strategic location at the center of the market, and his not infrequent knowledge of the sources of buying and selling orders. An experienced specialist can swiftly discern the nature of many orders held by others and can make due allowance for such orders. If it is a common phenomenon of the market in the stock which he handles that prices rise when selling orders preponderate on his book and decline when buying orders preponderate on his book, knowledge of that phenomenon gives him a decided advantage in trading for his own account.

Moreover it should be emphasized that the specialist in his ordinary trading is concerned with the immediate condition of the market. The peculiar advantages which possession of the book affords may be temporary in nature; but they are adequate to enable him to trade in and out for quick profits. The risk that orders overhanging the market may be of an unexpected character is minimized by the specialist's ability to change his position with celerity.

(3) Unexecuted orders held by the specialist are subject to cancelation or modification at any time. Under normal trading conditions, however, that fact does not materially enhance his risks. Some changes in his orders can be anticipated and discounted by the experienced specialist in the normal course of his business. Others resulting from the publication of favorable or unfavorable news can be readily forseen. Those which he is unable to predict are as likely to confirm as to invalidate his judgment of the immediate direction of the market. On the other hand, important developments in finance, politics, or industry, or a shift in the sentiment of the

investing public may result occasionally in sudden and substantial changes in the orders held by the specialist. Such rare developments of course might impair the soundness of the specialist's judgment in taking a position.

(4) The allegation that the specialist is bound to execute his customer's orders before he may trade for his own account is only true in a limited sense. By the rules of the exchanges, the specialist, like any other member is prohibited from buying a security for his own account while he holds a customer's unexecuted order to purchase such security at the market or from selling a security for his own account while he holds a customer's unexecuted order to sell such security at the market. He is also prohibited from buying a security for his own account at or below the price at which he holds an unexecuted limited price order to buy such security for a customer or from selling a security for his own account at or above the price at which he holds an unexecuted limited price order to sell such security for a customer.

Hence, when a specialist accepts a market order he disqualifies himself from competing with his customer at any price. As heretofore pointed out, however, the number of market orders handled by the specialist is comparatively insignificant, the bulk of his brokerage business consisting of the execution of limited price orders. While a specialist is prohibited from purchasing for his own account at or below the price at which he holds a limited-price order for a customer, he is permitted to purchase for his own account above such price. He is also permitted to sell for his own account below the price at which he holds an unexecuted limited-price order to sell for a customer. In brief, where limited-price orders are concerned, no restriction exists upon the specialist's power to outbid or undersell his customers.

(*ii*) *Objection that the specialist by his personal trading stimulates public interest and encourages speculation.*—Since the specialist under ordinary circumstances is willing to trade either as buyer or seller, his purchases and sales may be expected to be chiefly of an in-and-out character which tend to balance each other over brief periods. This view is generally confirmed by the specialists themselves. It may be further confirmed by a glance at Appendix F–1. During the week of greatest divergence between their purchases and sales (week ending Aug. 24) New York Stock Exchange specialists sold on balance 122,040 shares out of a total of 2,129,500 shares bought and sold by them. During the week of smallest divergence (week ending Oct. 5) they bought on balance only 20 shares out of a total of 1,687,020 shares bought and sold by them. Over the 25-week period they bought a total of 22,604,106 shares and sold a total of 22,657,438 shares, leaving them sellers on balance of 53,332 shares.

The argument is frequently made that the specialist has both a motive and special opportunities for attracting public interest to the stock in which he specializes. Since an increase in the volume of public orders brings augmented commissions to the specialist, he has a motive for encouraging public participation in the market for his stock. He also has special opportunities to attract public interest by virtue of his possession of the book.[57] Fortified with information concerning the bids below and offerings above the market, he knows the most propitious time to "clean up the book" by filling all bids or taking all offerings at a certain level or at successively higher or lower levels. By trading with his book, as he is permitted to do, he can make new highs or new lows, remove offerings or bids from the market which might otherwise check an upward or downward movement, or simply "churn" the market to draw public attention. These practices, it is argued, can be eliminated only by divorcing the broker and dealer functions so far as the specialist is concerned.

Evidence of the existence of such practices was plentiful prior to the passage of the Securities Exchange Act of 1934. Participation by specialists in manipulative operations, the success of which depended upon stimulating public demand for the securities involved, was fairly common. Specialists profited from these operations not only by virtue of their participation as principals but also by virtue of the resultant increase in the volume of their commission orders. Manipulative practices of this character were rendered unlawful by the Exchange Act. Prior to its enactment, the large exchanges had adopted a rule prohibiting any specialist from participating in a pool dealing or trading in the stock in which he was a specialist. Since the enactment of the statute, so far as the Commission has been able to determine, the number of instances in which specialists by their transactions in the securities in which they are registered have raised or depressed prices or created active trading for the purpose of attracting public buying or selling have been comparatively few.

In June 1935, or soon thereafter, the exchanges adopted 16 rules which were formulated by the Commission to regulate trading practices. Several of these rules were expressly designed to eliminate those practices growing out of the dealer activities of specialists which have been described above and which were not prohibited by the statute. These rules will be discussed in detail at a later point in this report.[58]

[57] The competitive advantages which the specialist enjoys by virtue of his possession of the book are discussed at p. 30 et seq., *supra*.

[58] See p. 60 et seq., *infra*.

(*iii*) *Objection that the specialist's dealings in the securities in which he is registered accentuate the price trend of such securities.*— The opinion is current that the specialist's dealing for his own account in the securities which he handles are directed and controlled by his extensive information concerning the condition of the market and that in view of his advantages in forecasting the trend such dealings will usually accentuate the trend. This is undoubtedly true of the type of specialist who trades only when presented with opportunities for immediate profits. Some specialists, however, profess to be willing to trade at any time on either side of the market, regardless of its trend, in order to maintain a stable and continuous price level, which in turn stimulates the good will of commission brokers who dislike a widely fluctuating market. Specialists in the latter category, while conceding that the ultimate end of their personal dealings is profit, claim that they are more than compensated for losses sustained in maintaining a continuous and stable market by the resultant increase in their commission business. Unlike other persons who seek the lowest possible purchase price, the highest possible selling price, and the maximum profit in every transaction, many specialists allegedly regard each transaction merely as part of a continuing business, the ultimate success of which depends upon the kind of service they render to the public.

In its influence upon the day-to-day trend of prices the trading of specialists in the stocks in which they are registered appears to manifest different characteristics from those of floor trading.[59]

In each of 88 selected stocks on the New York Stock Exchange a comparison was made between the daily price change and the daily change in the position of the specialist for 111 trading sessions, in order to determine whether such specialists were buyers or sellers on balance as the price rose or fell.[60] This comparison revealed that in the 88 stocks taken together, the changes in the specialists' position were against the daily price trend 56 percent of the time and with the daily price trend 44 percent of the time.

In 59 of the 88 stocks the specialists' changes in position were against more frequently than with the daily trend of prices. Excluding from consideration the days when no trend was manifest or no change occurred in the specialists' position in this group of stocks, the specialists traded against the trend 60.7 percent of the time and with the trend 39.3 percent of the time. In 24 stocks they traded with the trend on more days than against it. Again excluding those days

[59] *Cf.*, p. 18 *et seq.*, *supra*.

[60] See Appendix H-1. This type of comparison was made possible by the fact that individual reports were received from the specialist in each of the 88 stocks showing his purchases and sales daily in each stock. From this the daily change in the position of each specialist could be determined. Comparable data were not received with respect to the trading of other members of the exchange.

when there was no trend or when specialists did not change their position in this group, their trading was with the trend 55.4 percent of the time and against it 44.6 percent of the time. In three stocks the number of days on which specialists traded against the trend was the same as the number on which they traded with the trend. In the two remaining stocks no changes occurred in the specialists' position during the period under consideration.[61]

It appears from this quantitative analysis that the specialists in about two-thirds of the stocks under review traded against the trend on a majority of the days; that the specialists in about one-third of the stocks under review traded with the trend on a majority of the days; and that taking all the stocks together, the specialists traded against the trend the larger portion of the time.

c. Analysis of Contentions in Favor of the Specialist System

(*i*) *Contention that the specialist by his trading contributes to the price continuity and increases the liquidity of securities in which he is registered.*—Specialists, above all members, claim that their personal trading enhances the price continuity and increases the liquidity of the securities which they handle. They purport to stand ready at all times within the limitations of their capital, to buy or sell reasonable quantities of the stocks in which they specialize at small variations from the preceding price and to narrow the range or "spread" between bid and asked prices in order to level the fluctuations between sales.

As has been shown, floor trading by members other than specialists was largely concentrated in active stocks and the greater the activity in such stocks the greater the percentage of floor trading.[62] From these facts, it may be inferred that while floor trading in some degree contributes to the continuity of the market, its merit in this regard is seriously diminished by the fact that the bulk of floor trading is found in securities which already enjoy a sufficiently continuous market. Whether the trading of specialists is subject to the same deficiency will appear in the ensuing discussion.

In order to ascertain the type of securities in which specialists are most active as dealers, the trading by New York Stock Exchange specialists in 88 stocks was observed over a period of 19 weeks.[63] These stocks were classified, according to their volume of trading during the period, as active, moderately active, and inactive.[64] A

[61] Appendix H-2 divides the 88 stocks into groups according to whether specialists changed their daily positions preponderantly with or preponderantly against the daily price trend.

[62] See Appendices E-1, E-2, and E-3.

[63] See Appendix I-1.

[64] A stock was arbitrarily classified as being in the active group when total purchases and sales for the period averaged more than 7,000 shares daily; as being in the moderately active group when total purchases and sales averaged between 1,000 and 7,000 shares daily; and as being in the inactive group when total purchases and sales averaged less than 1,000 shares daily.

tabulation was made of the percentages of specialists' trading in the stocks in each group, with the following result:

Group	Total reported purchases and sales [65]	Specialists' purchases and sales	Percentage of specialists' purchases and sales to total
			Percent
Active (17 stocks)	51,605,166	4,922,800	9.5
Moderately active (55 stocks)	33,316,200	4,087,100	12.3
Inactive (16 stocks)	1,927,000	218,400	11.3

[65] *Cf.* footnote 5, p. 12, *supra.*

From this tabulation it appears that the dealings of specialists constituted the largest relative proportion of the total reported purchases and sales in the moderately active group, the next largest relative proportion in the inactive group, and the smallest relative proportion in the active group.

A similar tendency is observed when the percentage of specialists' trading in each of the 88 stocks is compared with the percentage of specialists' trading in each of the others.[66] The chart labeled Appendix I-2 shows the specialists' trading for 19 weeks in each of these stocks as a percentage of the total reported volume in each. The relative concentration of specialists' trading is seen to be heaviest among moderately active stocks and lightest among active stocks.

From these statistical data it would appear that trading by specialists differs from other floor trading in that it is not concentrated in active stocks but is relatively greater in less active stocks. This difference is emphasized by comparing floor trading by members other than specialists with the trading of specialists in 20 active stocks. According to Appendix E-3 which depicts the percentage of floor trading in each of these stocks, the greater the activity in a stock, the greater the percentage of floor trading. In the same 20 stocks for the same period, specialists' trading reflected a fairly definite tendency in the opposite direction; i. e., the smaller the activity in a stock, the greater the percentage of trading by the specialist.[67]

A check was made to determine whether the trading of specialists in the aggregate bore any relation to the rise and decline of activity in the market as a whole.[68] The check revealed a slight tendency for the percentage of specialists' trading to increase as the activity of the market decreased and vice versa.

[66] See Appendix 1-2. *Cf.* footnote 5, p. 12, *supra.*

[67] See Appendix 1-3. *Cf.* fotnote 5, p. 12, *supra.*

[68] See Appendix I-4 for method of determining relation between volume of specialists' trading and the general activity of the market. *Cf.* Appendix E-4.

In order to determine the effect on the price of particular stocks of the trading of the specialists registered in such stocks, a survey was made of every transaction on the New York Stock Exchange in 19 stocks between July 2, 1935, and September 7, 1935.[69] A distinction was noted between the effect on the continuity of prices when specialists traded with their books and the effect when they traded with other members.

A total of 31,724 transactions involving the sale of 5,337,100 shares were analyzed. The specialists participated as buyers or sellers for their own account in 5,745 transactions involving 938,600 shares. Trades with their books were 1,432 in number and involved 287,100 shares. Trades with others numbered 4,313 and involved 651,500 shares.

With respect to transactions with their books, it was found that 944 trades or 65.92 percent of the total resulted in an augmented spread between the bid and offering price quoted in the market immediately after such trades; that 365 or 25.49 percent resulted in a decreased spread; and that the remainder had no effect.

Of their personal transactions with others, 748 trades or 17.34 percent of the total resulted in an augmented spread between the bid and offering price quoted in the market immediately after such trades; 3,392 or 78.65 percent resulted in a decreased spread; and the rest had no effect.

The inference to be drawn from this survey is that when they traded with their books, specialists diminished the continuity of the market in the securities in which they were registered about 2½ times as frequently as they increased it; and when they traded with others they increased the continuity of the market about 4½ times as frequently as they diminished it.

(*ii*) *Contention that the specialist's ability to deal for his own account makes it possible for him to assume substantial risks in order to insure the proper execution of brokerage orders.*—In connection with the brokerage aspect of his business, the specialist is reputed to assume serious risks. According to a large body of opinion, he can afford to assume these risks only because of the possibilities for profit presented by his dealings for his own account in the securities in which he specializes. An understanding of the basis for this contention will be aided by a brief examination of the risks in question.

Brokers, being held to a high standard of diligence and skill in the execution of customers' orders, look to the specialist for the same quality of brokerage as they themselves are required to provide. They rely upon him to establish all priorities for which they are responsible. Hence, the specialist is obliged to take or supply stock for his own account at the price at which an order would have been executed if proper skill and diligence had been employed. The obligation to execute orders according to this standard the specialist assumes, sometimes as a matter of law or exchange regulation and sometimes to build up good will for his commission business.

[69] For list of stocks, see footnote 10, p. XVIII, *supra*.

Moreover, the nature of the specialist's business is such that errors are said to be inevitable in an active market when the specialist is simultaneously bidding and offering, listening to the bids and offers of others, receiving and reading orders and cancelations, recording them in his book and trading for his own account. An order may be recorded at the wrong price; a cancelation may not be noted; the number of shares involved may be misunderstood. Errors of certain types force him into the position of a dealer. Thus, if his order is to sell 100 shares and through error he sells 1,000 he must deliver 900 shares from his own account. Similarly, if he contracts to purchase 1,000 shares when his order calls for 100 he must accept the remaining 900 shares for his own account. If he erroneously executes an order which had previously been canceled he is nevertheless responsible to deliver or to take and pay for the stock with reference to which he has contracted.

The specialist who contracts in his own name without disclosing the identity of his principal, is personally liable as a party to the contract. Under such circumstances he guarantees to the other party with whom he contracts the solvency of his customer and personally undertakes to accept or supply the stock involved even though he is in fact acting as agent. This risk the specialist can avoid by refusing orders from any principal whose solvency is in doubt or by publicly announcing the name of his principal; but in practice the specialist rarely avails himself of these rights, preferring to assume such risks in order to develop good will.

These hazards would appear to be a natural concomitant of the brokerage business in general. Nevertheless, in the case of the specialist it is claimed that these hazards are accentuated by the circumstances under which he works and that consequently if he were deprived of his ability to trade for his own account, his brokerage business would not be sufficiently profitable to justify the assumption of such risks. Further, it is asserted that an omission to execute an order which should have been executed, an error in the execution of an order, or the failure of one of his principals, may subject the specialist to the possibility of a loss large enough to wipe out the commissions earned over a period of days or weeks.

Although recent data are not available, the data submitted by specialists to the Senate Committee on Banking and Currency for the years 1928 to August 1933, inclusive, indicate that the aggregate losses attributable to errors were not large in comparison with the aggregate trading profits of specialists. In individual cases, however, losses due to error were very substantial. The specialist points out that the power to deal for his own account enables him to limit the extent of such losses and that in the absence of such power these losses would be materially increased. Thus, where he is required to supply stock in order to rectify an error, the fact that he may previously have established a long position at a lower price helps him to mitigate or prevent loss. When he is forced to take stock he may do so with the possibility of disposing of it immediately or over a period of time at a minimum loss or even at a profit. In the event of the insolvency of a brokerage house he can immediately reverse any transaction executed for that house, thereby mitigating or preventing loss. Such losses as he is forced to sustain are more than offset by profits derived from his trading.

While the evidence on this point is inconclusive it seems fair to assume that the specialist can mitigate his losses or prevent them entirely by his ability to trade for his own account and that without that ability such losses might be increased. On the other hand, some of his errors are probably due to the fact that, in conjunction with his frequently arduous duties as broker, he trades for his own account and hence such errors and the losses resulting therefrom might be obviated if he refrained from trading for his own account.

(*iii*) *Contention that the combination of functions in the specialist furnishes him with an incentive to maintain a fair and orderly market in the securities in which he specializes.*—The specialist is under no affirmative obligation to maintain a fair and orderly market in the securities in which he specializes. Nevertheless, he professes to assume such an obligation voluntarily as a matter of business principle. Advocates of the present system insist that the combination in the specialist of the broker and dealer functions furnishes him with an incentive to preserve a fair and orderly market. They point out that a specialist who, by his trading, assists other members in executing their orders at a fair price and prevents sudden and unreasonable price fluctuations is rewarded by increased commission business; that if he were limited to acting as broker, he would be unable to render these services; and that if he were limited to acting as dealer he would have no incentive to do so since he would have no brokerage customers to satisfy.

This contention is acquiesced in by many commission brokers and partners of commission firms who have stated publicly that they believe their customers' interests best served under the existent specialist system.[70] The viewpoint of the commission broker is significant in this regard because the activities of the specialist are under his constant surveillance and because his relations with his customers may be seriously prejudiced by the failure of a specialist to maintain a proper market. Active stocks are frequently handled by more than one specialist, some stocks having as many as six competing specialists. As between competing specialists in the same stock, commission brokers generally prefer to entrust their brokerage orders to the specialist who stands ready at all times to narrow the quoted market and prevent price fluctuations.

Under the existent system there seems little reason to doubt that the specialist has an important incentive to maintain a fair and orderly market, viz, the desire to attract commission business. This incentive is not shared by the floor trader as such since he has no commission business to develop. The latter is motivated in each transaction by the desire to procure the best price for himself in that transaction regardless of the effect upon the market. His greatest opportunities for profit lie in wide swings. Hence, a form of segregation which resulted in transforming the specialist into a floor trader might well be undesirable in its effect upon the market unless it contemplated the establishment of some other figure on the exchange who would assume the responsibility for maintaining a proper market. This figure could not, of course, be a segregated broker since he would have no power to trade. Instead, it would seem necessary that such a figure be modeled after the jobber on the London Stock Exchange.[71]

d. Summary of Considerations Affecting the Specialist.

From the foregoing analysis, it appears that:

(1) The specialist enjoys competitive advantages over the general public similar to those of other members on the floor. In addition, by virtue of the great volume of trading in which he participates and by virtue of his exclusive access to the information contained in his "book", he enjoys the advantage of special knowledge of the market for the securities which he handles.

(2) The specialist has exceptional opportunities to engage in manipulative activity, by reason of his exclusive information concerning the existence of bids below and offerings above the market. Since the enactment of the Securities Exchange Act of 1934, however, the Commission has found little evidence or such manipulative activity by specialists.

(3) Specialists, during the period under review, traded against the daily trend more often than with it, and thus, on the whole, did not tend to accentuate

[70] See statement of Frank R. Hope as president of the Association of Stock Exchange Firms, a voluntary association of substantially all member firms of the New York Stock Exchange, at hearing on S. 2693, 73d Cong., 2d sess., pt. 15, p. 6911. See also statement of Harry H. Moore, a commission broker and a partner in the commission firm of Hallgarten & Co., at hearing on S. 2693, 73d Cong., 2d sess., pt. 15, p. 6797.

[71] For a discussion of the jobber system, see pt. III, ch. II, *infra*.

price trends but contributed to the continuity and orderliness of the market. However, it should be observed that, insofar as they traded with their books, rather than with others, they tended to augment the spread between bid and asked prices and thus to diminish the continuity of the market.

(4) During the period studied, specialists traded in moderately active and inactive stocks in relatively greater proportion than in active stocks.

(5) In the capacity of broker, the specialist renders a useful service in the execution of limited and stop-loss orders.

(6) Although it is argued that the brokerage activity of the specialist renders him peculiarly liable to loss through errors, for which he must find compensation in trading, the evidence is too inconclusive to justify giving any weight to this contention.

(7) The specialist has an important incentive to maintain a stable and orderly market.

5. The Problem of the Specialist Odd-Lot Dealer.

On seven national securities exchanges specialists are permitted to act not only as brokers and dealers in full lots, but also as odd-lot dealers.[72] On the New York Stock Exchange, four member firms act as specialists and also execute odd-lot orders in the securities in which they are registered, but the volume of their odd-lot business is relatively insignificant.[73] Most of the remaining exchanges do not prescribe a fixed unit of trading and any member may effect transactions in a security for any amount.

A description of the odd-lot dealer function of the specialist on the New York Curb Exchange will serve to exemplify the salient features of the system. The Curb specialist fills all odd-lot orders in the securities in which he specializes by taking or supplying for his own account the stock involved in such orders. Odd-lot buying orders are filled at a fraction of a point above and odd-lot selling orders at a fraction of a point below the full-lot price for active stocks.[74] This differential is the specialist's compensation for filling the order. A limited order to buy or sell an odd-lot must be filled by the specialist whenever a round-lot transaction occurs at the fixed differential below or above the price specified in the order. The effective round-lot transaction may but need not be one in which the specialist participates. An odd-lot market order must be filled at the price of the round-lot sale immediately following the physical receipt of the order by the specialist plus or minus the fixed differential. The chief principle of this odd-lot system is that odd-lot executions are automatic and are based entirely on round-lot prices.

Having accepted an odd-lot order for execution the specialist is bound to fill it when the effective sale occurs. Sometimes his odd-

[72] Baltimore Stock Exchange, Boston Stock Exchange, Chicago Stock Exchange, New York Curb Exchange, New York Stock Exchange, Philadelphia Stock Exchange, and Pittsburgh Stock Exchange.

[73] *Cf.* footnote 17, p. 7, *supra*.

[74] The differential ranges between one-eighth and one-half, depending upon the activity and price of the stock. It is subject to supervision by the Committee of Arrangements.

lot buying orders are balanced by corresponding odd-lot selling orders. When such orders do not correspond the specialist's long or short position is automatically increased or decreased by the difference. If he desires to offset the change in his position, he buys or sells round-lots. His offsetting round-lot transactions may occur after the odd-lot orders have been executed. He may also take a long or short position in the expectation that a rise or decline in the price will result in the automatic execution of odd-lot orders which he holds. Finally he may take a position in anticipation of the receipt of odd-lot orders or in the hope that odd-lots will come into the market and enable him to liquidate or cover his position at a profit.

The principal difference between the system described and the prevailing odd-lot system on the New York Stock Exchange is that the important odd-lot dealers on the New York Stock Exchange are segregated members or member firms and do not act as specialists.[75] The specialist odd-lot dealer on the New York Curb Exchange differs from the specialist on the New York Stock Exchange in that he occupies the pivotal position not only in the round-lot market for the stocks in which he specializes, but in the odd-lot market as well. He has knowledge of and actually handles a large portion of the orders in round lots and in addition has exclusive information concerning the size and character of the odd-lot market. This point is confirmed by the statistical data on hand.

The number of shares bought and sold in round lots for the account of New York Curb Exchange specialists in all stocks in which they were registered between July 8, 1935, and December 14, 1935, amounted to 11,728,430, or 13 percent of the total reported purchases and sales.[76] During the same period such specialists bought and sold for their own account in odd lots 5,111,439 shares.[77]

In 25 representative stocks information was received respecting both the brokerage and dealer transactions of Curb specialists. Between July 8, 1935, and November 9, 1935, the specialists bought and sold in round lots for their own account 1,181,250 shares or 13.8 percent, and for the account of others 2,314,550 shares, or 27.0 percent of the total reported purchases and sales in those stocks. For the entire period, therefore, the specialists effected round-lot transactions involving 40.8 percent of the total reported purchases and sales.[78] They also handled all odd-lot transactions in their respec-

[75] For a description of the odd-lot system on the New York Stock Exchange, see p. 5 *et seq.*, *supra*.

[76] See Appendix J–1 for weekly volume and percentage figures. *Cf.* footnote 5, p. 12, *supra*.

[77] See Appendix J–2 for weekly odd-lot purchases and sales in all stocks.

[78] See Appendix J–3 for names of stocks and weekly volume and percentage of round-lot transactions by specialists for their own account and for the account of others. *Cf.* footnote 5, p. 12, *supra*.

tive stocks during the period, involving a total of 503,210 shares bought and sold.[79]

Curb specialists participated in even a larger percentage of the total number of transactions than did the specialists on the New York Stock Exchange. In 6 stocks for which the information is available 3,782 round-lot transactions occurred during 52 trading sessions.[80] The reported purchases and sales in those stocks for the period totaled 1,396,000 shares, of which the specialists bought and sold for their own account and for the account of others 48.21 percent of the total. By actual count, the specialists either as buyers or sellers for their own account or the account of others participated in 3,517 round-lot trades, or 92.99 percent of the total. Odd-lot purchases and sales aggregated 131,093 shares, and of course the specialists participated in every odd-lot transaction.

From the foregoing it appears that the exercise by the specialist of the odd-lot dealer function still further fortifies the strategic position which he already occupies as specialist.

Three criticisms germane to the present study have been leveled against the specialist odd-lot dealer. The first is that he has a motive and special opportunities to improperly influence the price of a stock in which he is registered by trading for his own account. The motive is supplied when he holds for execution odd-lot orders which it would be to his advantage to execute. His possession of the book and his strategic position in the market give him special opportunities to effect round-lot trades for the purpose of causing such odd-lot orders to be executed. While it should be noted that the segregated odd-lot dealer may be inspired by the same motive to trade in round lots for his own account he does not have equal opportunities with the specialist odd-lot dealer in this regard.

The second criticism is that the specialist odd-lot dealer while holding an unexecuted round-lot order to purchase stock at a certain price for a customer's account, sometimes succeeds in buying such stock for his own account in odd lots at the same or a lower price. Conversely, while holding an unexecuted round-lot order to sell stock at a certain price for a customer's account, he sometimes succeeds in selling such stock for his own account in odd lots at the same or a higher price. This results from the fact that the odd-lot orders are automatically executed whenever an effective round-lot sale occurs, which may be before the full-lot brokerage order can be executed. This criticism is, of course, not applicable to the segregated odd-lot dealer.

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[79] See Appendix J–4 for weekly odd-lot purchases and sales in 25 stocks.

[80] Material contained in 4–H reports. See footnote 10, p. XVIII, *supra*, for names of stocks.

The third criticism of the specialist odd-lot dealer is that the execution of a round-lot order for a brokerage customer at a certain price may cause to be executed odd-lot orders which he holds so that he may succeed in purchasing or selling odd lots at a more favorable price than his brokerage customer received. A possible reply to this criticism is that the difference between the price which the specialist odd-lot dealer receives and that which his brokerage customer receives is the odd-lot differential which constitutes his compensation for handling the odd-lot orders. If the odd-lot differential is fair and approximates the minimum brokerage commission, the criticism loses much of its force.

The combination of the functions of specialist and odd-lot dealer is claimed to be necessary for the smaller exchanges if owners and purchasers of odd lots are to receive or pay prices fairly reflective of full-lot values. The expense involved in maintaining a separate odd-lot system such as exists on the New York Stock Exchange is cited as an insuperable obstacle to the establishment of such a system on the smaller exchanges, where the volume of trading in odd lots is insufficient to assure an adequate return on the necessary investment.[81]

Critics of the specialist odd-lot system have suggested as an alternative that the unit of trading be abolished and that all members be permitted to trade in all stocks in any amount. The experience of some exchanges has shown, however, that orders for small amounts generally suffer whenever the volume taxes the capacity of brokers and that such orders are executed at fairer prices and with greater speed, accuracy and certainty on all but the least active exchanges under a system based on prices of round-lot sales. It is generally agreed that the abolition of the unit of trading would probably increase the cost to the small investor of effecting his transactions; would result in the reporting of a multitude of small trades which would not fairly reflect the true market; and would impair and retard the mechanical efficiency of the exchanges.

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[81] During the period under observation the odd-lot purchases and sales on the New York Curb Exchange totaled 5,111,439 shares as compared with 62,389,051 shares on the New York Stock Exchange. The average value of the shares traded on the New York Curb Exchange was about one-half the average value of those traded on the stock exchange; which fact, together with the fact that the unit of trading in many stocks on the curb exchange is less than 100 shares, undoubtedly accounts for the relatively small volume of odd-lot trading on the curb exchange as compared with the volume on the stock exchange. The lesser volume of business on the curb exchange was divided among 190 specialists whereas practically the entire volume on the stock exchange was handled by three firms of odd-lot dealers.

The problem of establishing separate odd-lot systems is further complicated by the fact that on exchanges where securities are traded on an unlisted basis the exchange rules do not ordinarily require that the issuer maintain a transfer office in the vicinity of the exchange. It has been pointed out that the resulting delay in the splitting up of round lots and in obtaining deliveries would tie up capital and thus increase the difficulties of inaugurating separate odd-lot systems.

6. The Problem of Trading by Members Off the Floor.

Trading on exchanges but off the floor for the account of members is principally attributable to commission firms and the partners thereof, to the office partners of floor brokers and specialists and to inactive members. The potential abuses inherent in the handling of brokerage orders in conjunction with the various dealer activities which commission houses may carry on have already been described.[82] At this point attention will be focussed upon dealer transactions on the exchange, but not initiated on the floor, and the effect thereof.

From June 24, 1935, to December 14, 1935, trading by New York Stock Exchange members initiated off the floor constituted 5.3 percent of the total reported purchases and sales.[83] On the New York Curb Exchange such trading amounted to 4.9 percent of all reported purchases and sales between July 8, 1935, and December 14, 1935.[84]

This type of trading is distinguished from floor trading in several essentials. Members who trade while off the floor carry their positions for longer periods of time. Trading off the floor was considerably smaller in volume than floor trading on the New York Stock Exchange, but the divergences between purchases and sales initiated off the floor were far more striking.[85] Uniformly each week, with but two exceptions (Nov. 2 and Dec. 7), members off the floor sold many more shares than they purchased. For the whole period they bought 11,980,476 shares and sold 13,319,514 shares, leaving them sellers on balance of 1,339,038 shares.[86] A similar tendency, somewhat less pronounced, was observed on the New York Curb Exchange.

Members who trade while off the floor do not enjoy all the advantages of members on the floor, although they are in some respects favored over the nonmember public. Such members and their firms pay commissions for the execution of their transactions but at rates substantially below those fixed for the public.[87] Non-member partners of exchange houses are required to pay the same minimum commissions as the public.[88]

[82] See p. 3 *et seq.*, *supra*.

[83] See Appendix K–1 for weekly volume and percentage figures. *Cf.* footnote 5, p. 12, *supra*.

[84] See Appendix K–2 for weekly volume and percentage figures. *Cf.* footnote 5, p. 12, *supra*.

[85] *Cf.* Appendix C–1.

[86] During the same period members on the floor were buyers on balance of 971,669 shares.

[87] The minimum commission rate payable by a New York Stock Exchange member to another member who effects an ordinary purchase or sale of stocks for his account runs from three-fourths cent per share for stock selling under $1 by gradations to 5 cents per share for stock selling at $125 or above. *Cf.* minimum rate payable by a nonmember, p. 15, *supra*.

[88] *Cf.* p. 15, *supra*.

It is generally agreed that members off the floor hold their positions for longer periods than members on the floor and are less frequently in the category of daylight traders. Hence the volume of their trading is likely to bear a closer relation to their capital than in the case of members who are daylight traders.[89] Moreover, the New York Stock Exchange requires members and member firms carrying margin accounts for customers to have on hand working capital, consisting of readily marketable assets, in an amount equivalent to 5 percent of the total debit balances carried for customers having secured accounts plus 30 percent of the market value of securities in firm and partner accounts. Members who do not carry margin accounts are altogether free from restrictions of this type.

Under Regulation T promulgated by the Board of Governors of the Federal Reserve System a member has no advantage over the nonmember public with respect to the amount of credit which other members, brokers, or dealers may extend to him for the purpose of purchasing or carrying securities for his own account.[90] By a supplement to Regulation T, effective April 1, 1936, the maximum loan value of a registered security (other than an exempted security) was fixed at 45 percent of the current market value of the security. This limitation is applicable to loans to members for the purpose of purchasing or carrying securities as well as to loans to the nonmember public. Under Regulation U, however, a member has some advantage over the nonmember public with respect to the amount of credit which may be extended to him by a bank. A bank is prohibited from making any loan secured by a stock for the purpose of purchasing or carrying any stock registered on a national securities exchange in an amount exceeding 45 percent of the current market value of the collateral; except that a bank may loan to a broker or dealer 60 percent of the current market value of a stock registered on a national securities exchange if the securities hypothecated to secure the loan are carried for the account of his customers. Thus while the nonmember can obtain a maximum of 45 percent of the current market value of his securities whether the loan is made by a broker or a bank, a member may obtain from a bank up to 60 percent of the current market value of securities carried for customers.

A member who trades from his office does not, of course, have the advantages which a member on the floor derives from his physical proximity to the center of trading.[91] He does not enjoy the same instant access to information regarding the springing up of activity or the direction of prices. Nevertheless, he usually maintains direct

[89] *Cf.* pp. 15–16, *supra*.

[90] See Regulation T, sec. 3 (b) (3).

[91] *Cf.* pp. 16–17, *supra*.

wires and other facilities by means of which he is kept currently posted with respect to developments on the floor. In this regard the member off the floor and all other professional traders, whether members or nonmembers, are in a position superior to that of the nonprofessional public.

In order to ascertain whether any relation exists between the changes in the position of members off the floor and day to day price changes, the daily changes in the combined position of members of the New York Stock Exchange resulting from transactions off the floor were compared with the daily changes in the Standard Statistics Daily Stock Price Index for 144 trading sessions.[92] Out of 84 days when the Index advanced, members off the floor were purchasers on balance on 29 days and sellers on balance on 55 days. Out of 55 days when the Index declined they were purchasers on balance on 14 days and sellers on balance on 41 days.[93] Thus, the trades of members off the floor were with the daily trend on 70 days or 50.4 percent of the time, and against the daily trend on 69 days or 49.6 percent of the time.[94]

Out of 56 days when the change in the Index was one-half point or less members off the floor traded with the trend on 31 days and against it on 25 days. Out of 83 days when the Index changed more than one-half point they traded with the trend on 38 days and against it on 45 days.

The position of members off the floor changed less than 10,000 shares on 51 days and they traded with the trend on 20 and against it on 31 of such days. Their position changed 10,000 shares or more on 88 days and their trading was with the trend on 49 of such days and against it on 39.

Out of 14 days when the Index moved a full point or more and when the aggregate position of members increased or decreased by 25,000 shares or more they traded with the trend on 11 days and contrary to it on 3 days.

In brief, for the whole period members off the floor, as a group, traded neither preponderantly with nor preponderantly against the trend; on days when changes in position were small the tendency was somewhat more frequently against the trend; on days when position changes were large the reverse tendency was more frequent; and on days when a substantial change in position was coupled with a significant change in the price index, their trading was definitely with the trend.

[92] See Appendix L–1.

[93] Five days when the price index remained unchanged have been eliminated from consideration. On each of those days their sales exceeded their purchases.

[94] The term "trend" as employed in the study of trading by New York Stock Exchange members off the floor has reference to the trend as indicated by the Standard Statistics Daily Stock Price Index.

A somewhat similar situation was found to exist on the New York Curb Exchange for the 133 days which were studied.[95] The daily position changes of Curb members were with the daily trend of prices on 70 days or 54.7 percent of the time and against such trend on 58 days or 45.3 percent of the time.[96] On days when price changes were insignificant or when changes in position were minor, a slight tendency was manifested to trade against the trend; and on days when more substantial changes occurred either in the price index or in members' position, a reverse tendency appeared. Out of 21 days when the price index moved more than 0.2 of a point and members changed their position more than 5,000 shares they traded with the trend on 17 and against it on 4 days.

Turning now to the question whether trading by members off the floor materially enhances the continuity of the exchange market it was noted that on the New York Stock Exchange such trading was largely concentrated in the same 20 stocks as was floor trading. Purchases and sales initiated off the floor in all stocks during the 25-week period aggregated 25,438,327 shares of which 5,122,364 shares or over 20 percent were confined to those 20 active stocks.[97] Purchases and sales initiated off the floor in the 20 stocks accounted for 7.8 percent of the total reported purchases and sales in those stocks as compared with 4.9 percent of the total reported purchases and sales in all other stocks.[98]

On the New York Curb Exchange there was apparent a considerably less degree of concentration in active stocks insofar as trading off the floor was concerned. Out of a total of 4,386,245 shares bought and sold by members off the floor during 23 weeks, 576,220 shares or about 13 percent involved 8 active stocks.[99] The relative percentage of trading off the floor in the eight active stocks was somewhat less than in the rest of the market. Purchases and sales initiated off the floor amounted to 4.1 percent of the total reported purchases and sales in the eight stocks and 5 percent of the total reported purchases and sales in all other stocks.[100]

[95] See Appendix L–2.

[96] The term "trend" as employed in the study of trading by New York Curb Exchange members off the floor has reference to the daily trend as indicated by the New York Herald Tribune average of 25 New York Curb Exchange stocks.

[97] See Appendix M–1. Purchases and sales initiated on the floor in the same 20 stocks constituted 21 percent of all floor trading for the same period. *Cf.* p. 22, *supra*.

[98] During the same period floor trading amounted to 14.8 percent of the total reported purchases and sales in the same 20 stocks and 8.5 percent of the total reported purchases and sales in all other stocks. See Appendix E–1. *Cf.* footnote 5, p. 12, *supra*.

[99] See Appendix M–2 Purchases and sales initiated on the floor in these eight stocks constituted 47 percent of all floor trading for the same period. *Cf.* p. 22, *supra*.

[100] During the same period floor trading amounted to 16.9 percent of the total reported purchases and sales in the same eight stocks and 3.5 percent of the total reported purchases and sales in all other stocks. *Cf.* Appendix E–2.

As in the case of floor trading, the percentage of trading off the floor of the New York Stock Exchange tended to maintain a fairly constant ratio to the total volume of trading whether the latter increased or decreased. On the New York Curb Exchange the percentage of trading by members off the floor tended to increase slightly as volume decreased.[101]

a. Summary of Considerations Affecting Trading by Members off the Floor. From the foregoing analysis, it appears that:

(1) Trading by members off the floor is not so markedly of the in-and-out variety as floor trading.

(2) Such members require more capital for their trading than do members on the floor.

(3) Although such members do not enjoy the same competitive advantages over the general public as do members on the floor, they are favored in some respects, particularly in that the commissions which they pay for the execution of their transactions are at rates substantially lower than those charged the general public.

(4) Such members traded, during the period studied, neither preponderantly with nor preponderantly against the daily trend.

(5) The trading of such members contributed in some measure to the continuity of the market and the consequent liquidity of securities. Its utility in this regard was materially impaired during the period under observation by the fact that it was principally centered in active securities.

[101] See Appendix M-3 for method of determining relation between volume of trading off the floor and activity of the market.

CHAPTER III

SPECIAL PROBLEMS ON SMALLER EXCHANGES

On January 1, 1936, exclusive of the New York Stock Exchange and the New York Curb Exchange, there were 30 exchanges either registered with the Commission as national securities exchanges or exempt from registration. Many of these local exchanges have rendered useful service to their communities insofar as they provided organized markets for local securities; furnished secondary markets for securities which were well distributed in their respective vicinities; published the prices at which transactions were or could be effected; and endeavored to create and to impose upon their members standards of just and equitable principles of trade. It is therefore appropriate that consideration be given to certain special problems of the smaller exchanges which have their origin in the limited amount of business transacted thereon.

During the year 1935 the combined market value of trading in all securities on all exchanges (except the Manila Stock Exchange) aggregated $19,131,801,268.[1] Of this total, the market value of trading in all securities on the New York Stock Exchange and the New York Curb Exchange amounted to $18,272,444,321; and the market value of trading in all securities on the remaining 30 exchanges amounted to $859,356,947. Expressed as a percentage of the total, the market value of sales on the New York Stock and Curb Exchanges constituted 95.5 percent and on the remaining exchanges only 4.5 percent. These figures demonstrate the tremendous centralization of trading in the New York markets—a centralization which was also characteristic of the period antedating the passage of the Securities Exchange Act of 1934.[2]

The relatively meager amount of brokerage business transacted on these local exchanges has brought about a broad diversification of the activities of their members. Lines of demarcation between specialist, commission broker, floor broker, floor trader, odd-lot dealer, odd-lot broker, and bond broker and dealer tend to disappear. On most exchanges the specialist and the odd-lot dealer are altogether absent, their functions being absorbed by the general membership.

[1] See Appendix N-1. Includes all registered and exempted exchanges except the Manila Stock Exchange, for which figures were not available.

[2] See F. P. Smith, "The Future of Small Securities Exchanges" (xiv), Harvard Business Review 3, 1936, p. 360.

Neither brokerage orders nor trading opportunities on the local exchanges, as now constituted, are sufficient to enable their members, with rare exceptions, to confine themselves to one type of activity.

Many members of local exchanges transact a greater volume of business as dealers in the over-the-counter markets than as brokers and dealers on the exchanges. Their over-the-counter activities include the distribution of securities at retail and participations in underwriting and wholesale syndicates. In the past some of the local commission houses with substantial capital have been important factors in the financing of local industries. They have also assisted in the flotation of new issues originating in the great financial centers.

The over-the-counter activities of local exchange members are not confined to transactions in unlisted issues. A large part of the business in securities admitted to trading on most of these exchanges is effected in the over-the-counter markets. One of the serious problems confronting the smaller exchange is a preference on the part of its members to fill orders as dealers over the counter rather than as brokers on the exchange. This preference is based upon the fact that the opportunity for profit is greater in the former type of transaction than in the latter. Attempts by exchanges to encourage or compel their members to employ the facilities of the exchange markets to effect transactions in listed securities have thus far encountered indifferent success except in isolated cases.[3] Any exchange rule directed toward that end is largely vitiated by the alleged necessity for permitting exceptions in favor of transactions involving large blocks, investment securities, and inactive securities as well as exceptions for business transacted between trading sessions.

Another problem of the smaller exchange is the difficulty of attracting new listings of issues suitable for exchange trading. Many issuers prefer to avoid an exchange market for their securities. A few seem to be deterred from listing because of unwillingness to meet the disclosure requirements of the Securities Exchange Act of 1934. Some which desire an exchange market have manifested a tendency to gravitate to the New York exchanges. This appears to be true even with respect to issuers whose securities were originally sold or are well distributed in the vicinity of a local exchange. The reluctance of corporate officials to apply for registration on a small exchange may, at times, be attributable to dissatisfaction with the character of trading on the exchange or to fear that a proper public

[3] The Los Angeles Stock Exchange requires its members to effect all transactions in listed securities on the exchange, except that (1) special deals for large blocks can be made off the exchange and (2) trading over the counter is permitted in certain preferred stocks provided the member first tries to consummate the transaction on the exchange. The Minneapolis-St. Paul Exchange and the Cleveland Stock Exchange each has a rule that all trading in active stocks be confined to the exchange. Officials of these three exchanges report that such rules are observed.

market will not be maintained. On the other hand, instances have been cited to the Commission in which corporate officials were deterred from listing on a local exchange by matters altogether remote from the character of the exchange market. These factors coupled with the tendency of exchange members to divert transactions in listed securities to the over-the-counter markets make the proposal of segregation as applied to members of the smaller exchanges a matter which relates to the very existence of such exchanges. The implications of segregation in respect of the smaller exchanges will be considered at greater length later in this report.[4] It may well be that many members of local exchanges, if required to elect between the broker and dealer functions would relinquish their exchange memberships and devote themselves to the more lucrative dealer activities in the over-the-counter markets. The conviction generally prevails that segregation would inevitably close most of the smaller exchanges throughout the country.

[4] See pt. III, ch. II, *infra*.

CHAPTER IV

POWERS OF THE COMMISSION UNDER EXISTING LAW

Broad powers over activities on exchanges are vested in the Commission by the Securities Exchange Act of 1934. It has been deemed an essential part of this study to analyze these powers in order to ascertain whether and to what extent the Commission is authorized under existing law to segregate the functions of broker and dealer. Moreover, inasmuch as segregation is but a means to the end of eliminating abuses in the broker-dealer relationship, it has also been considered advisable to explore the possibility of eliminating such abuses under the Commission's present powers. Such an analysis will have a further use in determining whether any areas exist within which the Commission's powers are inadequate to accomplish the desired objectives without further legislation. It likewise seems appropriate to review the controls thus far established which are addressed to the abuses in question.

1. Analysis of Specific Sections of the Securities Exchange Act of 1934.

SEC. 11. By section 11 (a) the Commission is empowered to establish controls with respect to floor trading and trading off the floor by exchange members. The Commission may prescribe such rules and regulations as it deems necessary or appropriate in the public interest or for the protection of investors to regulate or prevent floor trading by members of national securities exchanges directly or indirectly for their own account or for discretionary accounts. It may also prevent such excessive trading off the floor for the account of members as it may deem detrimental to the maintenance of a fair and orderly market. Its rules may, within the limitations of section 11 (b), permit such exemptions for transactions by odd-lot dealers and specialists as the Commission deems necessary or appropriate in the public interest or for the protection of investors.[1]

[1] SEC. 11 (a). The Commission shall prescribe such rules and regulations as it deems necessary or appropriate in the public interest or for the protection of investors, (1) to regulate or prevent floor trading by members of national securities exchanges, directly or indirectly for their own account or for discretionary accounts; and (2) to prevent such excessive trading on the exchange but off the floor by members, directly or indirectly for their own account, as the Commission may deem detrimental to the maintenance of a fair and orderly market. It shall be unlawful for a member to effect any transaction in a security in contravention of such rules and regulations, but such rules and regulations may make such exemptions for arbitrage transactions, for transactions in exempted securities, and, within the limitations of subsection (b) of this section, for transactions by odd-lot dealers and specialists as the Commission may deem necessary or appropriate in the public interest or for the protection of investors.

From section 11 (b) the Commission derives additional authority to regulate specialists and odd-lot dealers.[2] Under this section, unless the rules of the Commission shall otherwise prescribe, a national securities exchange may permit a member to be registered as an odd-lot dealer and as such, to trade for his own account so far as may be reasonably necessary to carry on such odd-lot transactions and may also permit a member to be registered as a specialist. If a specialist is permitted to trade for his own account his dealings must be restricted so far as practicable to those reasonably necessary to permit him to maintain a fair and orderly market or to act as an odd-lot dealer. A specialist is forbidden to disclose information in regard to orders placed with him which is not available to all members of the exchange, but the Commission may require complete disclosure to all members. A specialist acting as a broker may not effect any transaction except upon a market or limited price order.

It will be observed that the regulatory power created by section 11 extends not only to exchange members, but also to member firms and nonmember partners of such firms. The power to control floor trading is sufficiently flexible to enable the Commission to formulate specific remedies directed against specific abuses. If, however, the conclusion should be reached that floor trading cannot be so regulated as to eliminate those features which are opposed to the public interest, the Commission is authorized to prevent floor trading entirely. It may require any member, including the specialist, to limit his activities while on the floor to the execution of brokerage orders. It may likewise require any member to elect between the broker and dealer functions while on the floor. In short, with respect to floor trading the Commission has authority in the present status of the law to accomplish segregation by either method.

[2] SEC. 11 (b). When not in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, the rules of a national securities exchange may permit (1) a member to be registered as an odd-lot dealer, and as such to buy and sell for his own account so far as may be reasonably necessary to carry on such odd-lot transactions; and/or (2) a member to be registered as a specialist. If under the rules and regulations of the Commission a specialist is permitted to act as a dealer, or is limited to acting as a dealer, such rules and regulations shall restrict his dealings so far as practicable to those reasonably necessary to permit him to maintain a fair and orderly market, and/or to those necessary to permit him to act as odd-lot dealer, if the rules of the exchange permit him to act as an odd-lot dealer. It shall be unlawful for a specialist or an official of the exchange to disclose information in regard to orders placed with such specialist which is not available to all members of the exchange, to any person other than an official of the exchange, a representative of the Commission, or a specialist who may be acting for such specialist; but the Commission shall have power to require disclosure to all members of the exchange of all orders placed with specialists, under such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors. It shall also be unlawful for a specialist acting as a broker to effect on the exchange any transaction except upon a market or limited price order.

Moreover, should the Commission reach the conclusion that the public interest requires that transactions of odd-lot dealers or specialists be exempt from any general requirement for segregation of functions on the floor of the exchange, such exemptive power is found in section 11 (a). Pending the determination of all such questions the odd-lot dealer and the specialist are permitted under the statute to deal for their own account in conformity with exchange rules, including those adopted by the exchanges upon the recommendation of the Commission. The specialist, however, must restrict his dealings so far as practicable to those reasonably necessary to permit him to maintain a fair and orderly market or to permit him to act as an odd-lot dealer.

With respect to the activities of members off the floor, the Commission's authority is somewhat less comprehensive. It may prevent excessive trading by such members if such trading is detrimental to the maintenance of a fair and orderly market. The powers contained in the section, together with those contained in other sections to which reference will be made, should enable the Commission to control many of the undesirable incidents of trading by members off the floor in conjunction with the exercise of the broker function.

Section 11 also imposes certain restrictions upon the extension of credit by those who combine the functions of broker and dealer. By subsection (d) a member who is both a broker and a dealer is forbidden to effect any transaction in connection with which he extends or maintains or arranges for the extension or maintenance of credit to or for a customer on any security which was part of a new issue in the distribution of which he participated as a member of a selling syndicate or group within 6 months prior to such transaction.[3] This provision strikes directly at one of the greatest potential evils attributable to the combination of the broker and dealer functions in the same person by prohibiting him from aiding his customers to buy on credit securities which he has undertaken to distribute to the public. In view of the civil and criminal sanctions of the act this provision should effectively discourage any tendency on the part of members who bring out new issues to place such issues in the margin accounts of customers.

By the same subsection a member of a national securities exchange who is both a broker and a dealer is required to disclose to a customer in writing at or before the completion of a transaction whether he is acting as a dealer for his own account, as a broker for such customer, or as a broker for some other person.[4] Before the customer parts with value he is entitled to receive written notice of the capacity in which the member is acting. Such notice serves to make the customer aware of the possibility that any advice which he has received from the member may have been colored by an independent, adverse interest. The customer is furnished with a basis for determining whether he is satisfied with the role assumed by the member in the transaction. If such disclosure is not forthcoming, the offending member is liable to the civil and criminal penalties of the statute.

SEC. 8. By section 8 (b) the Commission is accorded jurisdiction to determine, with respect to any broker who is an exchange member or who transacts business through the medium of such a member, the ratio which may be maintained between his aggregate indebtedness to all other persons and the net capital employed in his business. In no event may such aggregate indebtedness exceed 2,000 percent of the net capital, but the Commission may prescribe such lesser percentage as it deems necessary or appropriate in the public interest or for the protection of investors.[5]

[3] SEC. 11 (d). It shall be unlawful for a member of a national securities exchange who is both a dealer and a broker, or for any person who both as a broker and a dealer transacts a business in securities through the medium of a member or otherwise, to effect through the use of any facility of a national securities exchange or of the mails or of any means or instrumentality of interstate commerce, or otherwise in the case of a member, (1) any transaction in connection with which, directly or indirectly, he extends or maintains or arranges for the extension or maintenance of credit to or for a customer on any security (other than an exempted security) which was a part of a new issue in the distribution of which he participated as a member of a selling syndicate or group within 6 months prior to such transaction: *Provided*, That credit shall not be deemed extended by reason of a bona-fide delayed delivery of any such security against full payment of the entire purchase price thereof upon such delivery within 35 days after such purchase, or (2) any transaction with respect to any security (other than an exempted security) unless, if the transaction is with a customer, he discloses to such customer in writing at or before the completion of the transaction whether he is acting as a dealer for his own account, as a broker for such customer, or as a broker for some other person.

[4] In response to numerous inquiries, the Commission made public an opinion of its general counsel regarding the meaning of the phrase "at or before the completion of the transaction" as used in sec. 11 (d) (2) and in certain rules of the Commission. The opinion is as follows:

"In interpreting the phrase 'at or before the completion of the transaction' as used in sec. 11 (d) (2) and in rules MA10 and MA11, it is my opinion that the phrase must be read in the light of the evident purpose of that section and those rules. I feel that the purpose of these provisions of the statute and of the regulations is to afford to the customer adequate notice of the capacity in which a dealer-broker is acting before the customer has changed his position. Hence I would interpret this phrase as requiring written notice from the dealer-broker to the customer at or before the time when the customer parts with value in connection with the transaction.

"The time when the customer parts with value will, of course, vary with the facts of each case. If the customer is purchasing securities from or through the dealer-broker, the time of payment by the customer will be the obvious time when he parts with value. If the customer is selling securities to or through the dealer-broker, the customer will part with value when he delivers the securities to the dealer-broker for sale. Physical payment or delivery is not necessary. If payment or delivery binding upon the customer may be effected by a bookkeeping entry, the customer must be said to part with value at the time when that entry is made."

[5] SEC. 8. It shall be unlawful for any member of a national securities exchange, or any broker or dealer who transacts a business in securities through the medium of any such member, directly or indirectly:

(b) To permit in the ordinary course of business as a broker his aggregate indebtedness to all other persons, including customers' credit balances (but excluding indebtedness secured by exempted securities), to exceed such percentage of the net capital (exclusive of fixed assets and value of exchange membership) employed in the business, but

As heretofore pointed out a broker's solvency may be impaired by obligations incurred in connection with substantial underwriting or distributing operations or as a result of excessive trading for his own account. In any such case the securities, equities, and credit balances of brokerage customers are placed in jeopardy. Through the exercise of the Commission's regulatory powers under section 8 (b) the dangers inherent in this combination of functions may be materially diminished. The establishment of a safe ratio between aggregate indebtedness and net capital would confine within reasonable limits the dealer commitments of brokers, particularly those which involve the use of credit. As a broker's indebtedness to his customers expands, his ability to assume commitments for his own account would correspondingly contract. Only to the extent that such indebtedness is kept below the maximum permitted in relation to his capital would there be any leeway for dealer commitments.

Section 8 (c) makes it unlawful for any exchange member, in contravention of the Commission's rules to hypothecate any securities carried for the account of any customer under circumstances that will permit such securities to be subjected to any claim of the pledgee in excess of the aggregate indebtedness of such customers in respect of such securities. Restrictions may also be placed upon the commingling of a customer's securities with those of any other person, including the broker himself.[6] Under section 7 of the act the Board of Governors of the Federal Reserve System is granted power to prescribe rules which would have the effect of limiting the amount a broker may borrow either on his own or his customers' securities for the purpose of purchasing or carrying securities. The Board thus has power under section 7 to confine within the same limits as are applicable to the general public a broker's borrowings on his own securities for the purpose of purchasing or carrying securities. It is also possible to prevent a broker from borrowing more on a customers' securities than the amount owing by a customer thereon or, if he is permitted to borrow more than such amount, to prohibit him from using the excess as a basis for making commitments as a dealer. Thus, additional safeguards are available both with respect to the

not exceeding in any case 2,000 percentum, as the Commission may by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors.

[6] SEC. 8. It shall be unlawful for any member of a national securities exchange, or any broker or dealer who transacts a business in securities through the medium of any such member, directly or indirectly:

(c) In contravention of such rules and regulations as the Commission shall prescribe for the protection of investors to hypothecate or arrange for the hypothecation of any securities carried for the account of any customer under circumstances (1) that will permit the commingling of his securities without his written consent with the securities of any other customer, (2) that will permit such securities to be commingled with the securities of any person other than a bona-fide customer, or (3) that will permit such securities to be hypothecated, or subjected to any lien or claim of the pledge for a sum in excess of the aggregate indebtedness of such customers in respect of such securities.

solvency of the broker and with respect to the interests of his customers.

SEC. 9. Section 9 (a) (6) provides for the regulation of transactions in any security registered on a national securities exchange for the purpose of pegging, fixing, or stabilizing its price.[7] If a member is permitted to conduct a stabilizing operation on an exchange, he can be required under this section to make full disclosure of his interest and his activities in connection with such operation. Brokerage customers who might be solicited to purchase a security involved in any such operation would thus have means of knowing not only of the capacity in which their broker acts in the transaction but also of any interest possessed by him or other members of the distribution of the security and their activities in stabilizing its price.

Under section 9 (b) the Commission may regulate any transaction on a national securities exchange in which any party to the transaction acquires or holds a put, call, straddle, or other option.[8] Under section 9 (c), it may further restrict exchange members in endorsing or guaranteeing the performance of any option relating to a security registered on a national securities exchange.[9] Where a member acquires, grants or endorses such an option he can be required to disclose that fact in order that his customers may be made cognizant of the nature of his interest in soliciting their brokerage orders.

SEC. 10. From section 10 (b) the Commission derives authority to prevent the employment by the use of any instrumentality of interstate commerce or the mails or any facility of a national securities exchange of any manipulative or deceptive device or contrivance in connection with the purchase or sale of a security.[10] In-

[7] SEC. 9. (a) It shall be unlawful for any person, directly or indirectly, by the use of the mails or any means or instrumentality of interstate commerce, or of any facility of any national securities exchange, or for any member of a national securities exchange; (6) To effect, either alone or with one or more other persons, any series of transactions for the purchase and/or sale of any security registered on a national securities exchange for the purpose of pegging, fixing, or stabilizing the price of such security in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

[8] SEC. 9. (b) It shall be unlawful for any person to effect, by use of any facility of a national securities exchange, in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors:

(1) any transaction in connection with any security whereby any party to such transaction acquires any put, call, straddle, or other option or privilege of buying the security from or selling the security to another without being bound to do so; or

(2) any transaction in connection with any security with relation to which he has, directly or indirectly, any interest in any such put, call, straddle, option, or privilege; or

(3) any transaction in any security for the account of any person who he has reason to believe has, and who actually has, directly or indirectly, any interest in any such put, call, straddle, option, or privilege with relation to such security.

[9] SEC. 9. (c) It shall be unlawful for any member of a national securities exchange, directly or indirectly, to endorse or guarantee the performance of any put, call, straddle, option, or privilege in relation to any security registered on a national securities exchange, in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

[10] SEC. 10. It shall be unlawful for any person, directly or indirectly, by the use of any

sofar as the exercise of the dual functions may involve the use of any manipulative or deceptive device or contrivance the Commission has authority under this section to control the same.

SEC. 19. Section 19 (b) authorizes the Commission to require any national securities exchange to alter or supplement its rules in regard to a wide variety of matters.[11] Some of the problems presented by the combination of the broker and dealer functions by exchange members may be approached through this section. For example, exchanges can be required to erect adequate safeguards in respect of the financial responsibility of members; to impose restrictions upon the manner, method, and place of soliciting business; and to fix reasonable rates of commission and other charges.

2. Controls Thus Far Established by the Commission.

As an initial step in bringing under control trading on exchanges, and as a step designed to eliminate some of the undesirable consequences flowing from dealer activities as such, the Commission formulated sixteen rules for the regulation of such trading. Every national securities exchange and every exchange exempted from registration as a national securities exchange was requested to adopt these rules as rules of the exchange. This course was pursued in order to allow greater flexibility in the administration of the rules, inasmuch as they were regarded to a large degree as experimental. Furthermore, minor adaptations of the rules to the varying exigencies of the several exchanges could be more readily accomplished by this method.

means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange:

(b) To use or employ, in connection with the purchase or sale of any security registered on a national securities exchange or any security not so registered, any manipulative or deceptive device or contrivance in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

[11] SEC. 19 (b). The Commission is further authorized, if after making appropriate request in writing to a national securities exchange, that such exchange effect on its own behalf specified changes in its rules and practices, and after appropriate notice and opportunity for hearing, the Commission determines that such exchange has not made the changes so requested, and that such changes are necessary or appropriate for the protection of investors or to insure fair dealing in securities traded in upon such exchange or to insure fair administration of such exchange, by rules or regulations or by order to alter or supplement the rules of such exchange (insofar as necessary or appropriate to effect such changes) in respect of such matters as (1) safeguards in respect of the financial responsibility of members and adequate provision against the evasion of financial responsibility through the use of corporate forms or special partnerships; (2) the limitation or prohibition of the registration or trading in any security within a specified period after the issuance or primary distribution thereof; (3) the listing or striking from listing of any security; (4) hours of trading; (5) the manner, method, and place of soliciting business; (6) fictitious or numbered accounts; (7) the time and method of making settlements, payments, and deliveries and of closing accounts; (8) the reporting of transactions on the exchange and upon tickers maintained by or with the consent of the exchange, including the method of reporting short sales, stopped sales, sales of securities of issuers in default, bankruptcy or receivership, and sales involving other special circumstances; (9) the fixing of reasonable rates of commission, interest, listing, and other charges; (10) minimum units of trading; (11) odd-lot purchases and sales; (12) minimum deposits on margin accounts; and (13) similar matters.

The duty of enforcing the rules was imposed upon the exchanges, the Commission, however, being in a position to observe both their enforcement and their effect. The rules have been in operation on all exchanges for about a year.[12]

Generally speaking, the rules were designed to eliminate excessive speculation on the part of exchange members, to delineate more clearly certain of the fiduciary obligations of a broker to his customer, and to restrict certain practices regarded as detrimental to the interests of the investing public.

The first rule prohibits purchases or sales for the account of members, member firms and nonmember partners of such firms which are excessive in view of their financial resources or in view of the effect of such purchases or sales on the market. This rule was the first direct step toward the elimination of overtrading by members, their firms and their partners. It was intended to exert a restrictive influence upon those who are inclined to assume positions disproportionate to their resources, whether such positions are carried overnight or not. It was also intended to deter them from effecting transactions which, because of their size or frequency, might accentuate the trend of prices or attract speculative dealings on the part of the nonmember public. The rule does, however, permit members to trade in moderation.

The first rule applies to transactions, initiated on or off the floor, for any account in which a member, firm, or partner is directly or indirectly interested. Where joint accounts are concerned, a further restriction is imposed by the second rule. No purchase or sale of a stock may be initiated by a member on the floor for any account in which he or his firm or a partner thereof is jointly interested with any other person, except with the prior approval of the exchange. By this means a member's ability to trade while on the floor is limited by the financial resources of himself, his firm, and his partners and cannot be enlarged by the formation of joint accounts with other persons. Moreover, a nonmember is prevented from gaining any undue advantage in his trading by forming a joint account with a member and permitting him to manage such account from the floor of the exchange.

Under the third rule, no member, firm, or partner may hold an interest in any joint account for trading on the exchange unless it is reported to the exchange and any such joint account may be disapproved by the exchange. Comprehensive information is required weekly with respect to transactions on behalf of any joint account in which a member participates or of which he has knowledge, if such joint account is active or substantial. Thus, a periodic survey of the operations of joint accounts can be made.

[12] See Appendix O-1 for text of recommended rules.

Certain aspects of the fiduciary relation between broker and customer are dealt with in the fourth and fifth rules. A member while on the floor is forbidden by the fourth rule to execute any transaction with respect to which he is vested with discretion as to the choice of stock to be bought or sold, the total amount to be bought or sold, or whether the transaction shall be one of purchase or sale. Floor transactions cannot be effected by a member for an account over which he has any discretion beyond that exercised by the ordinary broker in the handling of a commission order. The rule also prohibits any member, firm, or partner from effecting for any discretionary account purchases or sales which are excessive in size or frequency in view of the financial resources in the account. This provision was directed against the type of trading for discretionary accounts which is primarily motivated by the broker's desire to increase his commissions.

The fifth rule prohibits a broker from trading for his own account while holding a customer's unexecuted order unless he is willing to pay more or accept less than the price named in the customer's order. This rule has already been discussed in detail in connection with the problem of the specialist.[13]

The sixth rule provides that no member, firm, or partner, acting either as broker or dealer, shall execute or cause to be executed the purchase of any security at successively higher prices or the sale of any security at successively lower prices for the purpose of creating or inducing a false, misleading, or artificial appearance of activity or of unduly or improperly influencing the market price or of making a price which does not reflect the true state of the market.

By the seventh rule a member is prohibited while on the floor from initiating for his own account or that of his firm or partners the purchase or sale of any stock with respect to which he or his firm or any partner thereof holds, or has granted an option. This rule was designed on the one hand to eliminate floor trading by members holding or granting options and on the other to discourage the use of options by members who trade while on the floor.

Every member, his firm or a partner thereof is required by the eighth rule to keep and preserve a proper record of orders transmitted to the floor for execution, which record should include the name, amount, and price of the security involved and the time when such orders were transmitted to the floor. Every member who executes orders on the floor is required to keep comparable records.

The ninth, tenth, eleventh, and twelfth rules apply exclusively to specialists. It should be emphasized that the provisions of the rules which have thus far been discussed, unless otherwise specified, are

[13] See p. 33, *supra*.

also applicable to specialists. Thus, for example, a specialist, like any other member, is prohibited from competing with a customer while holding his unexecuted market or limited price order or from unfairly influencing the price of securities by successive purchases or sales.

The ninth rule prevents a member from acting as a specialist in any security unless he is registered as a specialist in such security by the exchange. This rule facilitates the supervision by the exchanges and the Commission of activities of specialists in the securities in which they are registered and also makes it possible readily to distinguish for purposes of supervision between the transactions of specialists in the securities in which they are registered and their transactions in other securities.

The tenth rule provides that no specialist shall effect purchases or sales of any security in which he is registered for any account in which he, his firm or any partner thereof is interested, unless such dealings are reasonably necessary to permit him to maintain a fair and orderly market or to act as an odd-lot dealer in such security. This rule is far-reaching in its implications. It represents an attempt to eliminate the dealer activities of specialists except insofar as such activities allegedly perform a useful service to the market. In view of the specialist's fiduciary obligation to buyers and sellers whose orders he has accepted for execution; in view of his special knowledge and superior bargaining power in trading for his own account; in view of his peculiar opportunities and motive for attracting public interest to the stock in which he specializes; and in view of the undesirable effect which his trading may exert upon the market; it was deemed essential by the Commission that the dealer functions of the specialist be subjected to stringent control. The rule was intended to allow him only sufficient latitude in his personal trading to enable him to maintain a fair and orderly market in the securities in which he is registered.

Under the eleventh rule a specialist, his firm and his partners, are forbidden to participate with a nonmember in a joint account which buys or sells any stock in which he is registered as a specialist.

The twelfth rule requires every specialist to keep and preserve legible records of all orders placed with him and of executions, modifications, and cancelations of such orders.

The thirteenth rule requires the registration of members who desire to act as odd-lot dealers. By the fourteenth rule an odd-lot dealer, his firm, and his partners are forbidden to participate with a nonmember in a joint account which buys or sells any security in which he is registered as an odd-lot dealer.

Under the fifteenth rule, if a member acts as a specialist or odd-lot dealer in a stock, neither he nor his firm nor any partner thereof may acquire, hold, or grant an option in such stock.

The sixteenth rule prohibits any member from effecting a short sale either for his own account or for the account of others at a price below the last sale price on the exchange.

* * * * * * *

During the comparatively brief period in which the foregoing rules have been in operation, the Commission has endeavored to observe their effectiveness in eliminating the abuses toward which they are addressed and to reinforce their proper administration by the exchanges. In connection with the Commission's investigations into possible violations of the Securities Exchange Act of 1934, the trading activities of members are carefully scrutinized for evidence of noncompliance with the rules. Any evidence discovered that pertains merely to a violation of the exchange rules is referred to the exchange authorities for appropriate action.

To date, such difficulties as are involved in the supervision by the Commission of the work of the exchange authorities in administering these rules do not flow from any lack of cooperation on their part. Those difficulties which have arisen have resulted from differences in opinion as to the applicability of these rules to particular situations and as to the effectiveness of the investigations conducted by the exchange authorities. In view of the evolutionary character of these rules, in the sense that their full meaning must be made concrete by the empiric processes of administration, coupled with the fact that they have been in operation only about a year, the Commission is not yet prepared to render a definitive judgment either as to the effectiveness of their administration by the exchange authorities or as to the effectiveness of the rules as such in attaining their avowed objectives.

Part II

THE EXERCISE OF THE BROKER AND DEALER FUNCTIONS IN OVER-THE-COUNTER MARKETS

CHAPTER I

CLASSIFICATION AND FUNCTIONS OF OVER-THE-COUNTER BROKERS AND DEALERS

1. Nature of the Over-the-Counter Markets.

The over-the-counter markets, in general, are the unorganized markets in which there are meetings of individual supply and demand as contrasted with the organized markets on exchanges where there are meetings of collective supply and demand. Over-the-counter transactions take place in the offices of brokers and dealers and do not involve the trading facilities of an exchange.

In the exercise of its proper function, an exchange, in theory, furnishes a public market where buyers and sellers concentrate and where transactions are effected as a result of the meeting of the highest bid and the lowest offer under auction rules. In contrast, the over-the-counter market does not provide the same facilities for the concentration of buyers and sellers in a particular place. Each dealer is the market for his clientele; each broker seeks to execute his orders wherever he deems best. Hence, the over-the-counter market affords no single place for the public meeting of supply and demand and frequently the price at which a transaction is effected does not result from the meeting of the highest bid and the lowest offering. Transactions are negotiated privately and are ordinarily known only to the parties involved.

No record is published of transactions effected in over-the-counter markets. There are no ticker services or central agencies where the investing public can check the prices at which securities have sold. Brokers and dealers, however, who transact business in the over-the-counter markets, generally know from experience the firms specializing in securities in which they are interested. Some dealers circulate bid and asked quotations among other dealers and brokers for the purpose of stimulating business, and private services also enable over-the-counter houses to make their quotations available to one another. The investing public derives some information from the newspapers with regard to over-the-counter quotations. These quotations are procured from brokers and dealers or, in the largest financial centers, from organizations of brokers and dealers. While of value to the investor, they are necessarily limited in scope. They do not purport to represent the highest bids and the lowest offerings available at the time they are secured, but merely bids and offers between which it is believed that business may be transacted. From these facts it is apparent that the nonprofessional investor in the over-the-counter market is chiefly dependent for his knowledge of prices and quotations upon the house with which he deals.

Transactions in the over-the-counter markets take place both in securities admitted to trading on exchanges and in those which are not dealt in on exchanges. Certain preliminary steps are necessary in order to render a security eligible for trading on an exchange. It must have been listed or admitted to unlisted trading privileges on such exchange.[1] It must also have been registered with the Commission under the Securities Exchange Act of 1934 unless exempted from such registration; or permission to continue trading on an unlisted basis must have been granted by the Commission. No such preliminary requisites are present in respect of a security traded in the over-the-counter market and accordingly, all securities have access to that market.[2]

The flotation of most new issues of securities is accomplished only through the medium of the over-the-counter markets. A security is not ordinarily eligible for admission to exchange trading until a degree of public distribution has been attained, the requirements of the exchanges varying considerably in this regard. Even after distribution has been effected, the great bulk of security issues are never listed on any exchange but continue to be dealt in, if at all, exclusively over the counter.

A substantial volume of business in bonds, preferred stocks, and other fixed-income securities which are listed or admitted to unlisted trading privileges on exchanges, is transacted over the counter. The principal market for many such securities is found off the exchanges. Even with respect to some common stocks admitted to exchange trading, the volume of trading over the counter frequently exceeds that on the exchange. Blocks of securities too large to be dealt

[1] For a discussion of the distinctions between a listed security and one admitted to unlisted trading privileges, see report of the Commission to the Congress on "Trading in Unlisted Securities Upon Exchanges", pt. I.

[2] This statement is subject to the qualification that before any security may be publicly offered or sold in interstate commerce or through the mails it must be registered with the Commission under the Securities Act of 1933 unless it is exempted from such registration. Hence, for securities required to be registered under the Securities Act of 1933, such registration is prerequisite to trading either on an exchange or in the over-the-counter market. See also the present requirement for periodic information under the provisions of the amendments of 1936 to the Securities Exchange Act, Appendix R–1. As indicated in the text, further requisites must be complied with before a security can be traded on an exchange.

in on the auction market furnished by the exchange without danger of wide fluctuations in price, are normally bought and sold by recourse to the over-the-counter markets. In this connection, it may be stated that securities are largely bought and sold in the over-the-counter market for the account of institutional investors such as banks, trust companies, insurance companies, investment trusts, and educational and charitable foundations, whose dealings are generally in blocks of considerable size.

As yet it is possible to make only a rough estimate of the number of issues which are handled by brokers and dealers in the over-the-counter markets. It seems clear, however, that such issues far exceed in number the securities listed or admitted to unlisted trading privileges on the exchanges. As of December 15, 1935, there were fully listed on exchanges and registered with the Commission 2,645 issues of stock and 1,681 issues of bonds, and there were admitted to unlisted trading privileges on exchanges 1,370 issues of stock and 564 issues of bonds.[3] In the semiannual stock and bond summaries of the National Quotation Bureau, Inc., approximately 90,000 issues are quoted for over-the-counter trading. Many of these issues were likewise listed or admitted to unlisted trading privileges on exchanges; but, since the total number of issues traded in on all exchanges as of December 15, 1935, was 6,260, it is apparent that over-the-counter securities quoted for trading outnumber exchange securities many times over.

While there are no reliable statistics with respect to the volume of trading in the over-the-counter markets, there is ample reason to believe that both the value of the total issues dealt in over the counter and the volume of transactions in such issues are enormous. A huge volume of business is transacted in the over-the-counter markets in United States Treasury bonds and notes, Federal Farm Loan bonds, Home Owners' Loan bonds, state and municipal bonds, land bank bonds, foreign stocks and bonds, public utility stocks and bonds, guaranteed railroad stocks, railroad equipment bonds, bank and insurance company stocks, investment trust shares, real estate bonds, miscellaneous industrial and railroad bonds, and many others. From such statistics as are available, it appears that the great majority of all bond transactions in the United States is consummated in the over-the-counter markets.

2. Number of Over-the-Counter Brokers and Dealers.

On January 1, 1936, the registration with the Commission of 5,325 brokers and dealers transacting business in the over-the-counter

[3] These figures have been adjusted to eliminate duplication. See report of the Commission to the Congress on Trading in Unlisted Securities upon Exchanges, p. 4 and Appendix III.

markets became effective.[4] Included in this total were 2,043 sole proprietorships, 1,540 partnerships, 1,738 corporations, and 4 other forms of business organization. Of the total number, 1,410 brokers and dealers were also members or member firms of securities exchanges.[5]

These figures do not comprehend all brokers and dealers transacting business in the over-the-counter markets. The rules promulgated by the Commission under authority vested in it by section 15 of the Securities Exchange Act of 1934 required the registration with the Commission of any broker or dealer who made use of the mails or any instrumentality of interstate commerce for the purpose of making or creating or enabling another to make or create a market, otherwise than on a national securities exchange, for both the purchase and sale of any security or who used any facility of any such market. A broker or dealer was exempt from registration if he transacted business only in exempted securities, commercial paper, bankers' acceptances or commercial bills, or in unregistered securities the market in which was predominantly intrastate and which had not previously been listed on an exchange.[6] The jurisdiction of the Commission in respect of registration did not extend to such exempted brokers and dealers and their total number is not accurately known.

3. Functions of Over-the-Counter Brokers and Dealers.

The activities of the ordinary over-the-counter house resemble in many respects those of the commission firm on a securities exchange.[7] Like the commission firm, the over-the-counter house normally transacts business directly with the investor as well as with professional dealers. But there is no real counterpart in the over-the-counter market for those classes of exchange members whose business consists solely of effecting transactions with or on behalf of other brokers and dealers on the exchange floor.

[4] In the report of the Commission to the Congress on Trading in Unlisted Securities Upon Exchanges, the number of brokers and dealers whose registration became effective on January 1, 1936, was stated to be 5,088. The correct number was 5,325. The discrepancy was due to the fact that the registration statements of 237 brokers and dealers were permitted to become effective after the material for the report had been assembled for publication.

As of May 27, 1936, the number of brokers and dealers registered with the Commission had increased to 5,771.

[5] See Appendix P–1 for classification of over-the-counter brokers and dealers registered with the Commission as of Jan. 1, 1936.

It should be noted that those exchange members who effected transactions exclusively through the facilities of a national securities exchange were not required to register.

[6] See Appendix Q–1 for Rules for the Regulation of Over-the-Counter Markets. The provisions of sec. 3 of the act of May 27, 1936 (Public No. 621, 74th Cong.), amending sec. 15 of the Securities Exchange Act of 1934, rendered these rules inoperative. The nature and effect of the amendment to sec. 15 are discussed at p. 80, *infra*.

[7] *Cf. supra*, p. 3 *et seq.*

In general, over-the-counter houses participate in one or more of the following types of business: The underwriting and wholesale distribution of securities, the wholesale distribution of securities without underwriting commitment, the retail distribution of securities, the maintenance of trading markets, the management of investment trusts, and the sale of investment counsel. In the larger financial centers there is some tendency toward specialization within these fields. The smaller the community served, the greater the likelihood that houses will combine most, if not all, of these various functions. In addition, the partners of over-the-counter firms sometimes serve on the directorate of corporations the securities of which they are instrumental in distributing.

Like the commission firms, many over-the-counter houses in important financial centers maintain large central organizations and branch offices. Among their employees may be found salesmen, traders, statisticians, market analysts, investment counselors, and branch office managers. The 5,325 brokers and dealers whose registration became effective on January 1, 1936, reported that they employed a total of 71,340 persons.

Over-the-counter houses also extend credit to enable customers to purchase and carry securities. Of the brokers and dealers in question, 1,045 carry margin accounts for customers, 255 sell securities on some form of partial-payment contract, and 306 extend credit in some other form.[8]

[8] See Appendix P–2. These figures include registered brokers and dealers who are members of exchanges as well as nonmembers. Of the total number of registered brokers and dealers extending credit in some form, 51 percent are exchange members.

CHAPTER II

CONSIDERATIONS AFFECTING THE COMBINATION OF FUNCTIONS IN OVER-THE-COUNTER MARKETS

The number of registered brokers and dealers who exercise the dual function in the over-the-counter markets is ascertainable from the registration statements filed with the Commission. Of those who were registered on January 1, 1936, 574 stated that they transact business only as brokers; 958 stated that they transact business only as dealers; 3,740 reported that they act in both capacities; and 53 claimed to be inactive.[1] Expressed in percentages of the 5,272 active registrants, 10.9 percent confine their business to brokerage, 18.2 percent are dealers exclusively, and 70.9 percent act both as brokers and dealers. Thus, it appears from their statements that only a small number of the registered brokers and dealers can be said to be segregated. Moreover, the figures given for those acting only as brokers are undoubtedly subject to considerable revision downward under any concept of segregation which would preclude a broker altogether from purchasing and selling securities for investment as well as for inventory.

In the over-the-counter markets the persons who combine the functions of broker and dealer may be divided into two groups. The first consists of those who effect transactions in the over-the-counter markets in both capacities and who also are members of exchanges. The activities of this type of broker-dealer have been described in part I. The second group is composed of those who effect transactions in the over-the-counter markets in both capacities, but who are not exchange members. Persons in the latter group may also act as brokers in transmitting orders to exchange members for execution on the exchanges.

The same general principles governing the combination of functions by exchange members are applicable to brokers and dealers in the over-the-counter markets. An over-the-counter broker-dealer may not act as principal and agent in the same transaction. Without full disclosure to and the consent of his customer he may not purchase for his own account securities which he has been authorized to sell nor may he supply from his own account securities which

[1] See Appendix P-1.

he has been authorized to buy. If he makes such disclosure, however, and the customer does not object, he may take or supply for his own account securities named in a brokerage order. He may also serve the same customer as broker in one transaction and as dealer in another, provided he advises the customer of the capacity in which he is acting. He may act as broker in relation to some customers and as dealer in relation to others. He may deal freely for his own account with persons who are not his customers.

1. Alleged Necessity for Combination of Functions.

It is contended by over-the-counter brokers and dealers that the combination of functions is essential in the over-the-counter markets. The arguments advanced in support of this contention may be classified generally according to their bearing upon the interests of investors, of corporate and governmental issuers and of the brokers and dealers themselves. There follows a resume of these arguments together with a statement of certain considerations suggested by the Commission in connection with each.

(*a*) The arguments advanced by brokers and dealers to support the contention that the combination of functions is important to investors may be summarized as follows:

(*i*) *Argument.*—The ability of the broker-dealer, by virtue of his dual capacity, to fulfill all the investment requirements of his customer, however diversified, makes for a continuing relationship which is advantageous to both parties. Such a relationship creates on the part of the broker-dealer a greater sense of loyalty and responsibility toward his customer and enables the latter to rely with more complete confidence upon the advice and service which he receives. The quality of this relationship would be impaired if the customer were forced to transact his brokerage business through one firm and his dealer business with another.

Comment.—Assuming that the continuing relationship is advantageous to the customer, segregation need not affect such relationship as between a broker and his customer. If the customer desired a continuing relationship, the segregated broker could act as his agent in handling all transactions, including those for which the services of a dealer would also be required. Some increase in the cost of effecting transactions in the latter category might be involved; but this might be more than offset by the removal of personal interest on the part of the broker and by the advantage to the customer of procuring expert assistance in his negotiations with dealers.

As between a segregated dealer and his customer, the relationship could not be continuing in the same sense since the dealer could not act as the customer's agent in any transaction.

The continuing relationship under certain circumstances may not be an advantage to the customer and may, in fact be a distinct disadvantage. This would be true in cases where the sense of loyalty and responsibility is absent, or where the quality of the broker-dealer's advice and service is inferior, or where lack of competition renders the broker-dealer neglectful of his customer's interest. If, in any such case, the continuing relationship lulls the customer into a sense of false security, such relationship is a positive detriment.

(*ii*) *Argument*.—The broker-dealer is better qualified to render investment advice than the exclusive dealer or exclusive broker. The former is not ordinarily familiar with many securities which in the normal course of business are handled on a brokerage basis; and the latter does not follow securities dealt in mainly on a dealer basis. Because the broker-dealer handles transactions in both types of securities, he maintains close contact with all phases of the business. Moreover, by virtue of the increased volume of business which the combination of functions enables him to transact, he can afford the expense attached to the compilation of statistical information on a more comprehensive scale than would be possible for an exclusive broker or an exclusive dealer.

Comment.—The broker-dealer, because of the exercise of his dual function, may be somewhat better informed than the average exclusive broker or exclusive dealer. The superiority of his information, however, when measured against the vast extent of the securities markets, appears to be negligible. Information gained in the exercise of the dual function alone would not appear to be sufficient to obviate the necessity for resorting to the sources and channels of information which are equally available to the exclusive broker or dealer.

It is extremely unlikely that the larger firms would be compelled by segregation to discontinue such investment advisory service as they now render. If the income of the small broker-dealer should be diminished to the point where he could no longer afford the expense of investment and statistical analysis he would, of course, be less qualified to provide sound investment advice. A solution of this problem might be found in the assessment to the customer of a fee for such advice.

(*iii*) *Argument*.—The broker-dealer is less tempted than the exclusive broker to influence his customer to trade in the securities which are normally dealt in on a brokerage basis; and he is less tempted than the exclusive dealer to influence his customer to trade in those normally dealt in on a dealer basis. Since he is able to profit in either capacity, he can take a comprehensive and disinterested view of his customer's requirements.

Comment.—This argument assumes that self-interest would impel the segregated broker or the segregated dealer to subordinate his customer's interests to his own possibilities for profit. If this assumption is correct it is equally valid in respect of a broker-dealer who might be expected to influence his customer to trade on whatever basis would be most profitable to the broker-dealer. There is ample evidence that some broker-dealers in the past have ignored the interests of their brokerage customers by influencing them to purchase securities of doubtful value which the broker-dealers were engaged in distributing.

(*iv*) *Argument*.—The combination of functions enables the broker-dealer to render more efficient service to his customers in the execution of orders. The capacity in which he acts is frequently determined by the size of an order or the type of security involved. Thus, an order to buy or sell a small amount of a security with a broad market can readily be handled on a brokerage basis; whereas in the accumulation or distribution of a large block, efficient service to the customer usually requires the exercise of the dealer function. A customer may simultaneously or at different times require the purchase of both listed and unlisted securities; and the proper execution of such orders may demand the exercise of both functions.

Comment.—The ability to synchronize his functions may well render the broker-dealer more efficient in particular cases. Although it is undoubtedly a convenience to the investor to be able to entrust an order to a broker-dealer

who is empowered to execute it in whatever manner may be most efficient, there seems little reason to doubt that the convenience of the customer could be as effectively served under segregation. As already pointed out, a segregated broker would be able to act as the customer's agent in handling all transactions including those for which the services of a dealer would also be required.

(*v*) *Argument*.—The foregoing considerations are of particular importance to the investor in communities outside of New York. In many small cities and towns the number of brokers and dealers is limited. The relationship between a broker-dealer and his customer is likely to be a personal one based on mutual trust and confidence developed over a long period of time, and in any such case the customer is inclined and prefers to entrust all his business to one firm.

Comment.—Assuming without deciding that segregation would tend to restrict the activities of the broker-dealer in small cities and towns to the point where some could not continue in business, the interests of the investor in such localities might well be affected thereby. It is possible, however, that other facilities now available through banks or branch offices of large commission houses might furnish a substitute for the type of service supplied by the local broker-dealer. This possibility is largely a matter of conjecture at present.

(b) The arguments advanced by brokers and dealers to support the contention that the combination of functions is important to corporate and governmental issuers can be stated thus:

(*i*) *Argument*.—The investment dealers considered as a group are practically the only existing agency for the distribution and sale of new issues of securities. They furnish the personnel, experience, and machinery for marketing such issues. Industry and the large underwriters depend upon them to serve as their vehicle of distribution. The States and their taxing subdivisions likewise depend upon them for economical financing.

Many of these investment dealers are members of exchanges and each in his own community does a substantial commission business. If called upon to abandon either function, some of the firms might retire altogether from the securities business; some might choose the brokerage function; some might continue the dealer business; some might split their capital and personnel, allocating a portion to each type of business; and some might consolidate with others and continue in one branch of activity. Whatever choice is made, the net result would be fewer dealer firms and less capital to effect their operations which would greatly hamper and impede the financing of governmental agencies and industries, particularly those of a local character.

Comment.—The importance of the investment dealer in the distribution process is not denied. His sales force and experience have been essential factors in financing the needs of corporate and governmental issuers. Segregation might result in the retirement of some dealers and the election by others to exercise the brokerage function. It is not clear whether segregation would cause any permanent impairment of the facilities for the marketing of new issues.

The actual diminution of dealers' capital, which might be occasioned by a shrinkage in the number of dealer firms, might in the aggregate be important but it should be noted that the bulk of financing is accomplished not through the employment of any considerable amount of the dealers' own capital, but rather through the employment of capital which they borrow from banking institutions. The extent to which the amount of capital available from banking sources would be contracted by a decrease in the number of dealers cannot be determined in advance.

(*ii*) *Argument.*—The direct effect of segregation on the distribution of and trading in State or municipal bonds and other securities which are not listed as a matter of public policy or for other reasons, would be to render less efficient the support of the market for these securities with consequent loss to investors, lower prices for public credit and increased burdens on taxpayers.

Comment.—The prices of State and municipal securities would appear in the final analysis to depend upon the credit of the issuer and current interest rates. No technical support of the market can long prevent such securities from finding their true price levels. Assuming that segregation would result in less efficient support of the market for these securities, it is difficult to see any causal relation between that fact and "consequent loss to investors, ultimately lower prices for public credit and increased burdens on taxpayers."

(*c*) The over-the-counter broker-dealer contends that the combination of functions is vital to his continued existence. The arguments advanced in support of this contention may be summed up as follows:

Arguments.—(*i*) The combination in one person of the functions of broker and dealer lends stability to his business. The brokerage business and the dealer and underwriting business are said to run in cycles. When one is dull the other may be active. The ability to carry on whichever branch of the business is active enables the broker-dealer to survive periods of depression.

(*ii*) The operating expenses of broker-dealers are more or less fixed and would not be materially reduced by the abandonment of either function. Practically the same number of employees, the same amount of office space, the same equipment, and the same bookkeeping and stenographic service are necessary in order to carry on either or both types of business. Since the loss of income entailed by segregation would not be accompanied by a material reduction of expense many firms could not survive.

(*iii*) The capital invested in the securities business can be most profitably employed by the person who combines both functions. Segregation would sterilize the capital employed in either branch of the business during slack periods in that branch. This would increase the risk, decrease the return, and result in the withdrawal of large amounts of conservative capital from the securities business.

(*iv*) The small firms, particularly those outside the metropolitan areas, must be able to do business with all persons interested in securities, handle all kinds of securities, trade in all markets, and participate in the securities business in all its phases. Segregation would eliminate from the field the local house and would tend to drive into the hands of a comparatively small group of national organizations practically the entire securities business. The local house, obliged to choose between one or the other function, could not do a sufficient volume in either to permit it to continue in business.

Comment.—The validity of these arguments is largely in the realm of controversy. Such statistical data as are available bearing upon the relative importance of the brokerage and dealer functions in the over-the-counter markets are likely to be unreliable indices of the future development of those functions. This is particularly true if the introduction of the concept of segregation into the pattern of our financial economy should so radically alter that pattern as to invalidate statistical data compiled prior to its introduction.

These contentions, nevertheless, are representative of the considered opinion of many reputable and well-informed persons in the securities business and as such are entitled to serious consideration. No study of the wisdom and practicability of segregating the functions of broker and dealer would be complete without a comprehensive survey of the effect thereof upon the broker-dealer. In the final analysis, however, the prevailing consideration must be the public interest and the protection of the investor.

2. Abuses Arising from the Combination of Functions.

The dangers to which the investor is exposed by the combination of the broker and dealer functions are, in their essence, the same in the over-the-counter markets as on exchanges. The over-the-counter broker-dealer, like the exchange member, may engage in a diversity of activities, sometimes as agent and sometimes as principal. When he undertakes to execute an order as agent he assumes certain fiduciary obligations to his customer.[2] When he undertakes to act as dealer in a transaction he is a principal. The exercise of the latter function may interfere with the proper fulfillment of the fiduciary obligations created by the former. While the immediate self-interest of a segregated dealer may also conflict with the interests of his customer, the problems presented thereby are not an outgrowth of the combination of functions.

As has been shown, the greater volume of business transacted on the exchanges is effected by members acting as brokers. It is generally agreed that the converse is true in the over-the-counter markets where transactions are normally effected on a dealer basis. Nevertheless, broker-dealers in the over-the-counter markets are not infrequently in a position where their personal interests are brought into conflict with those of their customers. Many such broker-dealers transact business through the medium of exchange members. While their transactions in the over-the-counter markets are usually effected on a dealer basis, orders which they receive for execution on an exchange are ordinarily handled on a brokerage basis.

Where the fiduciary relation exists between an over-the-counter broker-dealer and his customer, the situation is complicated by at least one important factor: By virtue of the lack of publicity attendant upon over-the-counter transactions and the lack of any organized mechanism of control, such as that furnished by an exchange, abuse of the fiduciary relationship in connection with transactions in the over-the-counter markets is less liable to discovery than on exchanges.

a. Specific Abuses.

(*i*) The over-the-counter house which conducts a brokerage business and which also takes underwriting positions, or participates in distributing syndicates or sells securities at retail is under temptation to induce its brokerage customers to purchase securities which it is anxious to sell. A similar tempta-

[2] For a description of the incidents of the principal and agent relationship, see Introduction, pp. xiv–xv, *supra*.

tion is present in the case of a house which takes trading positions or acquires options in securities. In the exercise of the dual function, the broker-dealer who is distributing a security of doubtful value in the over-the-counter market may subject his brokerage customer to the danger of loss by persuading him to invest in such security. He may also induce his customer to authorize him to liquidate sound securities in order to obtain funds necessary for the purchase from the broker-dealer of a security whose comparable value is questionable.[3] Wherever the broker and dealer functions are thus combined the profit motive inherent in the latter may be sufficient to color investment advice or otherwise affect the brokerage service rendered to customers.

(*ii*) The broker-dealer may violate certain provisions imposed by law with respect to the duties of a fiduciary such as the obligation to clearly disclose the capacity in which he acts.

(*iii*) Even where there is a technical compliance with legal requirements, advantage may nevertheless be taken of a customer who is ignorant of the distinction between the functions of broker and dealer. The technique of salesmanship which has been so highly developed in American securities markets sometimes renders it difficult for the average investor fully to comprehend whether a broker-dealer is soliciting a brokerage order or negotiating as principal. The confirmation of transactions which the investor receives may be in such form as to increase rather than dispel this confusion.

(*iv*) A broker-dealer is often in a position in which, at his election, he may treat an ambiguously phrased order to buy a security either as a brokerage order or as an offer to buy. In such a case the execution of the order may be delayed by the broker-dealer until he can procure the security for his own account at a price sufficiently below that designated in the order to enable him to make what he considers an adequate profit. The converse situation arises with respect to an order to sell which may be treated by the broker-dealer either as a brokerage order or as an offer to sell.

(*v*) The broker-dealer who is distributing a listed security in the over-the-counter market may cause certain of the orders which he receives from his customers to be executed as brokerage orders on the exchange for the purpose of establishing or maintaining a quoted price that will facilitate his over-the-counter distribution at or about that price.

(*vi*) In the management of investment trusts or the handling of discretionary accounts a fertile field for abuse exists. If a broker-dealer, either through a management contract or through actual control, manages an investment trust, he may handle its portfolio in such a manner as to advance his own interests rather than those of the trust. For example, securities which he has difficulty in distributing successfully may be placed in the portfolio of the trust. A similar abuse is possible in the case of the discretionary account.

* * * * * * *

The foregoing illustrations are sufficient to indicate some of the possibilities of abuse inherent in the combination of functions in the over-the-counter markets. An attempt has been made to exclude from these illustrations any reference to undesirable practices in the over-the-counter markets which, while the subjects of considerable criticism, are not peculiar to the combination of functions. Typical of the undesirable practices which may be incident to the dealer function whether segregated or not are: The tendency on the part of some over-the-counter dealers to extort exorbitant profits from their customers; high-pressure merchandising tactics in the sale of securities; the manipulation of exchange prices for the purpose of facilitating over-the-counter distribution or accumulation; the flotation and sale of inferior securities; the publication or circulation of bid and asked prices known to be fictitious; the publication or circulation of fictitious reports of transactions; and the making of offers to buy or sell at stated prices with no bona fide intent to effect transactions. Among the practices which may be incident to the brokerage function whether segregated or not are: The furnishing of investment advice calculated to induce customers to trade excessively in order to increase commissions; the generating of activity in discretionary accounts or in the accounts of investment trusts managed by a broker to augment commission income; the unauthorized employment by a broker of information obtained by reason of his confidential relationship with a customer; the subordination of the interests of one customer to those of another whose good-will may be of greater value. Abuses of this nature while of deep concern to the Commission, are not considerations affecting the combination of the functions of broker and dealer and are not deemed to be within the scope of this report.

[3] This is known as a "switching" operation.

CHAPTER III

POWERS OF THE COMMISSION UNDER EXISTING LAW

In addition to its authority under the Securities Exchange Act of 1934 to control activities on exchanges, the Commission is vested with certain regulatory powers with respect to activities in the over-the-counter markets. It is appropriate at this point to consider the nature of these powers and the controls established by the Commission thereunder.

Analysis of Specific Sections of the Securities Exchange Act of 1934 and the Controls Established by the Commission Thereunder

SEC. 15. Section 15 of the Securities Exchange Act of 1934 in its original form empowered the Commission to formulate a program which would insure to investors in the over-the-counter markets protection comparable to that provided by the act in the case of national securities exchanges.[1]

Prior to the enactment of the statute, the over-the-counter market was one of the enigmas of our financial system. Authentic data were lacking with respect to its nature, its functions, its size, and the technique of its operations. Hence, at the outset, the Commission was confronted with the task of building up a body of basic information regarding such markets. At the same time, it was essential that the work of eliminating from the securities business brokers and dealers manifestly unfit to engage therein be inaugurated without delay. As a step in the attainment of both objectives, the Commis-

[1] Sec. 15 in its original form reads as follows:

"It shall be unlawful in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest and to insure to investors protection comparable to that provided by and under authority of this title in the case of national securities exchanges (1) for any broker or dealer, singly or with any other person or persons, to make use of the mails or any means or instrumentality of interstate commerce for the purpose of making or creating, or enabling another to make or create, a market, otherwise than on a national securities exchange, for both the purchase and sale of any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills, or unregistered securities the market in which is predominantly intrastate and which have not previously been registered or listed), or (2) for any broker or dealer to use any facility of any such market. Such rules and regulations may provide for the regulation of all transactions by brokers and dealers on any such market, for the registration with the Commission of dealers and/or brokers making or creating such a market, and for the registration of the securities for which they make or create a market and may make special provision with respect to securities or specified classes thereof listed or entitled to unlisted trading privileges, upon any exchange on the date of the enactment of this title, which securities are not registered under the provisions of section 12 of this title."

sion promulgated rules requiring the registration of over-the-counter brokers and dealers and the filing of an informative statement in connection therewith.[2]

The next phase of the program was the codification of certain principles of fair practice to be observed by registered brokers and dealers. Due to the unorganized character of the over-the-counter markets the standards of just and equitable principles of trade were far less concrete than those prevailing on exchanges. While the over-the-counter broker and dealer was subject to the prohibitions contained in section 17 of the Securities Act of 1933, and the various State statutes against fraudulent transactions in securities, he was guided by no definite principles such as those embodied in exchange rules. The rules promulgated by the Commission constituted an attempt to render more specific some of the fiduciary obligations which a broker owes to his customer.

A broker who acted as the agent of both buyer and seller was required either to procure the written or telegraphic consent of both parties at or before the completion of the transaction or to make written disclosure to both before its completion that he was so acting.[3] Neither a broker nor a dealer was permitted to effect any transaction for or with a customer unless at or before the completion of the transaction he informed the customer in writing whether he was acting as dealer for his own account, as broker for the customer or as broker for some other person.[4] If he acted as broker for the customer, he was under a duty to disclose or offer to disclose the name of the other party and the time of the transaction.[5] He was further required to reveal the amount of his commission or service fee and the amount paid by him to any subbroker in the transaction.[6] If he was controlled by or controlled or was under common control with the issuer of a security involved in the transaction that fact was required to be stated.[7] A broker or dealer who furnished investment advice to a customer or held discretionary power over a customer's account could not effect any transaction in a security for or with his customer unless he disclosed any position, interest, or option which he had in such security and obtained the written or telegraphic consent of the customer to each such transaction.[8] Neither could such

[2] See Appendix Q–1 for Rules for the Regulation of Over-the-Counter Markets. The provisions of sec. 3 of the act of May 27, 1936 (Public, No. 621, 74th Cong.), amending sec. 15 of the Securities Exchange Act of 1934, rendered these rules inoperative. The nature and effect of the amendment to sec. 15 are discussed at p. 80, *infra*. See Appendix R–1.

[3] Appendix Q–1, Rule MA10. *Cf.* footnote 4, p. 57, *supra*.

[4] *Idem*, Rule MA11 (a) (1).

[5] *Idem*, Rule MA11 (a) (2).

[6] *Idem*, Rule MA11 (a) (3).

[7] *Idem*, Rule MA11 (a) (4).

[8] *Idem*, Rule MA12 (a) (1).

a broker or dealer trade with his customer for an account in which he or any principal for whom he was acting was interested without obtaining the customer's written or telegraphic consent to each such trade.[9]

Section 15, as originally enacted, applied to any broker or dealer who, singly or with any other person, made use of the mails or any means or instrumentality of interstate commerce for the purpose of making or creating, or enabling another to make or create a market, otherwise than on a national securities exchange, for both the purchase and sale of any security, and to any broker or dealer who used any facility of such a market. The program of regulation established by the rules of the Commission was made applicable to all brokers and dealers who were within the standard of inclusion set forth in this section. In the interest of clarity and ease of administration, section 15 was amended by Public Act No. 621, 74th Congress, enacted May 27, 1936.[10]

In the main, section 15, as amended, incorporates into statutory law the administrative program of the Commission which required the registration of over-the-counter brokers and dealers. The standard of inclusion, however, is based upon the use of the mails or instrumentalities of interstate commerce to effect transactions in, or to induce the purchase or sale of, securities otherwise than on a national securities exchange.

By the amendment also, the Commission is vested with power to define such devices or contrivances as are manipulative, deceptive or otherwise fraudulent.

Sec. 8. The provisions of section 8 (b) and (c) are applicable not only to any member of a national securities exchange but also to any broker or dealer who transacts a business in securities through the medium of any such member.[11] As previously stated 1,410 registered brokers and dealers transacting business in the over-the-counter markets are also members or member firms of national securities exchanges. A great majority of those who hold no memberships on national securities exchanges transact business through the medium of members. Hence, all such broker-dealers, as well as exchange members, will be affected by any rules that the Commission may promulgate under section 8 (b) and (c) designed to restrict their borrowings, to confine their dealer commitments within reasonable limits and to control the hypothecation and commingling of customers' securities.

[9] *Idem*, Rule MA12 (a) (2).
[10] See Appendix R–1 for text of sec. 15, as amended.
[11] See p. 57 *et seq.*, *supra*, for a more complete discussion of the Commission's powers under this section.

Sec. 10. The authority of the Commission under section 10 (b) to eliminate or control manipulative or deceptive devices or contrivances in connection with the purchase or sale of a security extends not only to any security registered on a national securities exchange, but also to any security not so registered. It applies also to transactions in the over-the-counter markets as well as to those on exchanges.[12]

Sec. 11. The provisions of section 11 (d) extend to all persons who combine the functions of broker and dealer. Hence, an over-the-counter broker-dealer, as well as an exchange member, is subject to the prohibition against the extension of credit to or for a customer on any security which was part of a new issue in the distribution of which he participated as a member of a selling syndicate during the preceding 6 months. An over-the-counter broker-dealer is likewise subject to the same penalties as an exchange member for failure to make written disclosure to a customer of the capacity in which he is acting, at or before the completion of the transaction.[13]

[12] Cf. discussion, p. 59, *supra*.
[13] *Cf.* discussion, p. 57, *supra et seq.*

Part III

ECONOMIC IMPLICATIONS OF SEGREGATION

INTRODUCTORY

THE APPROACH TO THE PROBLEM OF SEGREGATION

Thus far this report has set forth several of the findings of the Commission with respect to certain effects of dealer activities by members of exchanges, certain effects of the combination of the functions of broker and dealer by various classes of exchange members, and certain effects of the combination of these functions by persons in the over-the-counter markets. These findings, of course, do not resolve the general question raised by the proposal to segregate the broker and dealer functions on the exchanges and off the exchanges. They do, however, furnish a basis upon which an appraisal of the proposal of segregation in either of its possible forms [1] can be made.

Such an appraisal must concern itself not only with the benefits to be derived from segregation. It must also concern itself with the probable consequences that segregation would bring about in our security markets, attempt to weigh these consequences from the standpoint of the public interest and, if these consequences involve certain costs, strike a net balance between these costs and the benefits that might appropriately be derived from segregation. If the combination of dealer and broker functions promotes qualities such as liquidity and continuity in our security markets, and if segregation would mean some sacrifice of these qualities, the loss from that sacrifice must be weighed against such values as may be attributable to segregation.

It must always be remembered that the proposal of segregation is not an end in itself; it is simply a means to the end of providing the public with securities markets more truly attuned to the protection of its interests. The effort is to achieve certain benefits that would ensue from the elimination of abuses. If their elimination by a particular means would inevitably entail genuine cost, other means whereby that same end could be achieved with less cost should

[1] I. e., segregation in the sense of a prohibition against a person acting both as broker and dealer, or segregation in the sense that activities of members on an exchange be confined to those of a brokerage nature.

obviously be explored. Thus one must think in terms of alternatives to the proposal of complete segregation—alternatives such as partial segregation or the restriction of particular dealer activities, or, in some instances, measures aimed specifically and directly at the elimination of those abuses responsible for the suggestion of segregation. One must also consider whether the problems can best be met through the process of legislation, the more flexible process of administrative regulation, or the process of regulation by self-governing communities of brokers and dealers under the supervision of an administrative body. In order to lay the groundwork for this type of appraisal, it seems best briefly to review the merits and demerits of the activities of various classes of persons on the exchanges as well as off the exchanges, to weigh these findings in the light of their professed relationship to certain qualities that it is alleged security markets should possess, and to consider the probable shifts in activity that would follow upon segregation, together with any new problems that these shifts would present.

CHAPTER I

REVIEW OF THE CHARACTERISTIC ACTIVITIES OF MEMBERS OF EXCHANGES

1. Floor Trading.

As has been seen earlier in this report, the objections that can be advanced to the trading of members while on the floor[1] are: That members who trade while on the floor enjoy competitive advantages over persons not on the floor; that their operations are essentially of an in-and-out speculative character, and that their operations on the average accentuate price trends and thus do not contribute to the stability of market prices. Justification for floor trading must then rest upon the claim that it serves an economically beneficial purpose by contributing to the continuity of exchange markets and by increasing the liquidity of exchange securities. A decision as to the desirability of its continuance must therefore rest upon a consideration of the value of those elements of liquidity and continuity, and the extent of its contribution thereto.

2. The Floor Trader.

The floor trader acts almost exclusively in the capacity of dealer, and, as such, presents no problem of the combination of broker and dealer functions in one individual. His elimination could be accomplished only by a requirement that all members of exchanges when trading on the floor must act simply as brokers.

3. The Floor Broker.

The floor broker also indulges in floor trading. He thus combines in his own person the functions of dealer and broker. To the extent that this is true his brokerage customers are subject to the risk that his own financial interests will be in conflict with theirs. Consideration of his activities insofar as they involve that conflict can best be discussed in connection with the commission broker and the commission house.

4. The Odd-Lot Dealer and Odd-Lot Broker.

Odd-lot dealers, apart from those who are also specialists, deal as principals and conduct no brokerage business. Consequently, they do not involve the combination of functions in their own per-

[1] Floor trading includes not only the trading of the floor trader and floor broker but also the trading of any other member for his own account while on the floor. Cf. p. 14, *supra*.

son. Insofar as their odd-lot transactions on the exchange are substantially off-setting positions, assumed to meet the requirements of their odd-lot orders, the dealer element that they represent is but the reflection of the net balance of buy and sell odd-lot orders that they receive. The odd-lot dealer thus performs a valuable function and one that could not be performed, as it is now conducted, if all dealer activities on the part of members of exchanges were to be abolished.

The odd-lot broker, acting as he does only for the account of the odd-lot dealer firm with which he is associated, enters into no fiduciary relationship with public customers. Insofar as he trades for his own account, his activities fall into the category of floor trading. His activities for his own account subject his employer, the odd-lot firm, to the risk that the odd-lot broker's own financial interests and desires may lead to action contrary to the best interests of his employer. But as was pointed out earlier in this report, supervision over these activities by his employer, who is normally professionally competent to judge as to how well the odd-lot broker remains true to the nature of his employment, offers a sufficient safeguard which makes compulsory segregation of his activities as broker and dealer a matter of no great moment.

5. The Specialist.

Of all exchange members, the specialist most conspicuously combines the functions of dealer and broker. As a dealer the specialist in trading for his own account enjoys the advantages attributable to floor trading plus those which accrue from the special knowledge derived by his keeping of the book. In combining the functions of both dealer and broker at the pivotal point in the market for the stocks in which he specializes, the specialist enjoys unusual opportunity to stimulate public activity in his securities and to further manipulative operations. Ample evidence exists that, prior to the enactment of the Securities Exchange Act of 1934, the specialist did not overlook these opportunities. Since the enactment of that Act and since the adoption of the rules governing specialists which the Commission recommended to the exchanges, the evidence fails to indicate that abuses of this character have continued in any serious volume.

The activity of the specialist in trading for his own account is claimed to contribute to the liquidity and continuity of the market for the securities in which he specializes. Continuity is claimed to be furthered by the fact that the specialist is under an inducement to maintain a fair and orderly market in his securities. It is also claimed to be furthered by the fact that on the average the specialist trades against the trend. Trading by the specialist on his own account is again claimed to be justified by the necessity of compensating him for the substantial risks assumed by him to insure the proper execution of brokerage orders. The necessity of his trading for this latter purpose should not be overemphasized.

The specialist odd-lot dealer, combining as he does the functions of the specialist with that of the odd-lot dealer, presents no problem which differs essentially for the purposes of this report from that presented by the specialist who does not deal in odd lots. Whatever advantage this type of specialist may possess differs mainly in degree from the advantages enjoyed by all specialists. Additional problems raised in connection with the specialist odd-lot dealer also involve the methods by which an appropriate means for the execution of odd-lot orders could be devised, in cases in which the segregated odd-lot dealer would not be a possible solution.

6. The Commission Broker and the Commission House.

The overwhelming majority of firms and individuals engaged in effecting securities transactions for the public combine the functions of both dealer and broker. Indeed, since the purchase of securities by members of brokerage firms for their own account as individuals comes within the concept of the dealer function, it might well be said that all commission houses and commission brokers combine the broker and dealer functions.

In regard to the effect which the exchange trading of these members while off the floor has upon the general character of the market, little is definite. The significance of segregation, other than as it relates to their possible contribution to the liquidity and continuity of the market, concerns primarily the manner in which their ability to perform their brokerage obligations, especially in regard to discretionary accounts, may be impaired by their direct or indirect financial interest in particular securities. That interest may arise not merely from the assumption of a position through their trading activities, but equally because of such matters as their participation in primary or secondary distributions, or their sponsorship of investment trusts.

The standard of performance of their brokerage functions might well be improved by their divorcement from dealer activities, but conflicts of interest would not thereby be entirely eliminated. A segregated broker may still have an interest in conflict with that of a particular customer if at the same time he is acting as agent for another and more important customer. Segregation may well be regarded as a remedy which will strike at certain abuses, but will leave untouched others arising from divided allegiance.

The degree to which the dealer activities of a broker may militate against his faithful performance of his brokerage obligations is increased in those cases where the brokerage client is a member of the general public as distinguished from another member of the exchange. In the case of the floor broker, the professional capabilities of his client, who is a member of the exchange, makes it somewhat more difficult for his personal trading to interfere with the proper execution of his brokerage orders. In the case of the ordinary broker, that type of check is reduced.

CHAPTER II

SHIFTS IN FUNCTIONS OF MEMBERS OF EXCHANGES LIKELY TO ENSUE UPON SEGREGATION

1. Shifts Likely to Ensue Upon the Prohibition Against the Combination of Dealer and Broker Activities in One Person.[1]

Segregation in the sense of requiring the individual to elect between the broker and dealer functions would in all probability have the following effects upon the various classes of members of the exchange:[2]

a. Floor Traders.

Floor traders would presumably continue to perform the dealer function. The chief effect of segregation upon them would be to restrain them from acting as concealed brokers—a practice occasionally resorted to by other brokers who, by putting their orders in the hands of floor traders, conceal from other members of the exchange the source of particular buying or selling power.

b. Floor Brokers.

Floor brokers would, in the main, probably elect to retain their brokerage function. Some undoubtedly would choose to become floor traders. The effect of such elections on the part of floor brokers would, on net balance, be likely to diminish dealer activity in the market.

c. Odd-Lot Dealers and Odd-Lot Brokers.

Odd-lot dealers, being completely segregated at the present, would be unaffected. Odd-lot brokers, whose trading for their own account is of a negligible character, would almost of a certainty elect to retain their brokerage activities.

d. Specialists.

Any attempt to envisage what would happen to the specialist presents considerable difficulty. It would seem more than likely that a class of specialists whose functions would be limited to the execu-

[1] This discussion has applicability only to larger exchanges. The problem of the smaller exchanges is treated later in this report.

[2] Throughout this report no consideration has been given to the ratio of rewards as contrasted with the value of service performed on the part of members of exchanges. It may well be that certain changes deemed desirable in the public interest would result in a reduction of rewards to brokers and dealers, and, because the overhead of brokers and dealers may have been synchronized to a different volume of business, some contraction of their employment would ensue. These factors should naturally be weighed, but the efficient functioning of the exchange mechanism from the standpoint of the larger public interest must be the prime consideration.

tion of orders on a brokerage basis would come into existence, even though a number of the present specialists might choose some other function. Such a specialist-broker would thus be confined, in the main, to the execution of limited-price orders, with the occasional execution of market orders and stop-loss orders. The functions that the present specialist performs in "making a market" for his security would, perhaps, be left in the hands of floor traders. This would remove from the floor of the exchange the only person who now possesses the incentive to maintain a stable and orderly market in particular securities.

On the other hand, a group of members in the nature of specialist-dealers or jobbers might well come into existence. They would "make the market" in a security or in particular securities by standing ready to take or supply stock. In the performance of this function they would compete with the brokers and the roving floor traders,[3] and with other specialist-dealers. Consequently the forces of competition might give them a considerable incentive to maintain a stable and orderly market in the securities in which they chose to specialize.

Such a system might parallel to a degree the system that now prevails in certain foreign markets,[4] especially that of the London Stock Exchange.[5] The parallel, would, perhaps, be more apparent than real due to fundamental differences that exist between our stock

[3] This type of competition is eliminated in the case of the jobber on the London Stock Exchange. See infra, footnote 5.

[4] For a description of the functions of members on the Paris Stock Exchange (the Parquet and the Coulisse or Curb Market) and the Berlin Boerse, see P. D. Dickens in Twentieth Century Fund, Inc., The Security Markets (1935), c. 14.

[5] The jobber system on the London Stock Exchange is described by P. D. Dickens in the following manner:

"The distinguishing feature of the London Stock Exchange is the division of its members into two classes, brokers and jobbers, with the requirement that members of the exchange must declare each year to which class they propose to belong. A member may not act in both capacities and no partnership may exist between a broker and a jobber. Both classes of members pay the same fees and subscriptions and are equal in every respect, although they perform different functions. The jobber is essentially a dealer who works for a profit and is not allowed to deal directly with the public. The broker acts as an agent between the public and the jobber and works for a commission. Many orders come indirectly through the commercial banks with whom the brokers may share their commission. A broker may cross or match orders, but to do so he must put them though the books of the jobber who receives a small fee for the service. The broker is not forbidden, strictly speaking, to buy and sell for his own account, but he cannot make a regular practice of dealing in a group of stocks for his own account as does the jobber. The jobber is a professional speculator who makes a specialty of dealing in a limited number of securities. By reason of this specialization he becomes expert in judging the value of his securites and in gaging accurately the supply of and demand for them at any moment. In order to do business he must be ready to buy or to sell at the demand of the broker. He may, however, in very inactive securities or in a one-sided market, decline to make a price and may ask the broker to disclose his hand by stating whether he is a buyer or a seller, in order that a bargain may be arranged. * * * The broker is assisted in his bargaining with the jobber by the fact that the jobbers compete with each other, and by the further fact that the jobber must ordinarily quote the prices at which he will either buy or sell before he knows which the broker wishes to do. Jobbers vary their

exchanges and foreign stock exchanges.[6] Some capable observers have suggested the introduction of this specialist-dealer system upon our exchanges.[7] There seems little reason why some genuine experimenting along these lines should not be carried on by the exchanges, with such variations as may be deemed desirable; such, for example, as the absence of any requirement that the specialist-broker and other brokers must put their transactions through the specialist-dealer. A trial of such a system limited to a small group of active as well as inactive stocks would reveal more, as to the economic desirability of such a segregation of the functions of the specialist, than many volumes of theorizing. Moreover, any immediate dangers that might arise during the course of such a trial could quickly be checked by active supervision on the part of the governing members of the exchange. Genuine, controlled experimentation on the part of the exchange, constantly under observation, is not the type of experimentation that need be feared. Nor need it be assumed that our present institutions are so fixed as to be unamenable to change, and that any effort to effect slight alterations in them is bound to result in damage.

e. Commission Brokers.

Segregation of the commission brokers limited to preventing them from acting in a dealer capacity on the floor of the exchange[8] would to some degree convert existing brokers into floor traders. This would occur primarily in those cases where their commission business was negligible in volume. It seems reasonable to assume that aggregate dealer activity would be decreased by such a proposal.

prices with the size of the order, the activity of the securitiy, the competition from other jobbers, and the condition of their own books, because all of these factors influence the risk the jobber assumes. * * *" See Twentieth Century Fund, Inc., *op. cit.*, pp. 513–514. See also S. Killick, The Work of the Stock Exchange (1933), 11, 22–27; F. E. Armstrong, The Book of the Stock Exchange (2d ed., 1934), 25–34; R. Dinsmore. Some Other Stock Exchanges (1934), 206 Saturday Evening Post, no. 44.

[6] Outstanding, for example, among these differences are the absence on the London Stock Exchange of any current report of transactions, the absence of any reports as to volume, the principle of fortnightly settlement, the fundamental differences in the methods of extending credit, and the enormous number of securities traded upon the exchange. Brokers on the London Stock Exchange are required, with negligible exceptions, to put their orders through the jobber, and the jobber never deals directly with members of the public. The jobber is under no obligation to make a market for the broker. The absence of any current reporting of transactions, together with a less rigid conception of the obligation of the broker to obtain the best possible price for his client, have led some observers to conclude that the fundamental difference between such an exchange as the London Stock Exchange and the New York Stock Exchange is that the former retains the essentials of a private market, whereas the latter is to be characterized as a public-auction market. It should be noted that the mere introduction of the specialist-dealer would not necessarily imply a change from a public auction market to a private market.

[7] See, e. g., G. Wright Hoffman in Twentieth Century Fund, Inc., *op. cit.*, 438–442.

[8] In connection with dealer activity of the commission broker on the floor consideration must be given to his handling of orders for the account of his firm and his partners, for his execution of this class of brokerage orders is practically equivalent to trading for his own account.

But the significance of segregation in the case of the commission broker, as distinguished from the floor broker and the specialist, is its effect upon his trading other than upon the floor of the exchange.[9] That trading consists of three types: (1) Trading in securities on the exchange but off the floor; (2) trading in exchange securities over the counter; (3) trading in over-the-counter securities. This trading may be either for the account of the firm or for the account of individual partners.

The second and third types of trading are primarily those which are concomitant to the business of acting as dealer, the commission broker in these cases supplying the needs and demands of the public to buy and sell these securities on a net basis. Segregation that would extend to the prohibition of these activities would bring considerable dislocation in existing commission houses. Since over-the-counter business is mainly done on a net basis, segregation would mean the loss of considerable over-the-counter business now done by member firms of exchanges. It would also mean that these member firms could no longer distribute exchange securities on a net basis. Those commission houses whose revenues derive principally from these sources would elect to give up their brokerage business. Some might maintain their exchange seats and do business as floor traders, in much the same manner as business is now conducted by bond dealers who hold a seat on the exchange.

Segregation limited to the prohibition of the first type of activity would not have these far-reaching effects in forcing a rearrangement of the commission houses. It would, however, decrease substantially the extent of dealer activity on the exchanges, especially activity of a speculative nature. The prohibition on this type of activity could not be absolute. Some leeway would have to be devised to permit the legitimate investment of firm and partner funds in exchange securities.[10]

f. Bond Brokers and Dealers.

The consequences of segregation as revealed in the case of the commission broker and the commission house would unquestionably be accentuated in the case of the bond broker and dealer. A very large portion of the bonds admitted to trading on the exchanges are sold by

[9] Segregation if generally applied to the floor broker, the odd-lot broker, and the specialist does not have the same wide implications. Except in those cases where these individuals are also partners of a commission house, the extent of their trading off the floor of the exchange is negligible. No pressing public need presents itself for the association of these persons with commission houses.

[10] The same leeway would naturally have to be granted to floor brokers, odd-lot brokers, and specialist-brokers in the event that segregation were put into effect. But it should be noted that if segregation is limited to the prohibition of dealer activity by these persons on the floor of the exchange, no consideration need be given to this problem of providing adequate leeway for the investment of surplus funds.

member firms to their customers on a net basis over the counter rather than on a brokerage basis on the exchange. Enforced segregation in the bond market might actually bring about the disappearance of the brokerage function in that market. It might also seriously affect the continuation of the exchange bond market.

The present estimate is that the volume of listed bonds traded off the exchange is somewhere from 8 to 20 times the volume traded on the exchange,[11] and bonds traded off the exchange are almost invariably traded net. A recent effort has been made by the New York Stock Exchange to bring more of the trading in listed bonds on to the exchange,[12] but even this effort has not been free from difficulty. The existence of this volume of trading on a net basis makes necessary the building up of inventory positions and the concomitant dealer activity of bond houses both on and off exchanges.[13] Moreover, since considerable demand exists from some customers, especially those of the institutional type, for bonds on a net basis, real difficulties of survival would be encountered by bond houses or bond departments of brokerage houses whose activities were limited to the brokerage function.

[11] An estimate made by a prominent New York bond house as to the quantity of exchange bonds traded on and off the exchange by that house is as follows:

Type of issue	Percent on the exchange	Percent off the exchange
Railroads	25	75
Public utilities	10	90
Industrials	25	75
Foreigns	90	10
Governmentals	5	95
State, municipal, and railway equipment	----------	100

State, municipal, and railway equipment bonds are rarely listed on exchanges.

[12] On Apr. 9, 1936, the New York Stock Exchange promulgated the following rules known as the nine-bond rule: "The committee on bonds rules that, effective Monday, Apr. 13, 1936, all individual orders for the purchase or sale of the securities listed in circular C-5828, dated Apr. 9, 1936, shall be sent to the floor of the exchange for execution, except (a) when orders call for the purchase or sale of 10 bonds or more, (b) after a market on the floor of the exchange has been diligently sought and it has been ascertained that the order may be executed at a better price elsewhere, or (c) when a customer specifically directs that the particular order shall be executed off the exchange." The rule received the following further interpretation by the committee on bonds on May 7, 1936: "In the opinion of the committee on bonds, a market on the floor of the exchange can be 'diligently sought' only by actually sending the order to the floor and not by merely obtaining a quotation. A bid (in the case of a buying order) must be made on the exchange at a price before a purchase at the same price may be made off the exchange; an offer (in the case of a selling order) must be made on the exchange at a price before a sale at the same price may be made off the exchange. The order may, however, be entered 'immediate or cancel.' For the guidance of members and their officers, bonds to which the nine-bond rule applies have been marked with a star (*) on the bond-quotation sheet published by F. E. Fitch, Inc."

[13] It should be noted in this connection that dealer activity in the bond market, when it springs from this need, is a different type of dealer activity than that on the stock market.

Viewing the shifts that would be likely to take place on the major exchanges following complete or nearly complete segregation [14] it appears that the greatest dislocation would occur in the case of the specialist, the floor broker, the commission house, and the bond house. A limited prohibition against the combination of functions on the floor would chiefly effect dislocation in regard to the floor broker and the specialist. The latter proposal would not present the difficult problem, implicit in more stringent proposals of segregation, of the extent to which the segregated broker could act as dealer in the legitimate investment of his own funds. The effect of such a proposal upon aggregate dealer activity in exchange securities by members would depend, of course, upon the adjustments that it would bring about. On the whole, a reduction in the aggregate of floor trading seems probable.[15]

g. The Smaller Exchanges.

Whatever impact the proposal of segregation would have upon members of the major exchanges would be intensified as regards the smaller exchanges. Because the combination of functions is even more inextricably entangled on these exchanges, because the revenues derivable even from the exercise of both functions are considerably less than on the major exchanges, and because the competition of the over-the-counter markets is constant and severe, it is safe to assume that enforced segregation, certainly if extended to trading by members off the floor and in the over-the-counter markets, would result in the closing of most of the smaller exchanges.[16] Some of these exchanges even today are in a precarious state of existence. Hitherto, the survival of those which meet the minimum standards that should govern all exchanges has been a matter of concern to the Commission. Their extinguishment upon a broad scale would mean a greater concentration [17] of exchange trading than exists today.

Attempts to increase the volume of security trading on particular exchanges by artificial means, such as penalizing or burdening over-the-counter transactions or artificially destroying the competitive advantages which one exchange may enjoy over another, do not seem

[14] That is, in the sense of prohibiting the combination of dealer and broker activities in any one person.

[15] It is possible that the dealer activity which would be lost if the majority of floor brokers elected to act simply as brokers might be compensated by greater activity on the part of other classes of members who would elect the dealer function. Yet the conclusion reached in the text seems a more probable consequence of such a proposal.

[16] Even if gradual adjustments would take place to permit these smaller exchanges to do business profitably under a segregated scheme, most of them because of their lack of financial resources (both as regards the exchange and its members) could not survive any extended period of adjustment.

[17] It is recognized, of course, that concentration of exchange trading may be in the public interest in that it affords one market where buyer and seller can meet. Nevertheless, with regard to certain types and classes of securities, concentration of trading in one locality exclusively presents a different type of question.

a desirable way of accomplishing the objective of stimulating the brokerage function. The equalization of obligations between exchange markets and over-the-counter markets is, of course, necessary.

The desirability of such equalization was recognized by Congress in the Securities Exchange Act of 1934. Specific provisions are there contained with reference to certain activities by members on exchanges and with references to the requirement that exchanges, as a condition of trading in a security, should insist upon the assumption of certain reporting obligations by the corporation which issued the security. At the same time Congress by section 15 empowered the Commission to regulate trading in the over-the-counter markets so as to insure to investors in those markets "protection comparable to that provided in the case of national securities exchanges." Congress recently reemphasized that principle in the amendments to the act which amplified the authority of the Commission to bring about this equalization.[18]

2. Shifts Likely to Ensue Upon Segregation Prohibiting or Restricting Dealer Activity Upon Exchanges.

This problem can be conceived in two phases: (1) That of prohibiting dealer activity by members on the floor of the exchange;[19] (2) that of extending the prohibition of dealer activity to members off the floor of the exchange.

a. Prohibition of Dealer Activities by Members on the Floor.

Obviously any such prohibition would remove floor trading [20] from the exchange. If general in its application, it would make impossible the rise of such a member as the segregated specialist-dealer.

[18] The amendments to the Securities Exchange Act, enacted on May 27, 1936, do not grant any preferential treatment to one market as against the other. They merely authorize the Commission to permit exchange trading to coexist with over-the-counter trading under certain prescribed conditions irrespective of the desire of the issuer of the securities to confine trading in its securities to the over-the-counter market.

Since the principles of these amendments are discussed at length in the report of the Commission on Trading in Unlisted Securities, the hearings on the amendments before the Senate Committee on Banking and Currency and the House Committee on Interstate and Foreign Commerce, and in the report of these committees upon the bill, they need not be rehearsed here. It is sufficient to note for the purposes of this discussion that the amendments represent a judgment as to the most feasible method under existing economic and legal conditions to bring about continuing corporate reporting of national issues traded in the over-the-counter markets, and that the reports and hearings elaborate the Commission's hopes as to the possibilities of accomplishing such an end within a reasonable period of time.

[19] This phase of the problem does not necessarily raise the ethical issue involved in the combination of the broker and dealer functions in one individual. The segregated floor trader, for example, has no divided allegiance, and hence this aspect of the general problem centers about the economic desirability of floor trading as such.

[20] Floor trading throughout this report embraces not only the strict concept of floor trading, but also trading by a member for his own account or his firm's account where the order is initiated on the trading premises of the exchange. Thus if a member on the floor, instead of himself executing a transaction for his own account, gives that order to another member (such as a floor broker) for execution, the transaction is deemed to come within the concept of floor trading.

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Indeed, the only reason that exists for differentiation in treatment between these two types of members arises from the fact that some incentive for making a stable and orderly market rests upon the specialist-dealer as distinguished from the floor trader.[21] Apart from that fact, the economic implications of dealer activity on the part of these two types of members would be the same.

It may be assumed that the major exchanges would continue to exist despite such a requirement. What reduction in the total volume of business transacted on these exchanges such a requirement would imply, it is impossible to estimate with any degree of accuracy. Upon the assumption that floor trading by all members, including specialists on the New York Stock Exchange, averages in the neighborhood of 19 percent of total reported purchases and sales, the abolition of this type of dealer activity might mean a decrease in total activity roughly equivalent to that percentage. It is important to note, however, the existence of certain factors which have a bearing upon the extent of this decrease. Presumably, if floor trading were prohibited, some portion of this dealer activity would spring up as trading off the floor. It is improbable, however, that members, accustomed to the competitive advantages which they enjoyed while trading on the floor, would trade to the same extent if denied these advantages. Nevertheless, the amount of such off-the-floor trading would diminish the loss of activity due to the abolition of floor trading. On the other hand, if it be true that floor trading stimulates public activity, the disappearance of floor trading even though compensated to some extent by its transference into trading off the floor, might result in a reduction of public activity so that the total loss in volume occasioned by the abolition of floor trading might conceivably be in excess of the actual amount of floor trading eliminated. From a broad standpoint[22] the consequences of such a reduction in activity must be weighed in terms of its effects on the continuity and liquidity now present, in the securities markets, to which this report adverts below.

In the case of the smaller exchanges, estimates as to the extent of floor trading in terms of a percentage of total activity vary considerably. Those exchanges upon which the percentage is high would suffer most severely; but even in the case of exchanges upon which the percentage of dealer activity on the floor is relatively low, the extra fillip given by this activity may be essential. Reduction in the number of these smaller exchanges would, of course, result in the increase of over-the-counter trading at the expense of exchange trading.

[21] It should be noted, however, that even in the case of the specialist the incentive to the maintenance of a stable and orderly market arises in large measure, under present conditions, from the fact that he combines both the dealer and the broker functions.

[22] For reasons enumerated in footnote 2, p. 89, *supra*, reductions in the rewards now flowing from this dealer activity to floor traders as such are not deemed relevant to the general problem.

How far such a proposal would affect continuity and liquidity in the securities now traded on the smaller exchanges is an entirely different matter than the same question with regard to the major exchanges. These major exchanges, apart from their bond-trading departments, are generally the primary markets in the securities traded on their floors, and consequently the liquidity and continuity now furnished these securities flows from the floor of the exchange. Such a generalization, however, does not fit the smaller exchanges. With regard to certain classes of securities and particular securities, it is true that they, like the major exchanges, furnish the primary markets. But in many cases the primary market in an exchange security is over the counter. Thus liquidity and continuity would not be affected to as considerable a degree with regard to these securities as in the case of securities traded upon the major exchanges.[23]

b. Extension of Prohibition of Dealer Activities in Exchange Securities to Members Off the Floor.

The abolition of floor trading would mean that all the activities of members on the floor of the exchange would be limited to the execution of customers' orders. Members, however, while off the floor, could trade for their own account in exchange securities, and retain substantial advantages in the saving of commissions over the general public.

The abolition of the latter type of trading would have a tendency to eliminate a percentage of total activity equivalent to or more than the present estimated percentage of this type of trading.[24] Under this proposal the membership of exchanges would be limited to brokers.[25]

[23] It should be noted that the mere fact that an exchange is the secondary market for a security, whereas its primary market is over the counter, is not in and of itself ground for concluding that the exchange market has no broad economic justification. Among other things, exchange markets are frequently the only source for brokerage transactions in these securities, public quotations, and records of the volume of transactions.

[24] This percentage is now in the neighborhood of 5 percent. See Appendices K-1 and K-2.

[25] Insofar as the bond markets are concerned, if they would survive the elimination of floor trading, their survival under the proposal extending the prohibition of dealer activities to trading off the floor would be a matter of grave doubt. This is due to the practice of dealing net in bonds and the consequent practice of accumulating inventory.

CHAPTER III

THE RELATIONSHIP OF DEALER ACTIVITIES OF EXCHANGE MEMBERS TO THE LIQUIDITY AND CONTINUITY OF EXCHANGE MARKETS

Proposals to prohibit or to curtail the continuance of dealer activity by members of exchanges, either as segregated dealers or as persons combining both the functions of broker and dealer, again and again force consideration of the degree to which this dealer activity contributes to the continuity [1] and liquidity of the market.

Liquidity means convertibility into money, but the concept is not to be restricted merely to that quality. It connotes also that conversion can be obtained within a reasonable period of time, which varies according to the customs of the market and the nature of the commodity. Furthermore it connotes that the price at which conversion can be made is a price not out of line with that deemed appropriate for the commodity. Hence the fact that a ready market may exist for a commodity does not necessarily mean that the commodity possesses liquidity, for the market price may be so out of line with current conceptions as not to provide a price within the bounds deemed appropriate. Assets may be convertible into cash and still not be truly liquid.[2] Continuity thus has an obvious relationship to the maintenance of liquidity.

The fact that some 24 percent [3] of the transactions on the New York Stock Exchange are transactions for the account of members, indicates the extent to which these persons furnish buying and selling power in the market. A part of this buying and selling is more speculative in character than the balance, as for example, that portion contributed by floor trading. Differentiation between buying and selling power of a speculative nature and that of an investment quality is important, for the character of purchasing and selling is

[1] An exchange market possesses the quality of continuity if, under normal conditions, a given security can readily be purchased or sold at a price varying but slightly from the last previous quotation. *Cf.* p. 21, *supra.*

[2] This aspect of liquidity is frequently ignored in discussions on this subject. Mere emphasis upon convertibility into cash ignores the significance of the price and time elements, whereas the justification for the creation of liquid claims in the first instance rests primarily upon the continuance of liquidity in the price-convertibility sense as well as the time-convertibility sense. For other concepts of liquidity, see Berle and Pederson, Liquid Claims and the National Wealth (1934), 15–24, 224–228.

[3] It should be noted that this percentage becomes slightly less when the adjustment is made in terms of total transactions as against reported transactions. *Cf.* footnote 5, p. 12, *supra.*

significant in any consideration of the degree to which it contributes to liquidity.

The economic value of an exchange is popularly measured by the extent to which it possesses the quality of continuity and imparts liquidity to its securities.[4] Respect for these attributes, particularly where stocks are involved, has become generally ingrained in the consciousness of investors and lenders. Investors and lenders are accustomed to regard current exchange quotations as accurately reflecting the realizable value of a security. The ability to convert a security into cash is a prime consideration in the deliberations of the average investor before making a commitment, and in the calculations of the average lender before making a loan on stock-exchange collateral. Our economy as presently constituted not only holds these attributes in high esteem, but has attuned many of its institutions, such as our banking system, to them.

On the other hand, the experience of the past suggests that the creation of claims that demand liquidity can be carried to such lengths that the result is an unstable economy.[5] Overemphasis upon liquidity promotes artificiality in the economic structure, because it is based upon the assumption that the wealth represented by securities is and will continue to be readily convertible into money and at not too great a deviation from current quotations. Inasmuch as a belief in the continued existence of liquidity makes for lending capacity on securities, independent of what may be the purpose of the loan, it induces expansion in bank credit, and, as the past readily illustrates, undue expansion of bank credit has reverberations throughout the entire economic structure.

The total volume of credit extended upon securities may at any time be wholly disproportionate to the credit that lenders would extend directly to the corporations which issued these securities, even though the latter type of loan has a legal position ultimately superior to the loan made upon the securities. Such a result largely

[4] Liquidity and continuity are not to be attributed simply to activity. Public quotations, the rapidity with which transactions can be consummated, the ease with which credit can be procured to engage in transactions, are some of the other matters, furthered by the very device of exchange trading, which play an important part in achieving those qualities.

[5] "Today, the very achievement of the desire for liquidity (as in large measure desire has been achieved) has set up an economics so fragile that a detached student somehow wonders that it has survived so long, or indeed that it can survive at all. * * * If a large measure of the national wealth of the country be represented by supposedly liquid or exchangeable assets or claims, and if the economic safety of a country is in any measure bound up with a price level for such goods, then the economic safety of the country lies at the hazard of a tide of emotion which is almost by hypothesis unforseeable. In a word, an economic structure based on liquidity must almost of necessity be fragile, unless some device can be found to coin the national wealth into money at any given moment of time when a tide of emotion, either of fear or desire, impels many owners to call for their supposed blank claims on civilization." Berle and Pederson, *op. cit.,* 3–4, 12.

flows from the fact that the market imparts for the time liquidity to the securities held as collateral, though the ultimate security in both instances may be the earning power of the corporate assets.[6] Again, the prominence of the quality of liquidity increases the inclination, already too prevalent, of buyers of securities to think in terms of the appreciation in the value of the security rather than its promise of continued and substantial earnings. This inclination impairs the value of the market as an accurate barometer of investment opportunities and thus tends to vitiate the judgments of even those buyers who do think in terms of underlying worth.

That activity as such is desirable because it promotes liquidity, and that speculative activity is an essential to the maintenance of liquidity are by no means established economic truths. Generally speaking, lack of balance in the market between investment inflow and outflow operates to bring about changes in price trends. When the outflow exceeds the inflow, prices fall; but if they fall below a certain point, the sacrifice which would be involved in the sale of a security may induce its holder to treat it as nonliquid rather than as liquid wealth. Consequently, speculative activity, which accentuates price trends, has its bearing upon such a phenomenon. Furthermore, if liquidity involves an appropriate balance between investment inflow and outflow, and a disturbance of that balance occurs, speculative activity that accentuates price trends tends to increase the lack of equilibrium already present, and, though convertibility into cash may be maintained, that accentuation brings about the type of artificial instability making for price declines and rises totally out of line with basic economic conditions, and destructive of a fundamental element of liquidity.[7]

It is important, therefore, not to regard existing liquidity as a fetish—a mode of thought whose prevalence in this country has unquestionably been increased by the attempts of professional speculators to justify their profession. To think intensely beyond the present characteristics of our economy in this respect, and not allow the insistence upon increased liquidity to act as a screen to stop thought, must be a continuing duty. But casual and superficial

[6] Needless to say, in the case of a loan to an individual secured by the stock of a corporation, the lender in addition may rely upon the personal responsibility of the borrower.

[7] "The theory of a large body of speculation as a necessary support for liquidity in the investment field, of course, places in the immediate foreground an influence by very hypothesis mercurial to the last degree, and capable of acting as a detonator for emotion sufficient to upset the investment market at almost any time. There is at least some ground for believing that the gentler tempo of the British depression of 1929 was due to the fact that they have no such violent detonator in their system, or at least none comparable to that which we are maintaining when in 1929 a speculation which had long survived the beginning of a commercial decline exploded into a true panic within a period of a very few days." Berle and Pederson, *op. cit.*, 186.

thinking with regard to these qualities is futile. What is needed are judgments broad in base and discerning in character.[8]

Such conclusions as one can draw must be limited to these; that overemphasis upon liquidity in our stock markets is fraught with grave dangers to our economic system; that a certain amount of speculative activity contributes to liquidity, but an excessive amount may precipitate results which militate against liquidity as well as stability; and that such results are most likely to be brought about by the type of speculative activity which accentuates price trends.

These conclusions, general though they may be, point the way toward the method of approaching our problem. Inasmuch as these conclusions leave open the degree of speculative activity, which may be desirable, they do not preclude a consideration of its reduction. Instead, because of the lack of definitive economic data—a lack that perhaps may never be completely supplied—the approach indicated is one of a direct but evolutionary attack upon problems that affect speculative activity.

The existence of abuses arising from the combination of broker and dealer functions is recognized; the intrusion of a substantial percentage of dealer activity, largely of a speculative character, is also apparent. By one stroke, to divorce the dealer and broker functions or to suppress dealer activity, or both, would mean simply to stand on the faith that the elimination of certain abuses by such methods would automatically have the effect of reducing speculative activity to the extent that a safe and sound economy demands and no further. But that such an effect would result rests on conjecture.

An evolutionary but direct approach, pointed toward abuses and toward the restriction of types of speculative activity, enables one to test the waters by gradual approaches rather than to dive headlong into them.[9] By such an approach, effects upon liquidity, continuity, and stability can be measured and gaged as action is taken,[10] and

[8] Economic writing upon this subject is, in the main, lacking. Penetrating writers in the field, such as Berle and Pederson, recognizing that their efforts were in the nature of an "exploratory essay only", have rather furnished material for a consideration of the problem than arrived at definitive conclusions with reference to it.

[9] For a broad experiment in the field of stock-exchange regulation, the consequences of which were wholly at variance with those contemplated, see the German experience under the law of 1896, in Twentieth Century Fund, Inc., *op cit.*, 540; Flynn, Security Speculation (1934), 270.

[10] Actions already taken by this Commission and the Board of Governors of the Federal Reserve System have unquestionably had broad consequences in our stock markets. This is true, for example, of the comprehensive attack made by this Commission upon manipulative activities and overtrading, and of the margin regulations of the Board of Governors of the Federal Reserve System. Some critics, even though they admit that such measures have eliminated patent abuses, decry their broader economic effects on the ground that so-called "thin markets" result from these actions. Even if this assertion be true, it represents only the beginning of a proper analysis of the effect of these actions insofar as liquidity is concerned. Thin markets may promote true liquidity as well as the contrary. A complete analysis of the effects of these actions

adjustments made in the light of the experience acquired. Emergencies may well justify a comprehensive course of action based more on moral and economic faiths than on rational deductions; but in the absence of such a compulsive demand for a comprehensive program of immediate action, the processes of trial and error seem the course of wisdom. A program of this character is set forth in the concluding portion of this report.

must take into account not only whether thin markets exist but also their significance in the light of the considerations adverted to above. It is patent that effecting segregation forthwith would multiply such immediate effects and make more uncertain the estimation of broader consequences. An evolutionary program, on the other hand, would permit a more orderly weighing of immediate effects in the light of their broader economic implications.

CHAPTER IV

PROBABLE CONSEQUENCES OF SEGREGATION IN THE OVER-THE-COUNTER MARKETS

1. The Meaning of Segregation as Applied to the Over-the-Counter Markets.

Any consideration of segregation as applicable to the over-the-counter markets must assume that, whatever form the proposal might take, it would embrace the members of exchanges to the same extent that it embraced over-the-counter dealers and brokers. The converse need not be true, inasmuch as it is conceivable that the combination of broker and dealer functions on the part of exchange members might be prohibited without a similar prohibition with respect to over-the-counter brokers and dealers. Furthermore, the proposal of segregation as applied to the over-the-counter markets, for all practicable purposes means simply the prohibition against combining the broker and dealer functions, and not the suppression of dealer activities.[1]

2. The Effect Upon the Existing Brokerage Functions.

The examination heretofore made has revealed that the great bulk of the over-the-counter business is transacted upon a dealer basis; that the great majority of persons engaged in that market combine the dealer and broker functions; and that a relatively small portion of these persons do business exclusively as brokers.[2] An estimate of what would happen to the brokerage function in the event of a requirement that this function be divorced from the dealer function[3] must rest, in the main, on conjecture.[4]

[1] It is, of course, possible to think in terms of the suppression of dealer activities in the over-the-counter markets, and to envisage a requirement that all security buying by the public be on a brokerage basis. This would lead to a division of the over-the-counter security business between brokers and jobbers, the latter being debarred from dealing directly with the public. Proposals for segregation have not yet reached the stage of urging that the organization of our over-the-counter markets should be upon such a basis.

[2] It has been noted earlier that this percentage approaches perilously close to zero if the exercise of the dealer function be interpreted to include the purchase and sale of securities for investment as well as for inventory. See p. 70, *supra*.

[3] To make this type of estimate in the light of a concept of the dealer function that would embrace the purchase and sale for investment as distinguished from inventory, is too theoretical in character to have much meaning. Yet, if limitations upon this aspect of the dealer function were to be included in any proposal for segregation as regards exchange members who elect the brokerage function, the failure to apply a similar standard to over-the-counter brokers would seem rightly to be open to criticism for discriminatory treatment of one class.

[4] Answers to the hypothetical question as to which function the broker-dealer would elect were he required to make a choice, have been rejected as being judgments of too

Certain factors affecting the extent to which brokerage facilities in the over-the-counter markets might be impaired or strengthened by segregation deserve elaboration. Under present conditions the great majority of over-the-counter broker-dealers, whose primary business is in over-the-counter securities, would probably elect the dealer function, because their present business is mainly conducted on a dealer basis. Of the brokerage clients that they possess, some might choose to take their patronage to segregated brokers, because they can discriminate between transactions effected on a brokerage basis and on a dealer basis and might prefer the former. But the common lack of such discrimination and the inertia of customers that makes against new attachments, leads to the belief that even this transference of patronage would be slow to take place.

True, over a period of time an adjustment of this nature might occur. It might be accelerated by the forces of competition and by attempts of brokers to educate the public to the advantages of the brokerage function.[5] But the brokerage function, as distinguished from straight merchandising, represents a further division of labor; its prevalence in exchange markets as contrasted with over-the-counter markets indicates that this further division of labor is likely to flourish extensively only where there is some concentration of public buying and selling. If its encouragement in the over-the-counter markets is deemed desirable, the method of approach, perhaps, should be first to give it the opportunity to develop by promoting increased publicity of buying and selling in these markets, rather than to risk stunting it by insisting upon a division of functions in markets not yet ready for such an operation.

Another factor to consider is the type of firm that under segregation would probably perform the brokerage function. Under present conditions, much of the brokerage business is conducted by

casual a character and more likely to mislead than to inform. Income figures as to the sources of revenue from the exercise of these functions, even though a fairly large sample be taken, are again too unreliable to be the basis for scientific deduction. To have meaning, such figures must be broken down upon a net as well as a gross basis, and consequently would call for interpretation in terms of cost accounting systems that are nonexistent. Further exploration of the nature of these data is necessary before they can be utilized.

[5] An important consideration in any estimate of the value of the brokerage function is over-the-counter markets, and one constantly ignored in discussions of this subject is that this function frequently carries an additional charge which is absent on the exchange market. This results from the fact that in the over-the-counter market, it is much less probable that an order to buy from a member of the public will directly meet an order from a member of the public to sell. Thus the brokerage order to buy will commonly be executed by the broker purchasing from a dealer. This means that the "dealer's turn" may be paid by the customer in addition to the brokerage commission. True, the "dealer's turn" is present also on the exchanges but much less frequently. Also the customer in buying from an over-the-counter dealer on a dealer basis may frequently pay a "double dealer's turn", since his dealer, if unable to meet his requirements from his own inventory, will purchase from another dealer. The economic value of doing business on a brokerage basis thus does not rest on the ground that the "dealer's turn" is thereby eliminated, but upon the desirability of entrusting one's security shopping to an expert.

branches of commission houses, the central offices of which are located in the larger cities, particularly New York. These branch offices vie with the local houses both for exchange business and over-the-counter business. Their ability to transact exchange business without charging an overriding commission[6] enables them to compete for this class of business successfully against local houses which do not hold a seat on a major exchange. Though these branch offices may do a considerable business over the counter both on a net and on a brokerage basis, their brokerage revenues, because of the volume of their exchange business, are likely to be more important. Compulsory election between the broker and dealer functions might tend to give these branch offices more or less of a monopoly of the brokerage business both on the exchanges and in the over-the-counter markets, and thus increase the dependence of the local community on the branch office of the New York house. Indeed, if the local houses by force of circumstances should be compelled to elect the dealer function, the opportunity thereby afforded to acquire their brokerage business in particular communities might well mean the increase of branch offices rather than their diminution.

A third factor deserving of consideration is that compulsory election in all probability would drive numerous broker-dealers out of business. The combination of revenues derivable from both types of activity seems essential for the survival of some of these firms, and this tends to become more true the smaller the locality in which the firm operates. Whether a corresponding decrease could be made in overhead as activity is circumscribed, is somewhat questionable. This consequence—in diminution in the number of security firms—should not be weighed too heavily.[7] Due to the security madness of several years ago, the easy profits that the business held undoubtedly

[6] That is, a commission in addition to the regular exchange commission. Numerous houses, without the facilities for the execution of orders on an exchange, do not charge an overriding commission but give up their exchange business to an exchange firm. For this business they may receive reciprocal business in over-the-counter securities, which the exchange firm is unable to handle, or opportunities to participate in selling syndicates, or investment and statistical service.

[7] The effect of segregation on the smaller exchanges has been elaborated sufficiently before. It need not be repeated here. If segregation of the activities of the members of these exchanges would mean the closing of many of them, segregation carried into the over-the-counter field would not ameliorate this situation, unless the result of such segregation would be to increase substantially the brokerage business in securities traded on these exchanges in those cases where a great portion of the business in these exchange securities is handled net over the counter. The possibility of such an occurrence, though it should not be ignored, is somewhat remote. Trading net in exchange securities over the counter frequently results from the fact that the over-the-counter market is a closer market than the exchange. If segregation increased dealer activity in these markets, there is little basis for believing that the competition which they now give the exchange market would be impaired.

In this connection, it should also be noted that many members of small exchanges do a considerable over-the-counter business. To the extent that this is true, the problem of segregation as applied to the smaller exchanges merges with the problem of segregation in the over-the-counter markets.

led to its overexpansion. Some contraction has already taken place, but it is doubtful whether that contraction has yet reached the point which economic conditions justify. Securities are proffered indiscriminately to persons of small means and little ability to weigh their value. Some houses are under such pressure that they are led to persuade customers to tap savings which should not seek this type of investment.

3. The Effect Upon Existing Methods of Distribution.

The revenue of existing broker-dealers comes partly from the merchandising of new securities or the liquidation of blocks of outstanding securities by the processes known respectively as primary or secondary distribution. These functions are principally exercised by that class of broker-dealers, known as investment bankers,[8] as contrasted with those who choose to call themselves security dealers or traders. Dealers may either be members of a selling group or syndicate with a firm commitment, purchasing securities at a discount from the public offering price, or they may simply participate in the distribution to the extent that they take down securities at a discount below the offering price, on order from customers. But in the latter case they are also dealers and not brokers, because the investment house sells to them and they in turn, acting as dealers, sell to customers. These participations are arranged at the earliest opportunity and the dealer-broker then begins his selling campaign.[9]

The size and standing of the issue, together with the necessity for wide selling in order to interest the public in taking it, determine the number of dealer participations. Under present conceptions of distribution of large issues, speed is deemed essential, and large coteries of dealers are knit together in this process of distribution. It is not unusual, especially in bond issues, for hundreds of dealers to have participations.

Under a segregated system, some diminution in the number of dealers might be expected. But though these groups of distributing dealers might have to be re-formed to some extent, the diminution would not seem to be serious enough to make radical departures from existing methods necessary.

[8] While a number of investment bankers are already segregated in that they do not perform the broker function at all, some of the largest investment banking houses are member firms of the major exchanges and as such transact a considerable volume of brokerage business for customers in addition to their other activities described in the text.

[9] Under the Securities Act of 1933, these participations cannot be arranged prior to the effectiveness of the registration statement. For the purpose of this enforced delay, see the House report of May 4, 1933, on the Securities Act, Rept. No. 85, 73d Cong., 1st sess., pp. 7–8. The dealer who begins his selling campaign prior to that time pursues the practice known as "beating the gun." This practice has long been a problem with the investment banking industry and, despite the legal prohibitions now in effect, it remains a problem. For the activities that an underwriter or dealer can lawfully indulge in prior to the effectiveness of a registration statement, see Commission Securities Act of 1933, Releases Nos. 464 and 802; also Federal Trade Commission Securities Act, Release No. 70.

Security distribution upon a brokerage basis, such as was featured to an extent[10] by two recent issues is not likely to be particularly stimulated by enforced segregation. Indeed, the contrary might be the case, inasmuch as segregated brokerage firms might not have the institutional clientele that would enable them to prevail upon issuers to avail themselves of their brokerage services as distinguished from firm underwritings.

In this field, segregation concerns to a lesser degree effects upon the methods of security distribution, than the safeguarding of purchasers against abuses arising from the combination of functions in the broker-dealer. Such abuses flow partly from the fact that the broker can act as dealer in the distribution of new securities, but primarily from the selling pressure that attends the primary and secondary distribution of securities in this country.[11]

4. The Effect Upon the Distribution of Local Securities.

Securities of local industries of small size and without a national reputation are rarely underwritten by firms in our larger financial centers. Their nation-wide systems of distribution are not attuned to the mechanics of distributing this class of security. If a corporation can get an underwriting for securities of this type, it would usually have to get that underwriting from a local house. The distribution as well as the underwriting may be undertaken by the house alone; or, if it seeks allies, they are ordinarily few in number. In many cases these local enterprises, however sound, can obtain no underwriting even from a local house but can only enlist the aid of such a house in the distribution of its securities on a brokerage basis.

For the continuance of this type of aid by local houses in the distribution of local securities, sufficient capital and patronage are needed. Thus segregation as it affects this problem, concerns primarily the consequences of such a proposal in its possibilities of destroying the type of local house now capable of performing these services. Diminution in the number of security houses, if it were severe, would naturally make the distribution of local securities more difficult, at least for a time. The extent to which such diminu-

[10] Though in these distributions (the Swift $43,000,000 offering of 3¾-percent first-mortgage sinking-fund bonds of May 1935, and the Socony-Vacuum offering of $50,000,000 15-year 3½-percent debentures of September 1935) the "underwriters" acted as brokers, sales were not necessarily made down the line to the ultimate purchasers on that basis. No prohibition existed against dealers buying on a brokerage basis and selling net to their customers.

[11] Evils the equivalent of those arising from broker-dealers participating in distributions are present when brokers as such participate in distributions without any exercise of the dealer function. True, this is a perversion of the brokerage obligation, but segregation as such does not reach it. For an illuminating recent case of this type of brokerage activity, see *Securities and Exchange Commission* v. *Torr*, decided by the United States District Court (S. D. N. Y.) April 10, 1936, in which that court granted an injunction at the request of this Commission against brokerage activities in the distribution of a security.

tion would take place is, of course, problematical, but segregation would bear heavily upon the continued existence of the local concern.

In this field, the accumulated data is too slight to permit even of profitable conjecture as to the possible consequences of segregation. Argument and counterargument can be adduced as to the possible adjustments that might take place, but too many variables enter into these arguments to permit at this time a judgment of their validity.

5. The Effects on Liquidity and Continuity.

Inasmuch as segregation in the over-the-counter markets implies only a limited suppression of dealer activity, the problem in this connection is wholly different from that of the impact of segregation on the exchange markets. Indeed, that segregation would seriously affect the continuity of trading in over-the-counter markets and the liquidity of their securities is highly doubtful. Upon the assumption that speculative activity springs in these markets from a combination of the two functions, there would be merit in the contention that it is likely to have an effect upon the liquidity of securities traded in these markets. That speculative activity exists in the over-the-counter markets is, of course, true, but little showing can be made that it springs in any major degree from the combination of the two activities. Indeed, in such a field as bank stocks, speculative activity was unusually rife a few years ago.[12] But these stocks are rarely traded otherwise than on a net basis.

The problem of segregation in the over-the-counter field can thus be divorced, in the main, from concern with matters such as liquidity, continuity, and stability. It remains a problem of weighing the adjustments which would be necessitated in the over-the-counter markets as against the desirability of securing on a broad scale the more adequate performance of the brokerage function by eliminating the conflict of interests implicit in the broker-dealer relationship.

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[12] See Report No. 1455 of Senate Committee on Banking and Currency, 73d Cong., 2d sess., 185 *et seq.* The price range of bank stocks, which today are rarely traded on exchanges probably exceeded that of most other classes of securities. The very reason given by Albert H. Wiggin before the Senate committee for the removal of the Chase Bank stock from the New York Stock Exchange, namely, concern over the publicity given to its wide price fluctuations, is in itself indicative of this volatility. See Report, Senate Committee, 173–174. The Standard Statistics averages show the percentage rise for 20 bank stocks from 1926 to the 1929 high as 297.4 percent as against 128.1 percent for 421 combined stocks and 230.4 percent for 37 utility stocks. The percentages of decline from the 1929 high to the 1932 low were respectively 90.9 percent, 85.8 percent, 84.0 percent. That the fluctuation of bank stocks is relatively great is further shown by the fact that the average month to month change in the price of bank stocks as measured by the Standard Statistics averages of 20 bank stocks has been larger during the last decade than that in the average price of industrial and railroad stocks represented by the New York Times index of 50 such stocks. During the period from the beginning of 1927 to the end of 1935, the price index of bank stocks showed an average monthly change, *i. e.*, a rise or decrease over the price a month earlier of approximately 8.81 percent compared with an average change of only 7.20 percent for the index of industrial and railroad stocks. The average monthly fluctuation of 20 bank stocks was higher than that of the 50 industrial and rail stocks in 7 out of the past 9 years. To the uninformed investor, however, a certain stability seems to surround these stocks because of their association with banks whose soundness as banks is not ordinarily doubted.

PART IV

CONCLUSIONS AND RECOMMENDATIONS

1. General Conclusions.

Practices which impede the proper functioning of the mechanism for distributing securities or which are antagonistic to the interests of investors are the constant concern of this Commission to the end that the plan of security regulation, embodied in the Securities Act of 1933 and the Securities Exchange Act of 1934, may be brought to complete and permanent realization. Two general conclusions can be drawn from the preceding sections of this report:

(1) That the combination of the broker and dealer functions in the same individual or firm involves a conflict of interest which is provocative of abuse of the fiduciary relationship inherent in the brokerage function;

(2) That the survey made by the Commission manifests the prevalence upon the exchanges of a type of dealer activity which exerts an undue influence on prices, incites public speculation, leads to disorderly markets and interferes with the effective fulfilment of the brokerage function. These conclusions furnish the basis for fashioning a program for the future.

2. The Feasibility and Advisability of Complete Segregation.

The Commission is of the opinion that it is not advisable for the Congress at this time to enact legislation requiring the complete segregation of the functions of dealer and broker. The need for legislative action is not so presently apparent as to make it necessary without the development of further study. Indeed, to incorporate now into statutory law the requirement of complete segregation would be to fail to utilize the potentialities for flexible control and evolutionary development afforded by the administrative mechanism which the Congress has already created. Thus the present need is for the development and initiation of an administrative program directed toward those aspects of this problem which demand immediate concern.

3. The Proposed Program.

Without additional legislation, the Commission can, through its powers under the Securities Act of 1933 and the Securities Exchange Act of 1934, move with substantial steps both toward the elimination of the conflict of interest implicit in the combination of the broker and dealer functions, and toward the curbing of the type of dealer activity that exerts an undue influence on prices. There follows an outline of the direction which a program of this character should take.

a. The Exchanges.

(*i*) *Restriction of floor trading in stocks.*—Emphasis upon the necessity for mere volume of speculative activity in order to maintain liquidity in our security markets is a mistaken emphasis. Where there is a balance between the inflow and outflow of investment, speculative activity should properly be at a minimum. But such activity when it brings about or accentuates temporary disequilibrium in the market becomes a matter of concern. Floor trading, as disclosed by the evidence, reveals a tendency, on the average, both to concentrate in stocks where activity is already present and to accentuate price trends. The liquidity it creates is too often superfluous. It misleads, for under stress it vanishes.

Real problem is shareholder education

The complete suppression of floor trading does not, for the time being, appear to be demanded. But the immediate aim should be the restriction of floor trading as a whole in stocks.[1] The suggested means for the accomplishment of this end are:

(1) The requirement that commitments by all persons trading on the floor for their own accounts[2] should be "fully margined" at all times.[3] Such a requirement, by eliminating the "shoestring" trader and by discouraging excessive trading, would serve to reduce floor trading, particularly of the unduly speculative type.

(2) Functional segregation of all members on the floor of the exchange, with the exception of the specialist in stocks in which he specializes. Under such a requirement floor traders could not act as brokers, and floor brokers and commission brokers could not, while on the floor, initiate orders for their own account or the account of their firms. From this requirement some recasting of the existing alignment among commission brokers, floor brokers, and floor traders is to be expected, with some shift in the direction of the floor trader. But, especially if some control over that movement should be exercised, a substantial reduction in the aggregate of floor trading would take place.

This requirement, apart from its effect upon floor trading as a whole, possesses the virtue implicit in segregation, that is, insistence upon a singleness of allegiance on the part of the broker on the floor. As such, it has the added significance of tending to insure the better performance of the broker's fiduciary obligations to his client.

[1] It is not practicable as an administrative matter to build a program designed to impose restrictions upon particular types of floor transactions. The problem of policing involved in such a program would be too enormous, irrespective of the difficulty of devising standards that will discriminate between the various types. The treatment of floor trading as a whole can be amply justified by consideration of its effects as a whole.

[2] It should be noted that arbitrage transactions deserve special treatment in this connection as well as in connection with restrictions upon trading by members off the floor. The special characteristics possessed by these transactions are recognized by the Securities Exchange Act. See secs. 7 (a), 11 (a), and rule ND 1.

[3] This implies that members must have available at all times liquid resources capable of margining their commitments.

(*ii*) *The specialist.*—Recognition must be given to the fact that the specialist in acting both as broker and dealer has an inherent conflict of interest. From the present evidence it is not possible to conclude whether that conflict can be eliminated in such a way as to enable him to function more adequately in the public interest. Further exploration of such a possibility, together with an appraisal of the exact incidence of this conflict, should be continued.

His trading for his own account, taken as a whole, has not been shown to accentuate trends but has been shown to possess the contrary tendency. Moreover, it does not on the average increase proportionately in activity as other activity increases. Immediate concern for the reduction of this activity is thus not demanded.

In the meantime, pending the acquisition of further knowledge, emphasis should be placed on:

(1) Insistence upon the observance of rules against unjustified trading by the specialist for his own account. Trading for his own account should meet an affirmative proof of justification and is not to be condoned simply because its undesirability cannot be established in each case.

(2) The development of appropriate restrictions governing the conditions under which the specialist may trade with his book.[4]

(*iii*) *The odd-lot dealer.*—The transactions of the odd-lot dealer who is not also a specialist present no special problems so long as they consist of the purchase and sale of round-lots for the purpose of off-setting odd-lot orders. If the transactions of odd-lot dealers should tend to assume the characteristics of floor trading appropriate measures to check this tendency can be devised.

(*iv*) *Trading in stocks off the floor.*—Trading activity on the exchange but off the floor by members does not present the acute problem of floor trading. Nevertheless the restriction of a type of undue speculative trading should be effected by the following proposal:

(1) That all commitments by members should be "fully margined" at all times.[5]

[4] Three suggestions should be considered in connection with this type of trading:

(1) A restriction upon transactions between the specialist and his book, which have the effect of widening the quoted market. Transactions of this character would not ordinarily appear to be necessary for the maintenance of a fair and orderly market.

(2) A prohibition against initiating transactions with his book which result in the establishment of a new high or low price during the course of a trading session. This would prevent the specialist from trading with his book at those price levels which are most likely to stimulate public interest and encourage speculation.

(3) A prohibition against taking all the stock offered or supplying all the stock bid for on his book at a particular price level. This would prevent the specialist from "cleaning up the book" and thus initiating or accelerating price movements.

[5] The liquid resources required to support commitments should obviously not be permitted to include resources acquired as the result of borrowing upon customers' securities. Some flexibility in the general requirement is possible in regard to commitments made in connection with primary and secondary distribution.

The risk of conflict inherent in the combination of functions on the part of commission brokers is minimized by this proposal, since it would operate to reduce their aggregate trading activity. Again, further reduction in trading activity should be made along lines that particularly bear upon this existing conflict. This can be done by the following proposals:

(1) Insistence upon the observance of rules prohibiting excessive trading.

(2) The imposition of a requirement that commission brokers carrying margin accounts neither engage in firm trading on margin nor permit their partners to do so.[6]

(3) Strict compliance with rules prohibiting transactions for discretionary accounts which are excessive in size or frequency, and additional insistence against trading operating to the disadvantage of discretionary accounts.[7]

(v) *Statistics as to members' trading.*—During and since the period of its investigation of this problem, data have been furnished to the Commission by the New York Stock Exchange and the New York Curb Exchange relating to members' trading. Current figures should be made public at periodic intervals, setting forth the volume of specialists' trading and the volume of all other members' trading on and off the floor. Effort should also be directed toward the perfection of such statistics.

b. Powers and Methods for Effectuating the Proposals in Regard to Exchanges.

The examination of powers under the Securities Exchange Act heretofore made reveals that most, if not all, of the proposals that have been outlined can be effectuated without new legislation. Floor trading can, by action of the Commission, be regulated or prevented. Other suggestions may, perhaps, be effected by voluntary action of the exchanges themselves. Furthermore, the Commission has power under section 19 (b) of the Securities Exchange Act to bring about, after appropriate notice and opportunity for hearing, changes in the rules of the exchanges with reference to a broad category of matters.

Since the Commission must recognize the limited character of all experience in this field, these powers suggest the method for the development of this program. Its incidence upon different exchanges will vary and consequently classification, if not individual treatment, will become necessary. Furthermore, the specific proposals, because of the intrinsic complexities of the situations dealt with, must undergo a process of refinement and adjustment. Again, from

[6] Restrictions of varying character upon partners trading on margin are now included in the partnership agreements of some commission houses.

[7] Under the Commission's fourth recommended rule, now in effect on the various exchanges, no member on the floor can initiate a transaction with respect to which transaction such member is vested with discretion as to (1) the choice of security to be bought or sold, (2) the total amount of any security to be bought or sold, or (3) whether any such transaction shall be one of purchase or sale. See Appendix O–1, fourth rule.

the standpoint of developing a practical program of administration, consideration will have to be given to the degree of flexibility that particular regulations may demand, namely, whether the apppropriate degree is likely to be best achieved by a rule of the Commission or a rule of the exchange.

c. The Over-the-Counter Markets.

In the light of available evidence it is not possible to forecast with sufficient degree of accuracy the consequences of complete segregation in the over-the-counter markets. The Commission consequently does not feel justified in recommending at this time the inauguration of a program whose effects upon the over-the-counter markets and upon investors in securities traded in those markets would be too largely conjectural. Equally important is the fact that such evidence as does exist suggests that segregation might seriously hinder the development and extension of the brokerage function.

It does not follow from this that the existing combination of the brokerage and dealer functions in these markets is regarded as free from criticism. Here again, there are present the conflict of interest between the broker-dealer and his customer and the attending opportunities provocative of abuse of the fiduciary relationship. Consideration of means for reducing that conflict must therefore be regarded by the Commission as a continuing duty. As such, they must be part of the greater duty of developing a well-rounded program for the sound growth and development of the over-the-counter markets, a program upon which the Commission embarked this year and which it is pressing forward.

It is important at the present time to encourage continued exploration of the questions affecting these markets, not only by Government, both Federal and State, but by persons in the securities business and others. Organizations that would consider the problems of the business from an imaginative standpoint and would think ahead as to the directions of possible and desirable development, could perform a true service. To do so, they must view the problems from the broad viewpoint of public interest, and must not, because of possible implications affecting the revenues immediately derivable from their business, resist the logic or the consequences of their own clear thinking. Too often, arguments advanced to justify the existence of the dual function show merely the sum total of the services rendered by the exercise independently of broker and dealer functions, and do not show advantages or disadvantages, to the investor inherent in the combination of those functions.

The immediate program in regard to the over-the-counter markets envisaged by the Commission as being practical and fruitful in results, is a continued elaboration and enforcement of prohibitions against deceptive and fraudulent trade practices, with an insistence upon clear and unequivocal disclosure to customers of the capacity in which broker-dealers are acting. Should it be established that too many abuses arise from the combination of the broker and dealer functions in the over-the-counter markets, that such abuses are too costly to the Nation, or that, because of the combination of such functions, these markets require constant policing of an expensive and irritating nature, the course of wisdom might well be to segregate the two functions.

* * * * * * *

APPENDICES

APPENDIX A-1

NEW YORK STOCK EXCHANGE

Weekly recapitulation of members' transactions in all stocks

(Per S. E. C. Form 1-H)

This report covers week ending Saturday, ...

	Monday		Tuesday		Wednesday		Thursday		Friday		Saturday		Week's total	
A. Total reported volume														
	Bought	Sold	Bought	Sold	Bought	Sold	Bought	Sold	Bought	Sold	Bought	Sold	Bought	Sold
B. Members' transactions (other than specialists and odd-lot dealers in the securities in which they are registered) in round lots only:														
1. Initiated by Exchange member while on floor														
2. Not initiated by Exchange member while on floor														
C. Specialists' transactions in securities in which they are registered:														
1. In round lots														
2. In odd lots														
D. Odd-lot dealers' transactions in securities in which they are registered:														
1. In round lots														
2. In odd lots														

NOTE 1.—"Round lot" means either 100 shares or 10 shares, depending on the unit of trading in the stock.

NOTE 2.—In items B, C, and D, there are included only transactions made for the account of "members" as principals. This includes all Exchange members and all registered firms and their partners, including special partners.

NOTE 3.—This report has been compiled by the New York Stock Exchange from data furnished to it, and the Exchange does not guarantee the completeness nor accuracy thereof.

Compilation supervised by—

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(Signature)

APPENDIX A–2

NEW YORK STOCK EXCHANGE

Weekly recapitulation of members' transactions in 20 selected stocks

(Per S. E. C. Form 2-H)

This report covers week ending Wednesday, ____________

	A	B				C				D			
	Total reported volume	Members' transactions (other than specialists and odd-lot dealers in the securities in which they are registered), round lots only				Specialists' transactions in securities in which they are registered				Odd-lot dealers' transactions in securities in which they are registered			
		Initiated by exchange member while on floor		Not initiated by exchange member while on floor		In round lots		In odd lots		In round lots		In odd lots	
		Bought	Sold	Bought	Sold	Bought	Sold	Bought	Sold	Bought	Sold	Bought	Sold
American Can common													
American Telephone & Telegraph													
American Tobacco B													
American Radiator common													
Anaconda Copper													
Consolidated Gas common													
General Electric													
General Motors common													
International Nickel common													
Pennsylvania R. R.													
Radio Corp. common													
Sears Roebuck													
Southern Pacific													
Standard Brands common													
Standard Oil of New Jersey													
Texas Corporation													
Transamerica													
Union Carbide													
United States Steel common													
Woolworth													

NOTE 1.—"Round lot" means 100 shares.

NOTE 2.—In items B, C, and D, there are included only transactions made for the account of "members" as principals. This includes all Exchange members and all registered firms and their partners, including special partners.

NOTE 3.—This report has been compiled by the New York Stock Exchange from data furnished to it, and the Exchange does not guarantee the completeness nor accuracy thereof.

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(Signature)

APPENDIX A–3

FORM 3–H

NEW YORK STOCK EXCHANGE

Specialists' Weekly Report

Date ____________

Name of stock ____________ For week ending ____________

Name of specialist ____________ Specialist's firm ____________

Trading range for week: Opening ____________ High ____________

Low ____________ Closing ____________

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Week's total
A. Total reported volume							
B. Specialist's transactions in round lots:							
1. For account of others:							
(a) Amount bought							
(b) Amount sold							
2. For own account:							
(a) Amount bought from book							
(b) Amount bought from others							
(c) Amount sold to book							
(d) Amount sold to others							
Do not write in these spaces							
C. Specialist's transactions in odd lots:							
1. Amount purchased in odd lots							
2. Amount sold in odd lots							
Do not write in these spaces							
D. Position:							
1. At opening							
2. At closing							

Remarks: ____________

Important.—This report must be filed in triplicate with the director of the reporting division, New York Stock Exchange, room 803, 67 Exchange Place, at or before 10:30 a. m. on the Tuesday following the week covered by the report.

This report should include transactions for the account of the specialist or of his firm or for any account in which he or his firm is interested. When two or more specialists maintain a joint account or run a single book in the same stock, only one report need be filed, but the names of the other participants should be shown under "Remarks".

The exchange will forward to the Securities and Exchange Commission two copies of each report, retaining the third.

This report prepared by—

____
(Signature)

E. & O. E.

____
(Title or designation)

APPENDIX A–4

FORM 4–H

NEW YORK STOCK EXCHANGE

Securities and Exchange Commission, Washington, D. C.

Specialists' Daily Report

Name of security .... Date ....
Name of specialist .... Name of specialist's firm ....
Total reported round lot volume during trading session .... Opening .... High .... Low .... Closing ....

Itemized list of all transactions			Specialist's transactions						Bid and asked quotations												
			For others		For own account				Immediately before each transaction						Immediately after each transaction						
					With book		With others		Book market		Specialist's market		Market quoted by others		Book market		Specialist's market		Market quoted by others		
Time	Amount	Price	Bought	Sold	Bought	Sold	Bought	Sold	Bid	Asked	Bid	Asked	Bid	Asked	Bid	Asked	Bid	Asked	Bid	Asked	Position after transaction
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)
Totals...											Quotations at 10 a. m.						Quotations at 3 p. m.				

TABLE 1

	Totals
Short sales by specialist	....
Amount bought for error account	....
Amount sold for error account	....

TABLE 2

	Totals
Amount purchased pursuant to stop orders to buy	....
Amount sold pursuant to stop orders to sell	....

Remarks: ....

NOTE.—This report has been compiled by the New York Stock Exchange from data furnished to it, and the Exchange does not guarantee the completeness nor accuracy thereof.

Compilation supervised by—

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APPENDIX B–1

New York Stock Exchange

Round-lot Transactions in All Stocks for Account of All Members, Except Odd-lot Dealers, between June 24, 1935, and December 14, 1935

Week ended—	Reported volume [1]	Members' round-lot transactions [2]			Percentage of members' purchases and sales to total reported purchases and sales [3]
		Bought	Sold	Total	
1935	*Shares*	*Shares*	*Shares*	*Shares*	*Percent*
June 29	4, 960, 338	1, 253, 045	1, 284, 960	2, 538, 005	25. 6
July 6	3, 997, 910	916, 463	896, 767	1, 813, 230	22. 7
July 13	6, 336, 057	1, 462, 615	1, 473, 895	2, 936, 510	23. 2
July 20	6, 378, 900	1, 360, 560	1, 426, 031	2, 786, 591	21. 8
July 27	7, 463, 750	1, 682, 982	1, 638, 290	3, 321, 272	22. 2
Aug. 3	9, 747, 500	2, 148, 371	2, 209, 400	4, 357, 771	22. 4
Aug. 10	9, 729, 330	2, 162, 928	2, 210, 834	4, 373, 762	22. 5
Aug. 17	11, 103, 470	2, 376, 800	2, 558, 816	4, 935, 616	22. 2
Aug. 24	10, 481, 780	2, 427, 468	2, 641, 162	5, 068, 630	24. 2
Aug. 31	7, 197, 370	1, 786, 866	2, 002, 143	3, 789, 009	26. 3
Sept. 7	7, 240, 290	1, 689, 001	1, 807, 737	3, 496, 738	24. 2
Sept. 14	10, 812, 780	2, 803, 470	2, 698, 407	5, 501, 877	25. 4
Sept. 21	9, 582, 020	2, 285, 730	2, 387, 190	4, 672, 920	24. 4
Sept. 28	5, 834, 270	1, 357, 546	1, 333, 615	2, 691, 161	23. 1
Oct. 5	8, 471, 087	2, 042, 215	2, 129, 922	4, 172, 137	24. 6
Oct. 12	6, 928, 212	1, 742, 493	1, 712, 180	3, 454, 673	24. 9
Oct. 19	10, 459, 258	2, 741, 271	2, 588, 655	5, 329, 926	25. 5
Oct. 26	14, 274, 511	3, 528, 611	3, 511, 565	7, 040, 176	24. 6
Nov. 2	11, 084, 580	2, 780, 954	2, 612, 035	5, 392, 989	24. 3
Nov. 9	12, 126, 573	2, 801, 207	2, 869, 147	5, 670, 354	23. 5
Nov. 16	12, 712, 730	3, 160, 695	3, 024, 213	6, 184, 908	24. 3
Nov. 23	18, 913, 437	4, 481, 250	4, 540, 317	9, 021, 567	23. 8
Nov. 30	10, 404, 305	2, 529, 398	2, 650, 874	5, 180, 272	24. 9
Dec. 7	12, 358, 221	3, 180, 182	2, 863, 938	6, 044, 120	24. 5
Dec. 14	11, 671, 123	2, 862, 695	2, 913, 424	5, 776, 119	24. 7
Total	240, 269, 802	57, 564, 816	57, 985, 517	115, 550, 333	
Average of weekly percentages					24. 0
Percentage of members' purchases and sales to total reported purchases and sales for the entire period					24. 0

[1] Volume reported by the New York Stock Exchange ticker. Reported volume does not include "stopped" sales or transactions which, due to error or other circumstance, are not reported by the ticker. The amount of these "stopped" sales and other unreported transactions on the New York Stock Exchange for the 5 months ending Nov. 30, 1935, is set forth in the following table:

Month	Total volume of transactions actually effected on the New York Stock Exchange	Reported volume (volume reported by the New York Stock Exchange ticker)	Odd-lot purchases and sales	"Stopped" sales and other round-lot transactions not reported by the ticker. (Total volume less reported volume and odd-lot purchases and sales)	
1935	*Shares*	*Shares*	*Shares*	*Shares*	*Percent of reported volume*
July	37, 781, 931	27, 672, 085	8, 145, 938	1, 963, 908	7. 10
August	60, 371, 878	44, 281, 530	12, 533, 700	3, 556, 648	8. 03
September	46, 531, 100	34, 052, 820	9, 566, 709	2, 911, 571	8. 55
October	62. 555, 410	45, 596, 768	12, 168, 650	4, 789, 992	10. 51
November	77, 473, 717	58, 579, 885	14, 984, 150	3, 909, 682	6. 67
For 5 months	284, 714, 036	210, 183, 088	57, 399, 147	17, 131, 801	8. 15

[2] Figures do not include odd-lot dealers' round-lot transactions which average about 3 percent of total reported purchases and sales.

[3] Total reported purchases and sales are calculated by doubling the reported volume because every reported transaction involves both a purchase and a sale.

APPENDIX B–2

New York Curb Exchange

Round-lot Transactions in All Stocks for Account of All Members Between July 8, 1935, and Dec. 14, 1935

Week ended—	Reported volume [1]	Members' round-lot transactions [2]			Percentage of members' purchases and sales to total reported purchases and sales [3]
		Bought	Sold	Total	
1935	*Shares*	*Shares*	*Shares*	*Shares*	*Percent*
July 13	1, 150, 000	253, 585	281, 990	535, 575	23. 3
July 20	1, 069, 000	239, 780	281, 795	521, 575	24. 4
July 27	1, 140, 000	271, 365	259, 955	531, 320	23. 3
Aug. 3	1, 579, 000	367, 320	414, 510	781, 830	24. 7
Aug. 10	2, 222, 000	552, 420	493, 105	1, 045, 525	23. 5
Aug 17	2, 975, 000	719, 375	696, 670	1, 416, 045	23. 8
Aug. 24	2, 614, 000	562, 320	754, 340	1, 316, 660	25. 2
Aug. 31	1, 528, 000	395, 565	395, 235	790, 800	25. 8
Sept. 7	1, 346, 000	333, 445	325, 580	659, 025	24. 5
Sept. 14	1, 618, 000	344, 845	428, 690	773, 535	23. 9
Sept. 21	1, 553, 000	342, 945	421, 645	764, 590	24. 6
Sept. 28	1, 285, 000	305, 480	290, 420	595, 900	23. 2
Oct. 5	1, 404, 000	332, 750	393, 935	726, 685	25. 9
Oct. 12	1, 465, 000	329, 355	296, 460	625, 815	21. 4
Oct. 19	1, 818, 000	397, 410	444, 415	841, 825	23. 2
Oct. 26	2, 740, 000	670, 655	670, 870	1, 341, 525	24. 5
Nov. 2	2, 552, 000	621, 335	669, 490	1, 290, 825	25. 3
Nov. 9	3, 047, 000	638, 690	716, 215	1, 354, 905	22. 3
Nov. 16	2, 152, 000	470, 845	476, 490	947, 335	22. 0
Nov. 23	3, 129, 000	651, 440	782, 005	1, 433, 445	22. 9
Nov. 30	1, 817, 000	334, 125	449, 885	784, 010	21. 6
Dec. 7	2, 255, 000	513, 785	455, 960	969, 745	21. 5
Dec. 14	2, 554, 000	460, 270	595, 975	1, 056, 245	20. 7
Total	45, 012, 000	10, 109, 105	10, 995, 635	21, 104, 740	
Average of weekly percentages					23. 5
Percentage of members' purchases and sales to total reported purchases and sales for the entire period					23. 4

[1] Volume reported by New York Curb Exchange ticker (approximated to nearest thousand shares). Reported volume does not include "stopped" sales or transactions which, due to error or other circumstance, are not reported by the ticker. The amount of these "stopped" sales and other unreported transactions on the New York Curb Exchange for the 4 months ending Nov. 30, 1935, is set forth in the following table:

Month	Total volume of transactions actually effected on the New York Curb Exchange	Reported volume (volume reported by the New York Curb Exchange ticker)	Odd-lot purchases and sales	"Stopped" sales and other round-lot transactions not reported by the ticker. (Total volume less reported volume and odd-lot purchases and sales)	
1935	*Shares*	*Shares*	*Shares*	*Shares*	*Percent of reported volume*
August	11, 591, 837	10, 184, 000	1, 169, 899	237, 938	2. 34
September	6, 769, 133	5, 953, 000	702, 947	113, 186	1. 90
October	9, 909, 804	8, 657, 000	976, 892	275, 912	3. 19
November	12, 631, 842	11, 273, 000	1, 247, 480	111, 362	. 99
For 4 months	40, 902, 616	36, 067, 000	4, 097, 218	738, 398	2. 05

[2] These figures include specialists' round-lot transactions, of which a portion estimated at about 3 percent of total reported purchases and sales represent round-lot purchases and sales by specialists to offset odd-lot orders of customers.

[3] Total reported purchases and sales are calculated by doubling the reported volume because every reported transaction involves both a purchase and a sale.

APPENDIX B-3

New York Stock Exchange

Round-lot Transactions in 20 Selected Stocks[1] for Account of All Members, Except Odd-lot Dealers, Between June 27, 1935, and Dec. 18, 1935

Week ended—	Reported volume[2]	Members' round-lot transactions[3]			Percentage of members' purchases and sales to total reported purchases and sales[4]
		Bought	Sold	Total	
1935	*Shares*	*Shares*	*Shares*	*Shares*	*Percent*
July 3	717, 300	221, 700	210, 350	432, 050	30. 1
July 10	802, 900	208, 550	220, 550	429, 100	26. 7
July 17	805, 600	245, 740	252, 150	497, 890	30. 9
July 24	1, 010, 600	267, 408	248, 483	515, 891	25. 5
July 31	1, 247, 400	334, 310	299, 283	633, 593	25. 4
Aug. 7	1, 181, 400	328, 573	330, 050	658, 623	27. 9
Aug. 14	1, 585, 300	418, 225	375, 450	793, 675	25. 0
Aug. 21	1, 278, 800	383, 901	442, 325	826, 226	32. 3
Aug. 28	1, 211, 900	370, 925	431, 543	802, 468	33. 1
Sept. 4	457, 100	120, 050	138, 750	258, 800	28. 3
Sept. 11	1, 729, 600	559, 217	498, 348	1, 057, 565	30. 6
Sept. 18	1, 267, 900	370, 350	432, 100	802, 450	31. 6
Sept. 25	1, 083, 200	306, 970	356, 163	663, 133	30. 6
Oct. 2	977, 100	287, 290	310, 050	597, 340	30. 6
Oct. 9	947, 800	306, 972	312, 700	619, 672	32. 7
Oct. 16	1, 407, 500	457, 650	441, 240	898, 890	31. 9
Oct. 23	1, 440, 700	480, 704	461, 420	942, 124	32. 7
Oct. 30	1, 362, 500	427, 679	397, 925	825, 604	30. 3
Nov. 6	1, 255, 100	415, 960	418, 430	834, 390	33. 2
Nov. 13	1, 672, 900	518, 011	436, 827	954, 838	28. 5
Nov. 20	2, 734, 160	840, 704	865, 400	1, 706, 104	31. 2
Nov. 27	2, 111, 600	645, 050	622, 400	1, 267, 450	30. 0
Dec. 4	1, 388, 100	436, 550	415, 195	851, 745	30. 7
Dec. 11	1, 559, 449	572, 600	442, 070	1, 014, 670	32. 5
Dec. 18	1, 505, 964	565, 258	506, 365	1, 071, 623	35. 6
Total	32, 741, 873	10, 090, 347	9, 865, 567	19, 955, 914	
Average of weekly percentages					30. 3
Percentage of members' purchases and sales to total purchases and sales for the entire period					30. 5

[1] American Can Co., common; American Telephone & Telegraph Co., capital; American Tobacco Co., common B; American Radiator & Standard Sanitary Corporation, common; Anaconda Copper Mining Co., capital; Consolidated Gas Co. of New York, common; General Electric Co., common; General Motors Corporation, common; International Nickel Co. of Canada, common; Pennsylvania R. R. Co., capital; Radio Corporation of America, common; Sears Roebuck & Co., capital; Southern Pacific Co., common; Standard Brands, Inc., common; Standard Oil Co. of New Jersey, capital; Texas Corporation, common; Transamerica Corporation, capital; Union Carbide & Carbon Corporation, capital; United States Steel Corporation, common; and F. W. Woolworth Co., capital stock.

[2] Volume reported by New York Stock Exchange ticker for 20 stocks. *Cf.* footnote 1, Appendix B-1.

[3] Figures do not include odd-lot dealers' round-lot transactions which average about 3 percent of total reported purchases and sales.

[4] Total reported purchases and sales are calculated by doubling the reported volume because every reported transaction involves both a purchase and a sale.

APPENDIX B-4

New York Curb Exchange

Round-lot Transactions in 8 Selected Stocks[1] for Account of All Members Between July 8, 1935, and Dec. 14, 1935

Week ended—	Reported volume[2]	Members' round-lot transactions[3]			Percentage of members' purchases and sales to total reported purchases and sales[4]
		Bought	Sold	Total	
1935	*Shares*	*Shares*	*Shares*	*Shares*	*Percent*
July 13	195, 600	50, 250	53, 650	103, 900	26. 6
July 20	118, 500	25, 950	31, 750	57, 700	24. 3
July 27	185, 200	62, 100	60, 900	123, 000	33. 2
Aug. 3	360, 200	116, 650	147, 250	263, 900	36. 6
Aug. 10	469, 000	155, 510	153, 110	308, 620	32. 9
Aug. 17	532, 000	187, 000	194, 200	381, 200	35. 8
Aug. 24	620, 900	230, 600	227, 300	457, 900	36. 9
Aug. 31	364, 300	152, 100	148, 500	300, 600	41. 3
Sept. 7	240, 000	95, 600	88, 100	183, 700	38. 3
Sept. 14	237, 700	90, 100	87, 000	177, 100	37. 3
Sept. 21	221, 200	73, 300	84, 200	157, 500	35. 6
Sept. 28	170, 800	53, 800	54, 300	108, 100	31. 6
Oct. 5	226, 300	77, 900	80, 600	158, 500	35. 0
Oct. 12	214, 900	75, 200	73, 200	148, 400	34. 5
Oct. 19	206, 100	70, 200	73, 600	143, 800	34. 9
Oct. 26	486, 800	192, 700	202, 150	394, 850	40. 6
Nov. 2	398, 300	160, 000	181, 400	341, 400	42. 9
Nov. 9	455, 700	157, 500	169, 300	326, 800	35. 9
Nov. 16	271, 600	95, 200	96, 400	191, 600	35. 3
Nov. 23	323, 300	108, 300	113, 900	222, 200	34. 4
Nov. 30	241, 100	76, 600	85, 900	162, 500	33. 7
Dec. 7	227, 700	74, 900	81, 900	156, 800	34. 4
Dec. 14	247, 700	83, 600	88, 500	172, 100	34. 7
Total	7, 014, 900	2, 465, 060	2, 577, 110	5, 042, 170	
Average of weekly percentages					35. 1
Percentage of members' purchases and sales to total reported purchases and sales for the entire period					35. 9

[1] American Cyanamid Co. B nonvoting; American Gas & Electric Co. common; Atlas Corporation common; Creole Petroleum Corporation capital; Electric Bond & Share Co. common; Niagara Hudson Power Corporation common; Sunshine Mining Co. capital; Technicolor, Inc., common stock.

[2] Volume reported by New York Curb Exchange ticker for 8 stocks. *Cf.* footnote 1, Appendix B-2.

[3] These figures include specialists' round-lot transactions, of which a portion, estimated at about 3 percent of total reported purchases and sales, represent round-lot purchases and sales by specialists to offset odd-lot orders of customers.

[4] Total reported purchases and sales are calculated by doubling the reported volume because every reported transaction involves both a purchase and a sale.

APPENDIX C-1

New York Stock Exchange

Floor trading

Round-lot Transactions in All Stocks Initiated on the Floor for Account of All Members (Other Than Specialists and Odd-lot Dealers in the Stocks in Which They Were Registered) Between June 24, 1935, and Dec. 14, 1935

Week ended—	Reported volume [1]	Members' floor transactions			Percentage of members' purchases and sales to total reported purchases and sales [2]
		Bought	Sold	Total	
1935	*Shares*	*Shares*	*Shares*	*Shares*	*Percent*
June 29	4, 960, 338	484, 945	503, 445	988, 390	10. 0
July 6	3, 997, 910	340, 550	296, 690	637, 240	8. 0
July 13	6, 336, 057	560, 150	543, 030	1, 103, 180	8. 7
July 20	6, 378, 900	491, 763	488, 530	980, 293	7. 7
July 27	7, 463, 750	629, 860	568, 100	1, 197, 960	8. 0
Aug. 3	9, 747, 500	788, 370	766, 010	1, 554, 380	8. 0
Aug. 10	9, 729, 330	800, 610	747, 490	1, 548, 100	8. 0
Aug. 17	11, 103, 470	933, 150	891, 000	1, 824, 150	8. 2
Aug. 24	10, 481, 780	1, 002, 010	999, 000	2, 001, 010	9. 5
Aug. 31	7, 197, 370	690, 200	708, 210	1, 398, 410	9. 7
Sept. 7	7, 240, 290	617, 066	616, 050	1, 233, 116	8. 5
Sept. 14	10, 812, 780	1, 159, 830	1, 062, 975	2, 222, 805	10. 3
Sept. 21	9, 582, 020	910, 860	907, 580	1, 818, 440	9. 5
Sept. 28	5, 834, 270	537, 840	505, 400	1, 043, 240	8. 9
Oct. 5	8, 471, 087	824, 290	855, 220	1, 679, 510	9. 9
Oct. 12	6, 928, 212	708, 910	676, 500	1, 385, 410	10. 0
Oct. 19	10, 459, 258	1, 228, 880	1, 066, 860	2, 295, 740	11. 0
Oct. 26	14, 274, 511	1, 493, 855	1, 418, 525	2, 912, 380	10. 2
Nov. 2	11, 084, 580	1, 103, 720	1, 009, 275	2, 112, 995	9. 5
Nov. 9	12, 126, 573	1, 096, 880	1, 119, 880	2, 216, 760	9. 1
Nov. 16	12, 712, 730	1, 386, 340	1, 204, 270	2, 590, 610	10. 2
Nov. 23	18, 913, 437	1, 784, 600	1, 774, 570	3, 559, 170	9. 4
Nov. 30	10, 404, 305	958, 135	962, 385	1, 920, 520	9. 2
Dec. 7	12, 358, 221	1, 309, 680	1, 139, 010	2, 448, 690	9. 9
Dec. 14	11, 671, 123	1, 137, 740	1, 178, 560	2, 316, 300	9. 9
Total	240, 269, 802	22, 980, 234	22, 008, 565	44, 988, 799	
Average of weekly percentages					9. 3
Percentage of members' purchases and sales to total reported purchases and sales for the entire period					9. 3

[1] Volume reported by New York Stock Exchange ticker. *Cf.* footnote 1, Appendix B-1

[2] Total reported purchases and sales are calculated by doubling the reported volume because every reported transaction involves both a purchase and a sale.

APPENDIX C-2

New York Curb Exchange

Floor trading

Round-lot Transactions in All Stocks Initiated on the Floor for Account of All Members (Other Than Specialists in the Stocks in Which They Were Registered) Between July 8, 1935, and Dec. 14, 1935

Week ended	Reported volume [1]	Members' floor transactions			Percentage of members' purchases and sales to total reported purchases and sales [2]
		Bought	Sold	Total	
1935	*Shares*	*Shares*	*Shares*	*Shares*	*Percent*
July 13	1, 150, 000	48, 270	44, 045	92, 315	4. 0
July 20	1, 069, 000	37, 305	48, 395	85, 700	4. 0
July 27	1, 140, 000	53, 155	42, 105	95, 260	4. 2
Aug. 3	1, 579, 000	87, 100	88, 985	176, 085	5. 6
Aug. 10	2, 222, 000	166, 560	118, 320	284, 880	6. 4
Aug. 17	2, 975, 000	188, 720	184, 125	372, 845	6. 3
Aug. 24	2, 614, 000	170, 600	193, 675	364, 275	7. 0
Aug. 31	1, 528, 000	108, 135	115, 970	224, 105	7. 3
Sept. 7	1, 346, 000	86, 000	65, 190	151, 190	5. 6
Sept. 14	1, 618, 000	69, 050	59, 610	128, 660	4. 0
Sept. 21	1, 553, 000	89, 940	91, 945	181, 885	5. 9
Sept. 28	1, 285, 000	89, 700	64, 670	154, 370	6. 0
Oct. 5	1, 404, 000	74, 615	94, 245	168, 860	6. 0
Oct. 12	1, 465, 000	77, 525	69, 235	146, 760	5. 0
Oct. 19	1, 818, 000	72, 570	62, 735	135, 305	3. 7
Oct. 26	2, 740, 000	196, 175	162, 440	358, 615	6. 5
Nov. 2	2, 552, 000	176, 985	189, 270	366, 255	7. 2
Nov. 9	3, 047, 000	134, 500	150, 925	285, 425	4. 7
Nov. 16	2, 152, 000	117, 795	101, 905	219, 700	5. 1
Nov. 23	3, 129, 000	161, 250	161, 635	322, 885	5. 2
Nov. 30	1, 817, 000	87, 850	94, 335	182, 185	5. 0
Dec. 7	2, 255, 000	133, 350	113, 975	247, 325	5. 5
Dec. 14	2, 554, 000	109, 855	135, 325	245, 180	4. 8
Totals	45, 012, 000	2, 537, 005	2, 453, 060	4, 990, 065	
Average of weekly percentages					5. 4
Percentage of members' purchases and sales to total reported purchases and sales for the entire period					5. 5

[1] Volume reported by New York Curb Exchange ticker (approximated to nearest thousand shares). *Cf.* footnote 1, Appendix B-2.

[2] Total reported purchases and sales are calculated by doubling the reported volume because every reported transaction involves both a purchase and a sale.

APPENDIX D-1

New York Stock Exchange

Floor trading

Changes in Position Resulting From Floor Trading in All Stocks by Members (Other than Specialists and Odd-lot Dealers in the Stocks in Which They Were Registered) in Relation to Changes in the Price Index for 144 Trading Days

Date	Price index [1]		Members' floor transactions		Daily changes in position	Changes in position in relation to changes in price index [2]
	Close	Daily change	Bought	Sold		
1935			*Shares*	*Shares*	*Shares*	
June 24	83.2	−0.3	87,100	108,255	−21,155	With
June 25	82.0	−1.2	147,680	119,940	+27,740	Against
June 26	81.0	−1.0	91,320	115,810	−24,490	With
June 27	80.6	−0.4	71,050	72,150	−1,100	With
June 28	81.3	+0.7	74,095	71,860	+2,235	With
June 29	81.2	−0.1	13,700	15,430	−1,730	With
July 1	81.7	+0.5	85,300	52,760	+32,540	With
July 2	81.7	0.0	103,380	116,960	−13,580	No trend
July 3	82.2	+0.5	62,810	38,920	+23,890	With
July 5	83.1	+0.9	64,260	58,350	+5,910	With
July 6	83.2	+0.1	24,800	29,700	−4,900	Against
July 8	84.2	+1.0	126,170	121,700	+4,470	With
July 9	83.8	−0.4	108,720	117,220	−8,500	With
July 10	84.4	+0.6	100,890	91,850	+9,040	With
July 11	83.5	−0.9	99,630	92,700	+6,930	Against
July 12	84.3	+0.8	95,900	83,460	+12,440	With
July 13	84.2	−0.1	28,840	36,100	−7,260	With
July 15	84.2	0.0	76,450	81,460	−5,010	No trend
July 16	84.3	+0.1	83,700	88,140	−4,440	Against
July 17	84.8	+0.5	117,235	117,420	−185	Against
July 18	84.7	−0.1	118,473	113,740	+4,733	Against
July 19	84.0	−0.7	70,105	73,670	−3,565	With
July 20	84.2	+0.2	25,800	14,100	+11,700	With
July 22	85.5	+1.3	122,170	95,050	+27,120	With
July 23	85.4	−0.1	132,890	140,420	−7,530	With
July 24	86.1	+0.7	124,030	103,660	+20,370	With
July 25	85.2	−0.9	97,400	122,430	−25,030	With
July 26	85.7	+0.5	81,220	67,810	+13,410	With
July 27	86.7	+1.0	72,150	38,730	+33,420	With
July 29	87.6	+0.9	123,820	144,080	−20,260	Against
July 30	86.9	−0.7	117,360	136,090	−18,730	With
July 31	88.0	+1.1	173,740	147,740	+26,000	With
Aug. 1	87.7	−0.3	166,570	143,000	+23,570	Against
Aug. 2	87.0	−0.7	127,620	144,900	−17,280	With
Aug. 3	88.3	+1.3	79,260	50,200	+29,060	With
Aug. 5	88.9	+0.6	127,500	128,460	−960	Against
Aug. 6	88.8	−0.1	149,850	170,180	−20,330	With
Aug. 7	88.8	0.0	142,730	108,200	+34,530	No trend
Aug. 8	89.1	+0.3	116,060	126,010	−9,950	Against
Aug. 9	91.2	+2.1	184,070	139,210	+44,860	With
Aug. 10	92.1	+0.9	80,400	75,430	+4,970	With
Aug. 12	92.1	0.0	188,520	200,170	−11,650	No trend
Aug. 13	92.7	+0.6	226,490	192,820	+33,670	With
Aug. 14	92.7	0.0	150,940	150,040	+900	No trend
Aug. 15	91.7	−1.0	134,730	133,870	+860	Against
Aug. 16	92.5	+0.8	170,160	149,460	+20,700	With
Aug. 17	92.9	+0.4	62,310	64,640	−2,330	Against
Aug. 19	90.7	−2.2	176,250	171,860	+4,390	Against
Aug. 20	90.9	+0.2	214,830	214,100	+730	With
Aug. 21	91.7	+0.8	169,250	178,170	−8,920	Against
Aug. 22	92.0	+0.3	153,210	181,870	−28,660	Against
Aug. 23	91.8	−0.2	219,970	174,600	+45,370	Against
Aug. 24	89.9	−1.9	68,500	78,400	−9,900	With
Aug. 26	91.0	+1.1	189,400	136,100	+53,300	With
Aug. 27	88.3	−2.7	162,020	250,520	−88,500	With
Aug. 28	88.1	−0.2	157,400	133,600	+23,800	Against
Aug. 29	88.7	+0.6	71,300	75,330	−4,030	Against
Aug. 30	89.2	+0.5	74,270	75,350	−1,080	Against
Aug. 31	89.9	+0.7	35,810	37,310	−1,500	Against
Sept. 3	89.0	−0.9	80,530	102,900	−22,370	With
Sept. 4	90.2	+1.2	90,440	74,250	+16,190	With
Sept. 5	91.1	+0.9	165,440	151,940	+13,500	With

[1] Standard Statistics' Daily Stock Price Index for 90 stocks.

[2] The changes in position were classified as being "with" changes in the price index when—
(1) The index advanced and purchases exceeded sales.
(2) The index declined and sales exceeded purchases.
The changes in position were classified as being "against" changes in the price index when—
(1) The index advanced and sales exceeded purchases.
(2) The index declined and purchases exceeded sales.

APPENDIX D-1—Continued

New York Stock Exchange

Date	Price index		Members' floor transactions		Daily changes in position	Changes in position in relation to changes in price index
	Close	Daily change	Bought	Sold		
1935			*Shares*	*Shares*	*Shares*	
Sept. 6	92.5	+1.4	205,596	200,280	+5,316	With
Sept. 7	93.0	+0.5	75,060	86,680	−11,620	Against
Sept. 9	93.4	+0.4	187,880	194,235	−6,355	Against
Sept. 10	94.2	+0.8	260,030	197,750	+62,280	With
Sept. 11	94.6	+0.4	270,010	281,530	−11,520	Against
Sept. 12	93.6	−1.0	200,060	166,300	+33,760	Against
Sept. 13	93.7	+0.1	186,370	175,060	+11,310	With
Sept. 14	93.5	−0.2	55,480	48,100	+7,380	Against
Sept. 16	93.0	−0.5	142,900	162,500	−19,600	With
Sept. 17	93.1	+0.1	131,400	145,260	−13,860	Against
Sept. 18	93.9	+0.8	189,130	199,440	−10,310	Against
Sept. 19	91.9	−2.0	188,070	186,870	+1,200	Against
Sept. 20	89.4	−2.5	192,960	161,610	+31,350	Against
Sept. 21	89.8	+0.4	66,400	51,900	+14,500	With
Sept. 23	90.5	+0.7	89,050	103,210	−14,160	Against
Sept. 24	91.7	+1.2	89,600	71,820	+17,780	With
Sept. 25	92.1	+0.4	83,280	83,170	+110	With
Sept. 26	92.0	−0.1	118,860	96,600	+22,260	Against
Sept. 27	91.8	−0.2	119,500	116,050	+3,450	Against
Sept. 28	91.9	+0.1	37,550	34,550	+3,000	With
Sept. 30	92.0	+0.1	123,470	148,410	−24,940	Against
Oct. 1	91.1	−0.9	103,980	153,020	−49,040	With
Oct. 2	88.1	−3.0	189,970	188,760	+1,210	Against
Oct. 3	89.4	+1.3	167,760	141,590	+26,170	With
Oct. 4	90.2	+0.8	172,250	166,740	+5,510	With
Oct. 5	90.9	+0.7	66,860	56,700	+10,160	With
Oct. 7	91.6	+0.7	92,290	90,220	+2,070	With
Oct. 8	91.0	−0.6	115,650	122,750	−7,100	With
Oct. 9	91.4	+0.4	93,230	61,370	+31,860	With
Oct. 10	93.2	+1.8	220,070	177,710	+42,360	With
Oct. 11	93.3	+0.1	187,670	224,450	−36,780	Against
Oct. 14	94.3	+1.0	205,070	140,760	+64,310	With
Oct. 15	95.0	+0.7	308,300	270,750	+37,550	With
Oct. 16	94.6	−0.4	270,670	239,370	+31,300	Against
Oct. 17	94.1	−0.5	164,600	187,950	−23,350	With
Oct. 18	93.8	−0.3	189,560	145,590	+43,970	Against
Oct. 19	95.3	+1.5	90,680	82,440	+8,240	With
Oct. 21	96.8	+1.5	290,085	271,755	+18,330	With
Oct. 22	97.2	+0.4	334,420	323,510	+10,910	With
Oct. 23	97.9	+0.7	302,540	300,700	+1,840	With
Oct. 24	97.8	−0.1	201,020	219,280	−18,260	With
Oct. 25	98.7	+0.9	275,240	223,130	+52,110	With
Oct. 26	99.6	+0.9	90,550	80,150	+10,400	With
Oct. 28	99.0	−0.6	190,550	185,975	+4,575	Against
Oct. 29	98.9	−0.1	171,800	166,000	+5,800	Against
Oct. 30	98.2	−0.7	254,270	223,930	+30,340	Against
Oct. 31	99.0	+0.8	211,990	158,090	+53,900	With
Nov. 1	100.1	+1.1	182,010	177,380	+4,630	With
Nov. 2	99.9	−0.2	93,100	97,900	−4,800	With
Nov. 4	100.2	+0.3	173,420	152,790	+20,630	With
Nov. 6	102.1	+1.9	277,500	284,260	−6,760	Against
Nov. 7	101.7	−0.4	250,670	259,610	−8,940	With
Nov. 8	102.6	+0.9	304,460	337,170	−32,710	Against
Nov. 9	102.8	+0.2	90,830	86,050	+4,780	With
Nov. 12	101.7	−1.1	182,610	181,170	+1,440	Against
Nov. 13	102.9	+1.2	252,700	160,500	+92,200	With
Nov. 14	104.9	+2.0	466,030	428,060	+37,970	With
Nov. 15	105.2	+0.3	293,450	306,240	−12,790	Against
Nov. 16	105.9	+0.7	191,550	128,300	+63,250	With
Nov. 18	105.5	−0.4	271,580	318,650	−47,070	With
Nov. 19	106.9	+1.4	351,370	280,790	+70,580	With
Nov. 20	105.6	−1.3	331,050	342,780	−11,730	With
Nov. 21	106.6	+1.0	332,910	270,810	+62,100	With
Nov. 22	104.3	−2.3	307,510	417,030	−109,520	With
Nov. 23	106.0	+1.7	190,180	144,510	+45,670	With
Nov. 25	104.6	−1.4	252,300	290,430	−38,130	With
Nov. 26	103.1	−1.5	219,450	227,270	−7,820	With
Nov. 27	104.0	+0.9	231,680	161,630	+70,050	With
Nov. 29	102.7	−1.3	206,785	252,055	−45,270	With
Nov. 30	102.8	+0.1	47,920	31,000	+16,920	With
Dec. 2	101.3	−1.5	130,450	129,900	+550	Against
Dec. 3	104.1	+2.8	231,980	172,530	+59,450	With
Dec. 4	104.9	+0.8	314,200	275,700	+38,500	With

APPENDIX D-1—Continued

New York Stock Exchange

Date	Price index		Members' floor transactions		Daily changes in position	Changes in position in relation to changes in price index
	Close	Daily change	Bought	Sold		
1935			*Shares*	*Shares*	*Shares*	
Dec. 5	104.7	−0.2	234,190	228,720	+5,470	Against
Dec. 6	104.4	−0.3	270,070	246,380	+23,690	Against
Dec. 7	105.6	+1.2	128,790	85,780	+43,010	With
Dec. 9	105.7	+0.1	256,610	256,680	−70	Against
Dec. 10	103.9	−1.8	263,570	247,580	+15,990	Against
Dec. 11	104.3	+0.4	223,890	203,130	+20,760	With
Dec. 12	102.9	−1.4	190,590	234,720	−44,130	With
Dec. 13	101.9	−1.0	158,910	195,350	−36,440	With
Dec. 14	102.1	+0.2	44,170	41,100	+3,070	With
Total		+18.9	22,980,234	22,008,565	+971,669	*Days* With trend 90 Against trend 49 No trend 5 144

APPENDIX D-2

New York Curb Exchange

Floor trading

Changes in Position Resulting From Floor Trading in All Stocks by Members (Other Than Specialists in the Stocks in Which They Were Registered) in Relation to Changes in the Price Index for 133 trading Days

Date	Price index [1]		Members' floor transactions		Daily changes in position	Changes in position in relation to changes in price index [2]
	Close	Daily change	Bought	Sold		
1935			*Shares*	*Shares*	*Shares*	
July 8	26.54	+0.06	6,260	5,375	+885	With
July 9	26.54	.00	8,050	8,750	−700	No trend
July 10	26.54	.00	11,650	8,400	+3,250	No trend
July 11	26.33	−.21	6,400	8,600	−2.200	With
July 12	26.42	+.09	10,900	7,300	+3,600	With
July 13	26.34	−.08	5,010	5,620	−610	With
July 15	26.37	+.03	8,050	19,200	−11,150	Against
July 16	26.21	−.16	4,650	4,025	+625	Against
July 17	26.50	+.29	9,350	5,760	+3,590	With
July 18	26.48	−.02	7,355	10,725	−3,370	With
July 19	26.09	−.39	6,000	6,385	−385	With
July 20	26.14	+.05	1,900	2,300	−400	Against
July 22	26.18	+.04	8,160	5,725	+2,435	With
July 23	26.37	+.19	13,425	7,840	+5,585	With
July 24	26.37	.00	5,775	4,750	+1,025	No trend
July 25	26.41	+.04	7,800	9,745	−1,945	Against
July 26	26.45	+.04	10,595	9,970	+625	With
July 27	26.50	+.05	7,400	4,075	+3,325	With
July 29	26.68	+.18	6,900	12,810	−5,910	Against
July 30	26.95	+.27	10,250	9,900	+350	With
July 31	27.04	+.09	16,825	14,075	+2,750	With
Aug. 1	26.82	−.22	13,830	16,625	−2,795	With
Aug. 2	26.80	−.02	17,870	22,075	−4,205	With
Aug. 3	27.21	+.41	21,425	13,500	+7,925	With
Aug. 5	24.49	+.28	24,035	23,435	+600	With
Aug. 6	27.28	−.21	22,025	19,060	+2,965	Against
Aug. 7	27.22	−.06	22,000	17,925	+4,075	Against
Aug. 8	27.29	+.07	24,650	11,475	+13,175	With
Aug. 9	27.65	+.36	58,850	31,375	+27,475	With
Aug. 10	27.89	+.24	15,000	15,050	−50	Against
Aug. 12	27.80	−.09	27,610	37,500	−9,890	With
Aug. 13	27.92	+.12	38,410	33,100	+5,310	With
Aug. 14	27.97	+.05	36,725	26,665	+10,060	With
Aug. 15	28.00	+.03	36,800	37,100	−300	Against
Aug. 16	28.12	+.12	34,800	32,260	+2,540	With
Aug. 17	28.14	+.02	14,375	17,500	−3,125	Against
Aug. 19	27.59	−.55	28,925	39,175	−10,250	With
Aug. 20	27.30	−.29	44,325	39,000	+5,325	Against
Aug. 21	27.58	+.28	23,300	23,750	−450	Against
Aug. 22	27.54	−.04	29,350	39,475	−10,125	With
Aug. 23	27.59	+.05	30,500	26,775	+3,725	With
Aug. 24	27.06	−.53	14,200	25,500	−11,300	With
Aug. 26	27.25	+.19	27,175	22,750	+4,425	With
Aug. 27	26.33	−.92	24,550	44,335	−19,785	With
Aug. 28	26.61	+.28	21,850	19,160	+2,690	With
Aug. 29	26,79	+.18	17,110	12,850	+4,260	With
Aug 30	26.78	−.01	13,500	10,800	+2,700	Against
Aug. 31	27.05	+.27	3,950	6,075	−2,125	Against
Sept. 3	26.84	−.21	7,200	13,600	−6,400	With
Sept. 4	26.90	+.06	14,400	9,530	+4,870	With
Sept. 5	27.26	+.36	27,725	17,475	+10,250	With
Sept. 6	27.37	+.11	29,425	16,300	+13,125	With
Sept. 7	27.43	+.06	7,250	8,285	−1,035	Against
Sept. 9	27.33	−.10	14,450	11,200	+3,250	Against
Sept. 10	27.42	+.09	9,900	6,910	+2,990	With
Sept. 11	27.32	−.10	13,975	14,250	−275	With
Sept. 12	27.25	−.07	12,400	11,750	+650	Against
Sept. 13	27.44	+.19	12,900	11,625	+1,275	With
Sept. 14	27.43	−.01	5,425	3,875	+1,550	Against
Sept. 16	27.25	−.18	9,950	9,450	+500	Against
Sept. 17	27.15	−.10	10,075	10,650	−575	With
Sept. 18	27.41	+.26	22,040	16,450	+5,590	With
Sept. 19	27.02	−.39	17,575	28,395	−10,820	With
Sept. 20	26.57	−.45	22,800	20,925	+1,875	Against
Sept. 21	26.58	+.01	7,500	6,075	+1,425	With

[1] New York Herald Tribune average price of 25 New York Curb Exchange stocks.

[2] The changes in position were classified as being "with" changes in the price index when—
(1) The index advanced and purchases exceeded sales;
(2) The index declined and sales exceeded purchases.
The changes in position were classified as being "against" changes in the price index when—
(1) The index advanced and sales exceeded purchases;
(2) The index declined and purchases exceeded sales.

APPENDIX D-2—Continued

New York Curb Exchange

Date	Price index: Close	Price index: Daily change	Members' floor transactions: Bought	Members' floor transactions: Sold	Daily changes in position	Changes in position in relation to changes in price index
1935			*Shares*	*Shares*	*Shares*	
Sept. 23	26.77	+.19	11,200	5,405	+5,795	With
Sept. 24	27.09	+.32	13,050	9,325	+3,725	With
Sept. 25	27.24	+.15	22,650	17,805	+4,845	With
Sept. 26	27.10	−.14	23,950	15,370	+8,580	Against
Sept. 27	27.25	+.15	16,050	12,165	+3,885	With
Sept. 28	27.33	+.08	2,800	4,600	−1,800	Against
Sept. 30	27.33	.00	8,510	12,260	−3,750	No trend
Oct. 1	27.05	−.28	7,225	13,460	−6,235	With
Oct. 2	26.14	−.91	9,180	29,315	−20,135	With
Oct. 3	26.56	+.42	18,800	10,890	+7,910	With
Oct. 4	26.78	+.22	24,900	19,320	+5,580	With
Oct. 5	27.02	+.24	6,000	9,000	−3,000	Against
Oct. 7	27.10	+.08	8,450	6,200	+2,250	With
Oct. 8	27.02	−.08	13,850	15,040	−1,190	With
Oct. 9	27.09	+.07	9,025	7,985	+1,040	With
Oct. 10	27.60	+.51	23,335	16,760	+6,575	With
Oct. 11	27.72	+.12	22,865	23,250	−385	Against
Oct. 14	27.98	+.26	15,835	8,200	+7,635	With
Oct. 15	28.09	+.11	14,825	12,630	+2,195	With
Oct. 16	27.90	−.19	11,100	12,230	−1,130	With
Oct. 17	27.90	.00	12,945	15,525	−2,580	No trend
Oct. 18	27.83	−.07	11,665	6,450	+5,215	Against
Oct. 19	28.02	+.19	6,200	7,700	−1,500	Against
Oct. 21	28.42	+.40	24,250	15,225	+9,025	With
Oct. 22	28.56	+.14	34,850	35,850	−1,000	Against
Oct. 23	28.74	+.18	52,600	42,025	+10,575	With
Oct. 24	28.80	+.06	21,200	22,150	−950	Against
Oct. 25	29.06	+.26	46,550	34,765	+11,785	With
Oct. 26	29.37	+.31	16,725	12,425	+4,300	With
Oct. 28	29.28	−.09	35,425	32,050	+3,375	Against
Oct. 29	29.30	+.02	29,835	34,335	−4,500	Against
Oct. 30	29.17	−.13	45,100	44,925	+175	Against
Oct. 31	29.16	−.01	25,250	24,350	+900	Against
Nov. 1	29.69	+.53	28,050	32,025	−3,975	Against
Nov. 2	29.76	+.07	13,325	21,585	−8,260	Against
Nov. 4	30.05	+.29	21,245	15,235	+6,010	With
Nov. 6	30.44	+.39	20,945	21,910	−965	Against
Nov. 7	30.20	−.24	28,075	29,320	−1,245	With
Nov. 8	30.30	+.10	51,875	71,925	−20,050	Against
Nov. 9	30.21	−.09	12,360	12,535	−175	With
Nov. 12	29.85	−.36	19,800	24,325	−4,525	With
Nov. 13	29.94	+.09	24,810	16,225	+8,585	With
Nov. 14	30.27	+.33	34,880	33,110	+1,770	With
Nov. 15	30.44	+.17	25,605	19,820	+5,785	With
Nov. 16	30.40	−.04	12,700	8,425	+4,275	Against
Nov. 18	30.35	−.05	22,910	24,170	−1,260	With
Nov. 19	30.49	+.14	21,150	15,285	+5,865	With
Nov. 20	30.40	−.09	40,725	41,555	−830	With
Nov. 21	30.70	+.30	32,500	23,425	+9,075	With
Nov. 22	30.06	−.64	31,490	43,525	−12,035	With
Nov. 23	30.55	+.49	12,475	13,675	−1,200	Against
Nov. 25	30.43	−.12	24,250	25,760	−1,510	With
Nov. 26	30.14	−.29	16,400	19,745	−3,345	With
Nov. 27	30.41	+.27	22,250	16,000	+6,250	With
Nov. 29	30.22	−.19	18,750	26,210	−7,460	With
Nov. 30	30.47	+.25	6,200	6,620	−420	Against
Dec. 2	30.26	−.21	6,500	9,490	−2,990	With
Dec. 3	30.73	+.47	17,210	10,920	+6,290	With
Dec. 4	31.06	+.33	27,325	24,710	+2,615	With
Dec. 5	31.05	−.01	24,350	22,640	+1,710	Against
Dec. 6	31.28	+.23	37,940	28,415	+9,525	With
Dec. 7	31.37	+.09	20,025	17,800	+2,225	With
Dec. 9	31.55	+.18	20,405	18,900	+1,505	With
Dec. 10	30.98	−.57	22,850	35,025	−12,175	With
Dec. 11	30.97	−.01	26,275	24,875	+1,400	Against
Dec. 12	30.80	−.17	18,925	29,525	−10,600	With
Dec. 13	30.64	−.16	16,900	23,715	−6,815	With
Dec. 14	30.83	+.19	4,500	3,285	+1,215	With
Total	----	+4.35	2,537,005	2,453,060	+83,945	*Days* With trend ---- 87 Against trend - 41 No trend ----- 5 133

APPENDIX E-1

New York Stock Exchange

Floor trading

Comparison between Round-lot Transactions Initiated on the Floor for Account of all Members (Other Than Specialists and Odd-lot Dealers in the Stocks in Which They Were Registered) in 20 Selected Stocks [1] and in All Other Stocks Between June 27, 1935, and Dec. 18, 1935

Week ended—	Reported volume [2]: 20 stocks	Reported volume [2]: All other stocks	Purchases and sales of members on floor: 20 stocks [3]	Purchases and sales of members on floor: All other stocks	Percentage of members' purchases and sales to total reported purchases and sales [4]: 20 stocks	Percentage of members' purchases and sales to total reported purchases and sales [4]: All other stocks
1935	*Shares*	*Shares*	*Shares*	*Shares*	*Percent*	*Percent*
July 3	717,300	3,627,508	194,100	584,315	13.5	8.1
July 10	802,900	4,393,340	187,150	656,510	11.7	7.5
July 17	805,600	4,936,190	257,700	743,335	16.0	7.5
July 24	1,010,600	6,571,357	235,600	898,508	11.7	6.8
July 31	1,247,400	7,147,490	312,700	1,009,870	12.5	7.1
Aug. 7	1,181,400	8,123,930	310,600	1,227,870	13.1	7.6
Aug. 14	1,585,300	9,980,100	314,200	1,515,960	9.9	7.6
Aug. 21	1,278,800	8,888,910	397,500	1,442,130	15.5	8.1
Aug. 28	1,211,900	8,443,590	361,300	1,544,290	14.9	9.1
Sept. 4	457,100	3,673,370	95,400	622,090	10.4	8.5
Sept. 11	1,729,600	10,175,250	480,300	1,796,131	13.9	8.8
Sept. 18	1,267,900	7,740,590	371,100	1,430,900	14.6	9.2
Sept. 25	1,083,200	6,834,910	260,500	1,107,440	12.0	8.1
Oct. 2	977,100	6,625,380	282,500	1,148,220	14.5	8.7
Oct. 9	947,800	5,663,477	330,800	1,016,610	17.5	9.0
Oct. 16	1,407,500	8,915,243	461,600	1,783,220	16.4	10.0
Oct. 23	1,440,700	11,078,880	512,075	2,171,755	17.8	9.8
Oct. 30	1,362,500	10,415,188	431,025	1,850,870	15.8	8.9
Nov. 6	1,255,100	8,685,330	420,300	1,388,140	16.7	8.0
Nov. 13	1,672,900	9,817,923	482,700	1,623,070	14.4	8.3
Nov. 20	2,734,160	15,687,097	916,850	2,793,000	16.8	8.9
Nov. 27	2,111,600	14,468,875	612,650	2,433,060	14.5	8.4
Dec. 4	1,388,100	7,862,871	421,100	1,371,420	15.2	8.7
Dec. 11	1,559,449	11,364,150	464,600	2,180,790	14.9	9.6
Dec. 18	1,505,964	7,674,175	549,500	1,192,050	18.2	7.8
Total	32,741,873	208,795,124	9,663,850	35,531,554		
Average of weekly percentages					14.5	8.4
Percentage of members' purchases and sales to total reported purchases and sales for the entire period					14.8	8.5

[1] See Appendix B-3, footnote 1 for names of stocks.
[2] Volume reported by New York Stock Exchange ticker. *Cf.* footnote 1, Appendix B-1.
[3] Transactions reported in 2-H Reports (see Appendix A-2).
[4] Total reported purchases and sales are calculated by doubling the reported volume because every reported transaction involves both a purchase and a sale.

APPENDIX E-2

New York Curb Exchange

Floor trading

Comparison Between Round-lot Transactions Initiated on the Floor for Account of All Members (Other Than Specialists in the Stocks in Which They Were Registered) in 8 Selected Stocks [1] and in All Other Stocks Between July 8, 1935, and Dec. 14, 1935

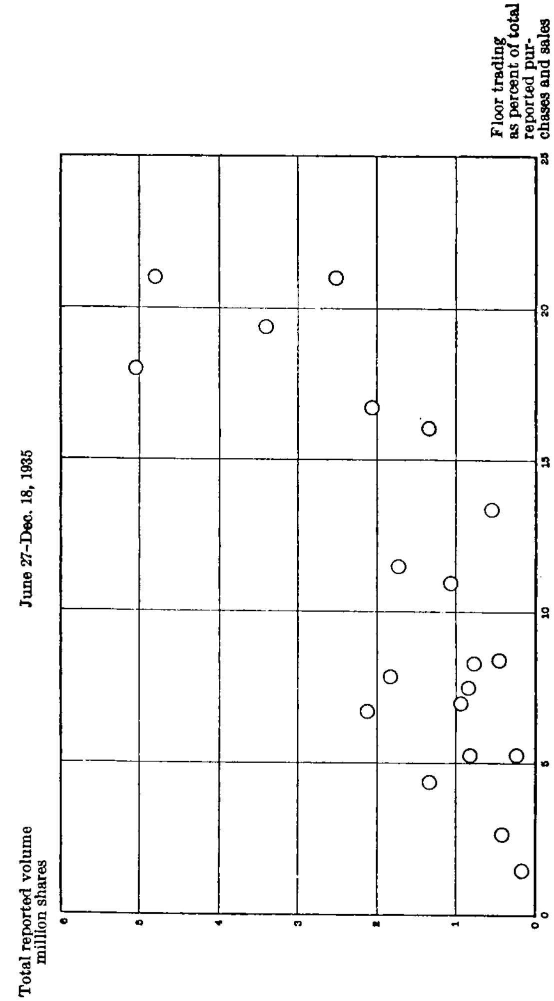
Week ended	Reported volume [2]		Purchases and sales of members on floor		Percentage of members' purchases and sales to total reported purchases and sales [4]	
	8 stocks	All other stocks	8 stocks [3]	All other stocks	8 stocks	All other stocks
1935	*Shares*	*Shares*	*Shares*	*Shares*	*Percent*	*Percent*
July 13	195, 600	954, 400	29, 500	62, 815	7. 5	3. 3
July 20	118, 500	950, 500	12, 050	73, 650	5. 1	3. 9
July 27	185, 200	954, 800	45, 800	49, 460	12. 4	2. 6
Aug. 3	360, 200	1, 218, 800	123, 100	52, 985	17. 1	2. 2
Aug. 10	469, 000	1, 753, 000	149, 100	135, 780	15. 9	3. 9
Aug. 17	532, 000	2, 443, 000	179, 500	193, 345	16. 9	4. 0
Aug. 24	620, 900	1, 993, 100	229, 300	134, 975	18. 5	3. 4
Aug. 31	364, 300	1, 163, 700	165, 500	58, 605	22. 7	2. 5
Sept. 7	240, 000	1, 106, 000	90, 300	60, 890	18. 8	2. 8
Sept. 14	237, 700	1, 380, 300	80, 200	48, 460	16. 9	1. 8
Sept. 21	221, 200	1, 331, 800	68, 500	113, 385	15. 5	4. 3
Sept. 28	170, 800	1, 114, 200	35, 800	118, 570	10. 5	5. 3
Oct. 5	226, 300	1, 177, 700	66, 700	102, 160	14. 7	4. 3
Oct. 12	214, 900	1, 250, 100	63, 900	82, 860	14. 9	3. 3
Oct. 19	206, 100	1, 611, 900	43, 600	91, 705	10. 6	2. 8
Oct. 26	486, 800	2, 253, 200	194, 800	163, 815	20. 0	3. 6
Nov. 2	398, 300	2, 153, 700	174, 200	192, 055	21. 9	4. 5
Nov. 9	455, 700	2, 591, 300	147, 100	138, 325	16. 1	2. 7
Nov. 16	271, 600	1, 880, 400	108, 600	111, 100	20. 0	3. 0
Nov. 23	323, 300	2, 805, 700	122, 500	200, 385	19. 0	3. 6
Nov. 30	241, 100	1, 575, 900	74, 700	107, 485	15. 5	3. 4
Dec. 7	227, 700	2, 027, 300	75, 400	171, 925	16. 6	4. 2
Dec. 14	247, 700	2, 306, 300	85, 300	159, 880	17. 2	3. 5
Total	7, 014, 900	37, 997, 100	2, 365, 450	2, 624, 615		
Average of weekly percentages					15. 8	3. 4
Percentage of members' purchases and sales to total reported purchases and sales for the entire period					16. 9	3. 5

[1] See Appendix B-4, footnote 1 for names of stocks.
[2] Volume reported by New York Curb Exchange ticker. *Cf.* footnote 1, Appendix B-2.
[3] Transactions reported in 2-H reports (see Appendix A-2).
[4] Total reported purchases and sales are calculated by doubling the reported volume because every reported transaction involves both a purchase and a sale.

APPENDIX E-3

Floor Trading (Purchases+Sales) in 20 Selected Stocks on the New York Stock Exchange

June 27–Dec. 18, 1935



NOTE.—The position of each circle represents the volume and the percent of floor trading in one of the 20 selected stocks named in Appendix B-3, footnote 1.

APPENDIX E-4

STUDY OF THE RELATION BETWEEN THE VOLUME OF FLOOR TRADING AND THE ACTIVITY OF THE MARKET

In order to determine the relation between the volume of floor trading in all stocks and the general activity of the market, 120 full trading sessions on the New York Stock Exchange were arranged in order from the day of highest reported volume to the day of lowest reported volume. The sessions were divided into 12 periods each consisting of 10 days, and a comparison was made between floor trading and total trading for each 10-day period. The result, commencing with the period of greatest activity, was as follows:

New York Stock Exchange

10-day periods in order of activity	Average daily percent of floor trading to total trading	10-day periods in order of activity	Average daily percent of floor trading to total trading
First	9.45	Seventh	9.00
Second	10.27	Eighth	9.70
Third	9.64	Ninth	9.39
Fourth	9.57	Tenth	9.42
Fifth	9.73	Eleventh	9.01
Sixth	9.63	Twelfth	9.03

For the 10 most active days, floor trading constituted only a slightly larger percentage of the total trading (9.45 percent) than for the 10 least active days (9.03 percent). Moreover, the maximum percentage of floor trading did not occur during the period of greatest activity, nor the minimum percentage during the period of least activity. On the whole neither an increase nor a decrease in the activity of the market appeared to affect the relative extent of floor trading in any uniform manner.[1]

A similar survey was made of floor trading over a period of 110 full trading sessions on the New York Curb Exchange.[2] Arranging these sessions into 11 periods of 10 days each in the order of their activity and comparing the volume of floor trading with the total volume for each period, the following result was obtained:

New York Curb Exchange

10-day periods in order of activity	Average daily percent of floor trading to total trading	10-day periods in order of activity	Average daily percent of floor trading to total trading
First	6.01	Seventh	4.89
Second	5.56	Eighth	5.83
Third	6.74	Ninth	5.25
Fourth	5.42	Tenth	4.56
Fifth	5.98	Eleventh	4.80
Sixth	5.75		

[1] See table attached hereto as Exhibit I.

[2] See table attached hereto as Exhibit II. The exhibit contains 111 days but the least active day, July 22, was omitted from consideration for purposes of convenience.

A somewhat larger difference is observed between the percentage of floor trading during the period of greatest activity (6.01 percent) and the percentage during the period of least activity (4.80 percent) than on the New York Stock Exchange. Nevertheless, it will be observed that the maximum percentage of floor trading is not found during the period of greatest activity, and that the minimum is not found during the period of least activity. On the whole the percentage of floor trading on the Curb Exchange tended to decrease somewhat as market activity decreased.

APPENDIX E-4—Continued

EXHIBIT I.—*New York Stock Exchange*

Percentage of Round-lot Transactions Initiated on the Floor for Account of All Members (Other Than Specialists and Odd-lot Dealers in the Stocks in Which They Were Registered) to Total Reported Purchases and Sales for Each of 120 Full Trading Sessions Between June 24, 1935, and Dec. 13, 1935, Arranged in Order From the Day of Highest Volume to the day of Lowest Volume. All Stocks

Date	Reported volume [1]	Percentage of members' purchases and sales to total reported purchases and sales [2]	Date	Reported volume [1]	Percentage of members' purchases and sales to total reported purchases and sales [2]
1935	*Shares*	*Percent*	*1935*	*Shares*	*Percent*
Nov. 14	3,947,950	11.3	July 29	1,752,270	7.6
Nov. 22	3,918,510	9.2	Nov. 4	1,748,020	9.3
Nov. 20	3,814,777	8.8	Aug. 5	1,735,510	7.3
Nov. 25	3,372,355	8.0	July 23	1,734,150	7.8
Nov. 8	3,351,279	9.6	Sept. 13	1,731,300	10.4
Nov. 21	3,279,560	9.2	Aug. 16	1,711,900	9.3
Nov. 18	3,198,320	9.2	Oct. 29	1,708,400	9.9
Nov. 6	3,075,440	9.1	July 30	1,679,580	7.5
Dec. 4	2,964,041	9.9	Aug. 22	1,667,660	10.0
Nov. 15	2,937,590	10.2	Oct. 17	1,613,337	10.9
Nov. 19	2,883,140	11.0	Oct. 14	1,587,990	10.9
Oct. 21	2,871,908	9.8	Aug. 15	1,581,870	8.5
Oct. 22	2,835,730	11.6	Dec. 2	1,519,380	8.6
Nov. 7	2,785,280	9.2	Aug. 2	1,517,710	9.0
Oct. 23	2,756,795	10.9	July 18	1,495,007	8.2
Sept. 11	2,590,850	10.6	Sept. 16	1,491,250	10.2
Oct. 15	2,573,010	11.3	Oct. 3	1,484,880	10.4
Dec. 9	2,507,730	10.2	Aug. 26	1,455,610	11.2
Oct. 25	2,471,438	10.1	Oct. 18	1,449,800	11.6
Aug. 12	2,424,030	8.0	Aug. 8	1,432,860	8.4
Dec. 6	2,369,710	10.9	Oct. 1	1,422,460	9.0
Aug. 13	2,362,940	8.9	Oct. 4	1,419,627	11.1
Dec. 10	2,341,299	10.9	Aug. 28	1,390,390	10.5
Nov. 26	2,331,510	9.6	Aug. 7	1,389,220	8.9
Dec. 5	2,259,850	10.2	July 22	1,369,090	7.9
Oct. 16	2,243,111	11.4	July 17	1,357,540	8.7
Sept. 20	2,217,950	8.0	July 9	1,344,830	9.5
Oct. 2	2,189,700	8.6	Sept. 17	1,334,460	10.4
Aug. 9	2,188,000	7.3	July 25	1,334,400	8.2
Nov. 29	2,170,860	10.6	July 8	1,305,550	9.7
Oct. 24	2,156,110	9.7	July 24	1,305,490	8.7
Sept. 6	2,153,840	9.4	Sept. 30	1,257,230	10.8
Oct. 30	2,146,900	11.1	July 2	1,198,190	9.7
Nov. 12	2,140,010	8.5	Oct. 8	1,182,110	10.0
Dec. 12	2,135,760	10.0	July 10	1,149,560	8.7
Dec. 11	2,126,290	10.0	July 19	1,148,720	6.4
Aug. 27	2,125,720	9.7	June 25	1,143,560	12.0
Oct. 28	2,112,310	8.9	Sept. 27	1,123,170	10.5
Aug. 19	2,068,660	8.4	June 24	1,116,470	9.1
Oct. 11	2,054,662	10.0	July 12	1,097,517	8.3
Nov. 13	2,047,700	10.1	Sept. 26	1,090,900	9.9
Nov. 1	2,038,230	8.8	Sept. 25	1,083,730	7.7
Sept. 9	2,000,290	9.6	Sept. 24	1,009,110	8.0
Sept. 10	1,978,240	11.6	Sept. 23	1,008,340	9.5
Aug. 20	1,975,670	10.9	Sept. 4	1,000,740	8.2
Aug. 14	1,946,800	7.7	July 11	995,760	10.0
Sept. 18	1,939,380	10.0	July 26	986,380	7.5
Dec. 3	1,926,520	10.5	June 26	957,110	11.2
Sept. 19	1,923,380	9.7	July 15	948,310	8.5
July 31	1,908,020	8.4	Oct. 7	945,360	9.6
Dec. 13	1,893,584	9.4	Sept. 3	904,080	10.1
Sept. 5	1,891,670	8.4	Aug. 29	903,640	8.1
Aug. 23	1,891,150	10.4	July 16	899,823	9.7
Aug. 1	1,889,060	8.1	Oct. 9	882,110	8.7
Sept. 12	1,879,970	9.7	July 5	880,430	7.2
Oct. 10	1,863,970	10.7	Aug. 30	830,730	9.0
Nov. 27	1,859,410	10.6	June 28	754,030	10.1
Oct. 31	1,814,240	10.2	June 27	736,288	10.5
Aug. 6	1,772,970	8.9	July 3	720,050	7.3
Aug. 21	1,753,680	9.9	July 1	683,370	9.6

[1] Volume reported by New York Stock Exchange ticker. *Cf.* footnote 1, Appendix B-1.
[2] Total reported purchases and sales are calculated by doubling the reported volume because every reported transaction involves both a purchase and a sale.

APPENDIX E-4—Continued

EXHIBIT II.—*New York Curb Exchange*

Percentage of Round-lot Transactions Initiated on the Floor for Account of All Members (Other Than Specialists in the Stocks in Which They Were Registered) to Total Reported Purchases and Sales for Each of 111 Full Trading Sessions Between July 8, 1935, and Dec. 13, 1935, Arranged in Order From the Day of Highest Volume to the Day of Lowest Volume. All Stocks

Date	Reported volume [1]	Percentage of members' purchases and sales to total reported purchases and sales [2]	Date	Reported volume [1]	Percentage of members' purchases and sales to total reported purchases and sales [2]
1935	*Shares*	*Percent*	*1935*	*Shares*	*Percent*
Nov. 8	1,157,000	5.4	Sept. 5	331,000	6.8
Nov. 22	687,000	5.5	Sept. 20	329,000	6.7
Nov. 20	672,000	6.1	Sept. 18	327,000	5.9
Nov. 14	581,000	5.9	Sept. 19	324,000	7.1
Nov. 6	580,000	3.7	Oct. 17	322,000	4.4
Aug. 13	572,000	6.3	Aug. 21	318,000	7.4
Aug. 12	571,000	5.7	Sept. 9	313,000	4.1
Nov. 7	567,000	5.1	Aug. 2	307,000	6.5
Oct. 23	566,000	8.4	Sept. 13	306,000	4.0
Aug. 9	565,000	8.0	July 31	301,000	5.1
Nov. 18	549,000	4.3	Sept. 12	300,000	4.0
Oct. 25	546,000	7.5	Aug. 8	293,000	6.2
Nov. 25	545,000	4.6	Oct. 14	290,000	4.1
Dec. 9	528,000	3.7	Oct. 18	290,000	3.1
Nov. 21	521,000	5.4	Dec. 3	289,000	4.9
Dec. 10	520,000	5.6	Aug. 1	275,000	5.5
Oct. 22	518,000	6.8	Aug. 7	273,000	7.3
Aug. 19	515,000	6.6	Sept. 25	269,000	7.5
Dec. 6	510,000	6.6	Oct. 4	268,000	8.3
Nov. 15	509,000	4.5	July 23	259,000	4.1
Oct. 30	506,000	8.9	Dec. 2	256,000	3.1
Aug. 14	505,000	6.3	Sept. 26	255,000	7.7
Aug. 20	499,000	8.4	Sept. 27	254,000	5.6
Dec. 11	499,000	5.1	Oct. 1	242,000	4.3
Aug. 15	499,000	7.4	Oct. 8	239,000	6.0
Aug. 23	494,000	5.8	Sept. 10	239,000	3.5
Oct. 28	490,000	6.9	July 18	237,000	3.8
Nov. 1	485,000	6.2	July 9	235,000	6.1
Aug. 16	484,000	6.9	July 10	233,000	4.3
Dec. 4	474,000	5.5	Sept. 16	232,000	4.2
Nov. 12	454,000	4.9	July 30	232,000	4.3
Aug. 5	446,000	5.3	Oct. 3	231,000	6.4
Dec. 12	445,000	5.4	Aug. 28	228,000	9.0
Oct. 11	434,000	5.3	Sept. 24	227,000	4.9
Oct. 21	431,000	4.6	Sept. 17	223,000	4.7
Sept. 6	424,000	5.4	July 29	221,000	4.5
Nov. 19	422,000	4.3	July 12	221,000	4.1
Aug. 27	421,000	8.2	July 19	215,000	2.9
Dec. 5	419,000	5.6	Oct. 9	214,000	4.0
Oct. 24	418,000	5.2	July 25	213,000	4.1
Nov. 4	410,000	4.5	Sept. 30	208,000	5.0
Dec. 13	409,000	5.0	July 26	201,000	5.1
Nov. 29	398,000	5.7	Aug. 29	200,000	7.5
Aug. 22	395,000	8.7	Oct. 7	198,000	3.7
Oct. 15	384,000	3.6	July 11	193,000	3.9
Oct. 10	380,000	5.3	Sept. 4	191,000	6.3
Oct. 29	378,000	8.5	July 15	186,000	7.3
Oct. 31	375,000	6.7	Aug. 30	181,000	6.7
Aug. 26	366,000	6.8	July 17	180,000	4.2
Nov. 26	364,000	5.0	Sept. 3	179,000	5.8
Oct. 16	355,000	3.3	July 16	179,000	2.4
Nov. 27	352,000	5.4	Sept. 23	172,000	4.8
Aug. 6	339,000	6.1	July 24	169,000	3.1
Nov. 13	337,000	6.1	July 8	165,000	3.5
Sept. 11	334,000	4.3	July 22	163,000	4.3
Oct. 2	333,000	5.8			

[1] Volume reported by the New York Curb Exchange ticker (approximated to nearest thousand shares). *Cf.* footnote 1, appendix B-2.
[2] Total reported purchases and sales are calculated by doubling the reported volume because every reported transaction involves both a purchase and a sale.

APPENDIX F-1

New York Stock Exchange

Specialists' trading

Round-lot Transactions for Account of All Specialists in the Stocks in Which They Were Registered Between June 24 and Dec. 14, 1935

Week ended—	Reported volume [1]	Specialists' round-lot transactions			Percentage of specialists' purchases and sales to total reported purchases and sales [2]
		Bought	Sold	Total	
1935	*Shares*	*Shares*	*Shares*	*Shares*	*Percent*
June 29	4,960,338	490,670	500,190	990,860	10.0
July 6	3,997,910	359,910	351,620	711,530	8.9
July 13	6,336,057	615,720	605,900	1,221,620	9.6
July 20	6,378,900	558,170	573,210	1,131,380	8.9
July 27	7,463,750	699,740	670,230	1,369,970	9.2
Aug. 3	9,747,500	889,200	921,090	1,810,290	9.3
Aug. 10	9,729,330	893,320	903,500	1,796,820	9.2
Aug. 17	11,103,470	965,480	1,031,500	1,996,980	9.0
Aug. 24	10,481,780	1,003,730	1,125,770	2,129,500	10.2
Aug. 31	7,197,370	801,311	804,000	1,605,311	11.2
Sept. 7	7,240,290	720,185	737,680	1,457,865	10.1
Sept. 14	10,812,780	1,060,880	1,004,860	2,065,740	9.6
Sept. 21	9,582,020	910,890	922,600	1,833,490	9.6
Sept. 28	5,834,270	553,000	556,740	1,109,740	9.5
Oct. 5	8,471,087	843,520	843,500	1,687,020	10.0
Oct. 12	6,928,212	679,120	669,550	1,348,670	9.7
Oct. 19	10,459,258	1,036,580	993,040	2,029,620	9.7
Oct. 26	14,274,511	1,285,510	1,308,455	2,593,965	9.2
Nov. 2	11,084,580	1,030,220	988,421	2,018,641	9.1
Nov. 9	12,126,573	1,054,870	1,049,630	2,104,500	8.7
Nov. 16	12,712,730	1,102,550	1,060,140	2,162,690	8.5
Nov. 23	18,913,437	1,684,850	1,747,200	3,432,050	9.1
Nov. 30	10,404,305	1,054,190	1,067,842	2,122,032	10.2
Dec. 7	12,358,221	1,202,970	1,112,510	2,315,480	9.4
Dec. 14	11,671,123	1,107,520	1,108,260	2,215,780	9.5
Total	240,269,802	22,604,106	22,657,438	45,261,544	
Average of weekly percentages					9.5
Percentage of specialists' purchases and sales to total reported purchases and sales for the entire period					9.4

[1] Volume reported by New York Stock Exchange ticker. *Cf.* footnote 1, Appendix B-1.
[2] Total reported purchases and sales are calculated by doubling the reported volume because every transaction involves both a purchase and a sale.

APPENDIX G-1

New York Stock Exchange

Specialists' trading

Round-lot Transactions for Own Account and Account of Others Effected by Registered Specialists in 88 Stocks [1] Between June 24, 1935, and Nov. 2, 1935

Week ended—	Reported volume [2]	Specialists' round-lot transactions					
		For own account [3]		For account of others		Total	
		Transactions	Percent of total reported purchases and sales [4]	Transactions	Percent of total reported purchases and sales [4]	Transactions	Percent of total reported purchases and sales [4]
1935	*Shares*	*Shares*	*Percent*	*Shares*	*Percent*	*Shares*	*Percent*
June 29	1,622,000	335,000	10.3	1,021,900	31.5	1,356,900	41.8
July 6	1,156,000	253,800	11.0	751,700	32.5	1,005,500	43.5
July 13	2,040,700	410,300	10.1	1,315,100	32.2	1,725,400	42.3
July 20	1,687,600	333,400	9.9	1,078,900	32.0	1,412,300	41.9
July 27	2,089,200	399,000	9.5	1,390,700	33.3	1,789,700	42.8
Aug. 3	2,243,100	461,500	10.3	1,475,000	32.9	1,936,500	43.2
Aug. 10	2,579,600	476,400	9.2	1,728,300	33.5	2,204,700	42.7
Aug. 17	2,466,100	490,800	10.0	1,653,300	33.5	2,144,100	43.5
Aug. 24	2,552,800	568,300	11.1	1,658,200	32.5	2,226,500	43.6
Aug. 31	1,846,800	495,100	13.4	1,181,500	32.0	1,676,600	45.4
Sept. 7	2,118,200	477,400	11.3	1,265,800	29.9	1,743,200	41.2
Sept. 14	3,192,100	686,300	10.7	2,010,300	31.5	2,696,600	42.2
Sept. 21	2,964,500	629,500	10.6	1,801,900	30.4	2,431,400	41.0
Sept. 28	1,485,000	326,900	11.0	925,400	31.2	1,252,300	42.2
Oct. 5	2,584,300	533,600	10.3	1,578,500	30.5	2,112,100	40.8
Oct. 12	1,977,400	409,700	10.4	1,170,800	29.6	1,580,500	40.0
Oct. 19	2,982,600	666,900	11.2	1,736,900	29.1	2,403,800	40.3
Oct. 26	3,218,883	712,600	11.1	2,144,900	33.3	2,857,500	44.4
Nov. 2	2,617,300	561,800	10.7	1,637,400	31.2	2,199,200	41.9
Total	43,424,183	9,228,300	10.6	27,526,500	31.7	36,754,800	42.3

[1] For names of stocks, see Appendix I-1.
[2] Volume reported by New York Stock Exchange ticker for 88 stocks. *Cf.* footnote 1, Appendix B-1.
[3] Includes transactions for account of specialists, their firms, and any account in which they, or their firms had any interest.
[4] Total reported purchases and sales are calculated by doubling the reported volume because every reported transaction involves both a purchase and a sale.

APPENDIX H-1

New York Stock Exchange

Specialists' trading

Summary of Daily Changes in the Position of Specialists in Relation to the Daily Price Trend in Each of 88 Stocks for 111 Trading Days Between June 24, 1935, and Nov. 3, 1935

Name of stock [1]	Days when position changed with price trend [2]		Days when position changed against price trend [3]		Total days when changes occurred both in specialists' position and price trend [4]
	Number of days	Percent of total	Number of days	Percent of total	
Air Reduction	26	42.6	35	57.4	61
Alaska Juneau	28	58.3	20	41.7	48
Allis-Chalmers	48	60.0	32	40.0	80
Amerada Corporation	26	40.0	39	60.0	65
American Can	18	27.7	47	72.3	65
American Commercial Alcohol	39	52.7	35	47.3	74
American Home Products	26	45.6	31	54.4	57
American Metal	18	29.0	44	71.0	62
American Smelting	28	42.4	38	57.6	66
American Sugar	11	27.5	29	72.5	40
American Telephone & Telegraph	38	44.7	47	55.3	85
American Tobacco, common	28	43.1	37	56.9	65
Anaconda Copper	43	47.8	47	52.2	90
Atchison	38	57.5	28	42.5	66
Auburn Automobile	45	54.9	37	45.1	82
Beech-Nut Packing	4	66.7	2	33.3	6
Bendix Aviation	47	54.6	39	45.4	86
Blaw-Knox	31	46.3	36	53.7	67
Bohn Aluminum	25	32.0	53	68.0	78
Briggs	32	39.5	49	60.5	81
B. M. T	14	35.0	26	65.0	40
A. M. Byers	42	54.5	35	45.5	77
California Packing	16	55.2	13	44.8	29
J. I. Case	16	35.5	29	64.5	45
Celanese Corporation	40	48.8	42	51.2	82
Chrysler Corporation	46	53.5	40	46.5	86
Coca-Cola	1	50.0	1	50.0	2
Colgate-Palmolive	37	46.8	42	53.2	79
Congoleum-Nairn	8	25.0	24	75.0	32
Consolidated Film, preferred	15	53.5	13	46.5	28
Continental Can	27	39.7	41	60.3	68
Continental Insurance	3	16.7	15	83.3	18
Cream of Wheat	2	100.0	0	----------	2
Delaware, Lackawanna	31	47.0	35	53.0	66
Eaton Manufacturing	37	52.9	33	47.1	70
Evans Products	27	49.0	28	51.0	55
General American Transport	27	45.0	33	55.0	60
General Electric	48	52.1	44	47.9	92
General Foods	20	39.2	31	60.8	51
General Motors	48	49.0	50	51.0	98
Gillette	11	30.5	25	69.5	36
Howe Sound	41	55.4	33	44.6	74
Industrial Rayon	44	60.3	29	39.7	73
International Harvester	27	37.0	46	63.0	73
International Nickel	6	23.1	20	76.9	26
Johns-Manville	24	30.0	56	70.0	80
Kelvinator	31	54.4	26	45.6	57
Kennecott Copper	21	39.6	32	60.4	53
Loew's, Inc	37	46.3	43	53.7	80
R. H. Macy	15	25.0	45	75.0	60
Mathieson Alkali	26	41.9	36	58.1	62
McKeesport	0	----------	0	----------	0
Montgomery, Ward	30	35.7	54	64.3	84
National Cash Register	25	42.4	34	57.6	59
National Distillers	34	38.2	55	61.8	89
National Lead	2	50.0	2	50.0	4
N. Y. Central	50	56.8	38	43.2	88

[1] For full names of stocks see footnote 1. Appendix I-1.
[2] The changes in position were classified as being "with" changes in the price trend when:
(1) The price advanced and purchases exceeded sales.
(2) The price declined and sales exceeded purchases.
[3] The changes in position were classified as being "against" changes in the price trend when:
(1) The price advanced and sales exceeded purchases.
(2) The price declined and purchases exceeded sales.
[4] The remaining days of the period (when no change occurred either in specialists' position or the price trend) were eliminated from consideration.

APPENDIX H-1—Continued

New York Stock Exchange

Name of stock	Days when position changed with price trend		Days when position changed against price trend		Total days when changes occurred both in specialists' position and price trend
	Number of days	Percent of total	Number of days	Percent of total	
Otis Elevator	19	31.1	42	68.9	61
Pacific Gas & Electric	28	41.8	39	58.2	67
Penick & Ford	0	----------	0	----------	0
J. C. Penney	33	44.6	41	55.4	74
Philip Morris	24	31.2	53	68.8	77
Radio Corporation—Preferred B	32	43.8	41	56.2	73
Republic Steel	40	53.3	35	46.7	75
Safeway Stores	28	36.4	49	63.6	77
St. Joseph Lead	17	29.8	40	70.2	57
Schenley Distillers	25	28.4	63	71.6	88
Seaboard Oil	15	28.3	38	71.7	53
Silver King Mines	21	40.4	31	59.6	52
Simms Petroleum	17	56.7	13	43.3	30
Southern California Edison	34	47.9	37	52.1	71
Southern Pacific	18	40.0	27	60.0	45
Sparks-Withington	14	63.6	8	36.4	22
Spiegel, May, Stern	21	31.3	46	68.7	67
Standard Brands	18	42.9	24	57.1	42
Standard Oil, N. J	20	24.7	61	75.3	81
Texas Corporation	37	58.7	26	41.3	63
Timken Roller Bearing	37	48.0	40	52.0	77
Transamerica Corporation	7	46.6	8	53.4	15
Union Pacific	18	32.7	37	67.3	55
United Aircraft	39	48.8	41	51.2	80
United Fruit	37	53.6	32	46.4	69
United States Smelting	31	44.9	38	55.1	69
United States Steel	43	50.0	43	50.0	86
Wesson Oil & Snowdrift	25	41.0	36	59.0	61
Western Union	54	52.4	49	47.6	103
Westinghouse Electric	43	44.8	53	55.2	96
Woolworth	29	46.8	33	53.2	62
Total	2,352	----------	2,998	----------	5,350

Percentage of days when specialists' position changed with price trend to total days	44.0
Percentage of days when specialists' position changed against price trend to total days	56.0

APPENDIX H-2

New York Stock Exchange

Specialists' trading

Classification of 88 Stocks Into Groups According to Whether Specialists Changed Their Daily Position Preponderantly With or Preponderantly Against the Daily Price Trend

Group	Days when position changed against price trend		Days when position changed with price trend		Total days when changes occurred both in specialists' position and price trend
	Total days for each group	Percent of total	Total days for each group	Percent of total	
59 stocks in which specialists changed their position more frequently against daily price trend	2, 292	60. 7	1, 486	39. 3	3, 778
24 stocks in which specialists changed their position more frequently with daily price trend	660	44. 6	820	55. 4	1, 480
3 stocks in which specialists changed their position the same number of days with and against daily price trend	46	50. 0	46	50. 0	92
2 stocks in which there were no changes in specialists' position	0		0		0
Grand total	2, 998	56. 0	2, 352	44. 0	5, 350

APPENDIX I-1

New York Stock Exchange

Comparison Between Round-lot Transactions for Account of Registered Specialists in 17 Active, 55 Moderately Active, and 16 Inactive Stocks From June 24, 1935, to Nov. 2, 1935 [1]

Week ended—	Reported volume [2]			Specialists' purchases and sales for own account [3]			Percentage of specialists' purchases and sales to total reported purchases and sales [4]		
	Active stocks	Moderately active stocks	Inactive stocks	Active stocks	Moderately active stocks	Inactive stocks	Active stocks	Moderately active stocks	Inactive stocks
1935	*Shares*	*Shares*	*Shares*	*Shares*	*Shares*	*Shares*	*Percent*	*Percent*	*Percent*
June 29	806, 500	772, 700	42, 800	150, 500	176, 400	8, 100	9. 3	11. 4	9. 5
July 6	612, 100	513, 300	30, 600	115, 000	127, 800	11, 000	9. 4	12. 6	18. 0
July 13	1, 258, 700	737, 400	44, 600	219, 500	181, 200	9, 600	8. 7	12. 3	10. 8
July 20	973, 800	665, 600	48, 200	177, 300	148, 500	7, 600	9. 1	11. 2	7. 9
July 27	1, 237, 800	799, 100	52, 300	203, 100	185, 400	10, 500	8. 2	11. 6	10. 0
Aug. 3	1, 214, 400	959, 000	69, 700	201, 500	244, 400	15, 600	8. 3	12. 7	11. 2
Aug. 10	1, 645, 500	888, 100	46, 000	265, 600	199, 000	11, 800	8. 1	11. 2	12. 8
Aug. 17	1, 408, 100	1, 014, 700	43, 300	270, 100	212, 200	8, 500	9. 6	10. 5	9. 8
Aug. 24	1, 595, 800	904, 900	52, 100	326, 500	227, 900	13, 900	10. 2	12. 6	13. 3
Aug. 31	1, 154, 700	658, 300	33, 800	298, 500	186, 600	10, 000	12. 9	14. 2	14. 8
Sept. 7	1, 389, 800	698, 400	30, 000	275, 200	195, 700	6, 500	9. 9	14. 0	10. 8
Sept. 14	1, 907, 800	1, 226, 900	57, 400	382, 800	292, 500	11, 000	10. 0	11. 9	9. 6
Sept. 21	1, 999, 500	913, 800	51, 200	374, 300	238, 900	16, 300	9. 4	13. 1	15. 9
Sept. 28	861, 500	563, 300	60, 200	183, 600	132, 400	10, 900	10. 7	11. 8	9. 1
Oct. 5	1, 554, 200	985, 300	44, 800	276, 600	245, 700	11, 300	8. 9	12. 5	12. 6
Oct. 12	1, 189, 500	741, 200	46, 700	210, 200	186, 300	13, 200	8. 8	12. 6	14. 1
Oct. 19	1, 766, 500	1, 150, 600	65, 500	364, 600	289, 200	13, 100	10. 3	12. 6	10. 0
Oct. 26	1, 712, 983	1, 416, 900	89, 000	346, 900	349, 300	16, 400	10. 1	12. 3	9. 2
Nov. 2	1, 513, 400	1, 048, 600	55, 300	281, 000	267, 700	13, 100	9. 3	12. 8	11. 8
Total	25, 802, 583	16, 658, 100	963, 500	4, 922, 800	4, 087, 100	218, 400			
Percentage of specialists' purchases and sales to total reported purchases and sales for the entire period							9. 5	12. 3	11. 3

[1] The active stocks are: Anaconda Copper Mining Co., capital; Bendix Aviation Corporation, common; Chrysler Corporation, common; General Electric Co., common; General Motors Corporation, common; International Nickel Co. of Canada, Ltd., common; Kennecott Copper Corporation, capital; Montgomery Ward & Co., Inc., common; National Distillers Products Corporation, common; New York Central R. R. Co., capital; Republic Steel Corporation, common; Southern Pacific Co., common; Standard Brands, Inc., common; United Aircraft Corporation, capital; United States Steel Corporation, common; Western Union Telegraph Co., capital; Westinghouse Electric & Manufacturing Co., common.

The moderately active stocks are: Alaska Juneau Gold Mining Co.; Allis-Chalmers Manufacturing Co., common; American Metal Co., Ltd., common; American Can Co., common; American Commercial Alcohol Corporation, common; American Smelting & Refining Co., common; American Telephone & Telegraph Co., capital; Atchison, Topeka & Santa Fe Ry. Co., common; Auburn Automobile Co., common; Briggs Manufacturing Co., capital; Blaw-Knox Co., common; Brooklyn-Manhattan Transit Corporation, common; Byers (A. M.) Co., common; Case (J. I.) Co., common; Celanese Corporation of America, common; Colgate-Palmolive-Peet Co., common; Congoleum-Nairn, Inc., common; Continental Can Co., Inc., common; Delaware, Lackawanna & Western R. R. Co., capital; Eaton Manufacturing Co., common; Evans Products Co., common; General Foods Corporation, common; General American Transport Corporation, common; Gillette Safety Razor Co., common; Howe Sound Co., V. T. C. for capital; Industrial Rayon Corporation, capital; International Harvester Co., common; Johns-Manville Corporation, common; Kelvinator Corporation, capital; Loew's Inc., common; Macy (R. H.) & Co., common; Mathieson Alkali Works, common; Morris (Philip) & Co., Ltd., Inc., capital; National Cash Register Co. (The) common; Otis Elevator Co., common; Pacific Gas & Electric Co., common; Penny (J. C.) Co., common; Radio Corporation of America, preferred B.; Safeway Stores, Inc., common; Schenley Distillers Corporation, capital; Seaboard Oil Co. of Delaware; Silver King Coalition Mines Co., common; Southern California Edison Co., Ltd., common; St. Joseph Lead Co., capital; Sparks-Withington Co., common; Spiegel, May, Stern Co., Inc., common; Standard Oil Co. (N. J.) capital; Texas Corporation, capital; Timken Roller Bearing Co., capital; Transamerica Corporation, capital; Union Pacific R. R. Co., common; United Fruit Co., capital; United States Smelting, Refining & Mining Co., common; Wesson Oil & Snowdrift Co., Inc., common; Woolworth (F. W.) Co., capital.

The inactive stocks are: Air Reduction Co., Inc., capital; Amerada Corporation, common; American Home Products Corporation, capital; American Sugar Refining Co., common; American Tobacco Co., common; Beech-Nut Packing Co., common; Bohn Aluminum & Brass Corporation, common; California Packing Corporation, common; Coca-Cola Co., common; Consolidated Film Industries, Inc., preferred; Continental Insurance Co., capital; Cream of Wheat Corporation, capital stock trust certificates; McKeesport Tin Plate Co., capital; National Lead Co., common; Penick & Ford, Ltd., Inc., common; Simms Petroleum Co., capital.

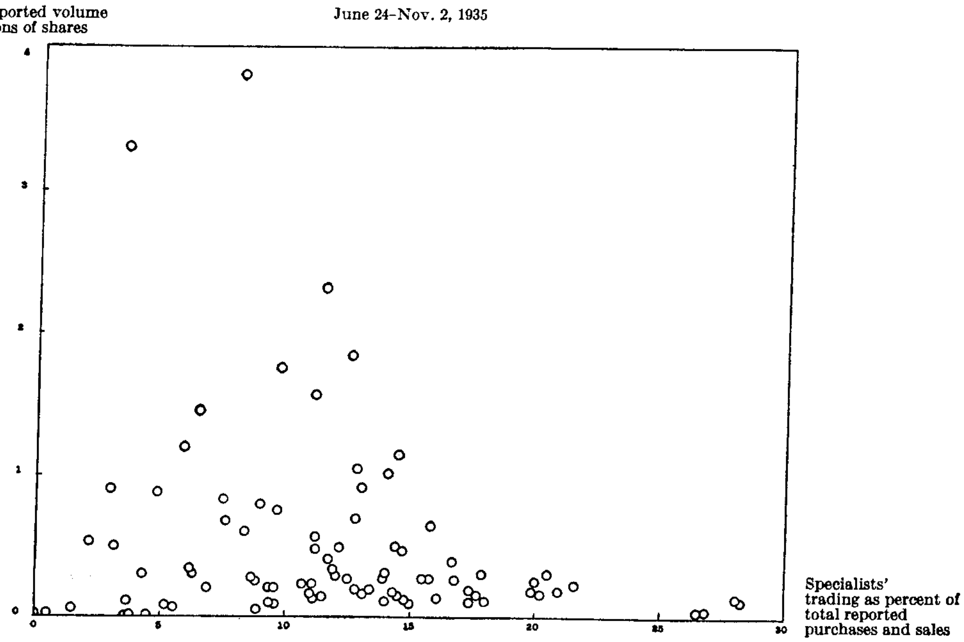
[2] Volume reported by New York Stock Exchange ticker for 88 stocks. *Cf.* footnote 1, Appendix B-1.

[3] Transactions reported in 3-H reports (see Appendix A-3).

[4] Total reported purchases and sales are calculated by doubling the reported volume because every reported transaction involves both a purchase and a sale.

APPENDIX I–2

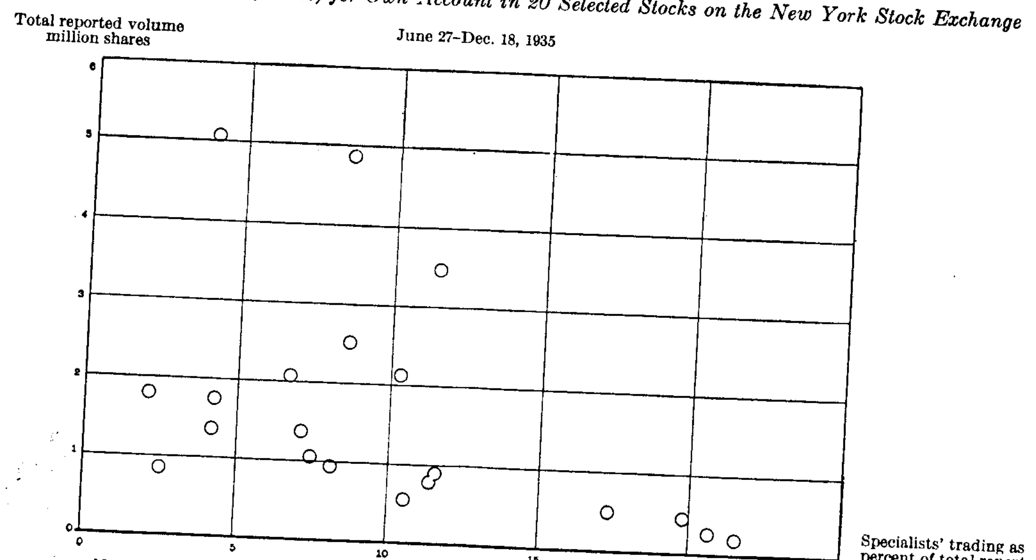
Specialists' Trading (Purchase+Sales) for Own Account in 88 Stocks on the New York Stock Exchange



NOTE.—The position of each circle represents the volume and the percent of Specialists' trading in one of the 88 stocks named in Appendix I-1, footnote 1.

APPENDIX I–3

Specialists' Trading (Purchases+Sales) for Own Account in 20 Selected Stocks on the New York Stock Exchange



NOTE.—The position of each circle represents the volume and the percent of Specialists' trading in one of the 20 selected stocks named in Appendix B-3, footnote 1.

APPENDIX I-4

STUDY OF THE RELATION BETWEEN THE VOLUME OF TRADING BY SPECIALISTS AND THE ACTIVITY OF THE MARKET

In order to determine the relation between the volume of specialists' trading for their own account in the stocks in which they are registered and the general activity of the market, 120 full trading sessions on the New York Stock Exchange were arranged in order from the day of highest reported volume to the day of lowest reported volume. The sessions were divided into 12 periods each, consisting of 10 days, and a comparison was made between specialists' trading for own account and total trading for each 10-day period. The result, commencing with the period of greatest activity, was as follows:

New York Stock Exchange

10-day periods in order of activity	Average daily per-cent of specialists' trading to total trading	10-day periods in order of activity	Average daily per-cent of specialists' trading to total trading
First	9.01	Seventh	9.26
Second	8.77	Eighth	9.92
Third	9.86	Ninth	9.95
Fourth	9.69	Tenth	9.82
Fifth	9.53	Eleventh	10.12
Sixth	9.85	Twelfth	10.43

The table reveals a slight tendency for the percentage of specialists' trading to increase as the activity of the market decreases.[1]

This result is confirmed by a similar survey of specialists' trading over a period of 110 full trading sessions on the New York Curb Exchange. Arranging these sessions into 11 periods of 10 days each in the order of their activity and comparing the volume of specialists' trading with the total volume in each period, the following result is obtained:

New York Curb Exchange

10-day periods in order of activity	Average daily per-cent of specialists' trading to total trading	10-day periods in order of activity	Average daily per-cent of specialists' trading to total trading
First	12.37	Seventh	13.44
Second	12.63	Eighth	13.44
Third	13.30	Ninth	13.56
Fourth	12.55	Tenth	13.23
Fifth	12.53	Eleventh	14.87
Sixth	13.91		

A fairly consistent relation is manifested between an increase in the percentage of specialists' trading and a decrease in general market activity.[2]

[1] See table attached hereto as exhibit I.
[2] See table attached hereto as exhibit II. The exhibit contains 111 days, but the least active day, July 22, was omitted from consideration for purposes of convenience.

APPENDIX I-4—Continued

EXHIBIT I.—*New York Stock Exchange*

Percentage of Round-lot Transactions for Account of All Specialists in the Stocks in Which They Were Registered to Total Reported Purchases and Sales for Each of 120 Full Trading Sessions Between June 24, 1935, and Dec. 13, 1935, Arranged in Order From the Day of Highest Volume to the Day of Lowest Volume

Date	Reported volume [1]	Percentage of specialists' purchases and sales to total reported purchases and sales [2]	Date	Reported volume [1]	Percentage of specialists' purchases and sales to total reported purchases and sales [2]
1935	*Shares*	*Percent*	*1935*	*Shares*	*Percent*
Nov. 14	3,947,950	8.2	July 29	1,752,270	7.8
Nov. 22	3,918,510	10.3	Nov. 4	1,748,020	8.9
Nov. 20	3,814,777	8.6	Aug. 5	1,735,510	9.1
Nov. 25	3,372,355	9.7	July 23	1,734,150	9.1
Nov. 8	3,351,279	8.3	Sept. 13	1,731,300	9.6
Nov. 21	3,279,560	9.5	Aug. 16	1,711,900	9.8
Nov. 18	3,198,320	8.7	Oct. 29	1,708,400	8.6
Nov. 6	3,075,440	8.8	July 30	1,679,580	9.4
Dec. 4	2,964,041	9.3	Aug. 22	1,667,660	9.8
Nov. 15	2,937,590	8.7	Oct. 17	1,613,337	10.5
Nov. 19	2,883,140	7.6	Oct. 14	1,587,990	9.3
Oct. 21	2,871,908	9.5	Aug. 15	1,581,870	9.4
Oct. 22	2,835,730	9.1	Dec. 2	1,519,380	10.2
Nov. 7	2,785,280	8.8	Aug. 2	1,517,710	8.6
Oct. 23	2,756,795	9.4	July 18	1,495,007	10.3
Sept. 11	2,590,850	9.5	Sept. 16	1,491,250	9.6
Oct. 15	2,573,010	8.8	Oct. 3	1,484,880	10.3
Dec. 9	2,507,730	8.5	Aug. 26	1,455,610	11.6
Oct. 25	2,471,438	8.1	Oct. 18	1,449,800	9.6
Aug. 12	2,424,030	8.4	Aug. 8	1,432,860	10.3
Dec. 6	2,369,710	8.8	Oct. 1	1,422,460	9.5
Aug. 13	2,362,940	9.6	Oct. 4	1,419,627	11.1
Dec. 10	2,341,299	9.7	Aug. 28	1,390,390	11.7
Nov. 26	2,331,510	10.7	Aug. 7	1,389,220	9.6
Dec. 5	2,259,850	10.2	July 22	1,369,090	9.4
Oct. 16	2,243,111	10.4	July 17	1,357,540	9.3
Sept. 20	2,217,950	10.0	July 9	1,344,830	10.1
Oct. 2	2,189,700	9.7	Sept. 17	1,334,460	9.3
Aug. 9	2,188,000	8.8	July 25	1,334,400	9.7
Nov. 29	2,170,860	10.7	July 8	1,305,550	9.7
Oct. 24	2,156,110	9.9	July 24	1,305,490	9.7
Sept. 6	2,153,840	9.5	Sept. 30	1,257,230	9.3
Oct. 30	2,146,900	9.2	July 2	1,198,190	9.8
Nov. 12	2,140,010	8.3	Oct. 8	1,182,110	10.5
Dec. 12	2,135,760	10.3	July 10	1,149,560	11.2
Dec. 11	2,126,290	9.1	July 19	1,148,720	9.9
Aug. 27	2,125,720	11.9	June 25	1,143,560	11.0
Oct. 28	2,112,310	9.1	Sept. 27	1,123,170	9.1
Aug. 19	2,068,660	10.4	June 24	1,116,470	7.7
Oct. 11	2,054,662	9.2	July 12	1,097,517	10.0
Nov. 13	2,047,700	9.2	Sept. 26	1,090,900	10.3
Nov. 1	2,038,230	9.3	Sept. 25	1,083,730	9.5
Sept. 9	2,000,290	9.8	Sept. 24	1,009,110	10.3
Sept. 10	1,978,240	8.8	Sept. 23	1,008,340	9.4
Aug. 20	1,975,670	11.2	Sept. 4	1,000,740	11.1
Aug. 14	1,946,800	8.7	July 11	995,760	11.2
Sept. 18	1,939,380	9.0	July 26	986,380	9.9
Dec. 3	1,926,520	9.5	June 26	957,110	11.3
Sept. 19	1,923,380	9.8	July 15	948,310	9.1
July 31	1,908,020	10.0	Oct. 7	945,360	9.1
Dec. 13	1,893,584	10.0	Sept. 3	904,080	11.6
Sept. 5	1,891,670	10.6	Aug. 29	903,640	11.2
Aug. 23	1,891,150	9.6	July 16	899,823	10.7
Aug. 1	1,889,050	9.1	Oct. 9	882,110	10.2
Sept. 12	1,879,970	10.3	July 5	880,430	9.7
Oct. 10	1,863,970	10.0	Aug. 30	830,730	9.1
Nov. 27	1,859,410	9.9	June 28	754,030	11.3
Oct. 31	1,814,240	9.9	June 27	736,288	12.5
Aug. 6	1,772,970	9.5	July 3	720,050	9.3
Aug. 21	1,753,680	9.6	July 1	683,370	8.7

[1] Volume reported by New York Stock Exchange ticker. *Cf.* footnote 1, Appendix B-1.
[2] Total reported purchases and sales are calculated by doubling the reported volume because every reported transaction involves both a purchase and a sale.

APPENDIX I-4—Continued

EXHIBIT II.—*New York Curb Exchange*

Percentage of Round-lot Transactions for Account of All Specialists in the Stocks in Which They Were Registered to Total Reported Purchases and Sales for Each of 111 Full Trading Sessions Between July 8, 1935, and Dec. 13, 1935, Arranged in Order From the Day of Highest Volume to the Day of Lowest Volume

Date	Reported volume [1]	Percentage of specialists' purchases and sales to total reported purchases and sales [2]	Date	Reported volume [1]	Percentage of specialists' purchases and sales to total reported purchases and sales [2]
1935	*Shares*	*Percent*	*1935*	*Shares*	*Percent*
Nov. 8	1,157,000	11.9	Sept. 5	331,000	15.3
Nov. 22	687,000	12.9	Sept. 20	329,000	15.1
Nov. 20	672,000	12.0	Sept. 18	327,000	14.6
Nov. 14	581,000	11.4	Sept. 19	324,000	12.8
Nov. 6	580,000	11.6	Oct. 17	322,000	14.5
Aug. 13	572,000	13.2	Aug. 21	318,000	12.5
Aug. 12	571,000	10.7	Sept. 9	313,000	11.4
Nov. 7	567,000	14.3	Aug. 2	307,000	12.7
Oct. 23	566,000	13.5	Sept. 13	306,000	13.8
Aug. 9	565,000	12.2	July 31	301,000	15.4
Nov. 18	549,000	12.2	Sept. 12	300,000	14.1
Oct. 25	546,000	12.6	Aug. 8	293,000	12.5
Nov. 25	545,000	14.1	Oct. 14	290,000	13.4
Dec. 9	528,000	9.7	Oct. 18	290,000	14.1
Nov. 21	521,000	15.5	Dec. 3	289,000	14.2
Dec. 10	520,000	11.5	Aug. 1	275,000	15.2
Oct. 22	518,000	14.1	Aug. 7	273,000	12.9
Aug. 19	515,000	11.8	Sept. 25	269,000	12.0
Dec. 6	510,000	12.2	Oct. 4	268,000	13.7
Nov. 15	509,000	12.6	July 23	259,000	13.0
Oct. 30	506,000	15.3	Dec. 2	256,000	12.0
Aug. 14	505,000	15.5	Sept. 26	255,000	12.2
Aug. 20	499,000	13.4	Sept. 27	254,000	13.0
Dec. 11	499,000	11.3	Oct. 1	242,000	16.2
Aug. 15	499,000	14.3	Oct. 8	239,000	13.9
Aug. 23	494,000	13.7	Sept. 10	239,000	13.3
Oct. 28	490,000	13.6	July 18	237,000	13.1
Nov. 1	485,000	12.2	July 9	235,000	11.4
Aug. 16	484,000	12.7	July 10	233,000	13.8
Dec. 4	474,000	11.0	Sept. 16	232,000	14.5
Nov. 12	454,000	13.0	July 30	232,000	12.5
Aug. 5	446,000	11.6	Oct. 3	231,000	14.6
Dec. 12	445,000	13.3	Aug. 28	228,000	14.8
Oct. 11	434,000	11.7	Sept. 24	227,000	13.7
Oct. 21	431,000	12.3	Sept. 17	223,000	11.9
Sept. 6	424,000	12.7	July 29	221,000	13.0
Nov. 19	422,000	12.3	July 12	221,000	15.1
Aug. 27	421,000	14.6	July 19	215,000	13.4
Dec. 5	419,000	10.1	Oct. 9	214,000	12.1
Oct. 24	418,000	13.9	July 25	213,000	14.3
Nov. 4	410,000	13.3	Sept. 30	208,000	13.5
Dec. 13	409,000	13.1	July 26	201,000	13.3
Nov. 29	398,000	10.5	Aug. 29	200,000	14.5
Aug. 22	395,000	13.4	Oct. 7	198,000	11.2
Oct. 15	384,000	13.2	July 11	193,000	12.7
Oct. 10	380,000	12.1	Sept. 4	191,000	15.6
Oct. 29	378,000	14.1	July 15	186,000	12.7
Oct. 31	375,000	10.1	Aug. 30	181,000	18.0
Aug. 26	366,000	12.6	July 17	180,000	14.9
Nov. 26	364,000	12.9	Sept. 3	179,000	15.2
Oct. 16	355,000	14.2	July 16	179,000	12.7
Nov. 27	352,000	10.5	Sept. 23	172,000	15.5
Aug. 6	339,000	13.5	July 24	169,000	16.4
Nov. 13	337,000	11.4	July 8	165,000	15.0
Sept. 11	334,000	14.0	July 22	163,000	13.6
Oct. 2	333,000	17.7			

[1] Volume reported by the New York Curb Exchange ticker (approximated to nearest thousand shares). *Cf.* footnote 1, Appendix B-2.
[2] Total reported purchases and sales are calculated by doubling the reported volume because every reported transaction involves both a purchase and a sale.

APPENDIX J-1

New York Curb Exchange

Specialists' trading

Round-lot Transactions for Account of All Specialists in the Stocks in Which They Were Registered Between July 8 and Dec. 14, 1935

Week ended—	Reported volume [1]	Specialists' round-lot transactions [2]			Percentage of specialists' purchases and sales to total reported purchases and sales [3]
		Bought	Sold	Total	
1935	*Shares*	*Shares*	*Shares*	*Shares*	*Percent*
July 13	1,150,000	145,685	159,290	304,975	13.3
July 20	1,069,000	133,510	152,405	285,915	13.4
July 27	1,140,000	154,490	156,255	310,745	13.6
Aug. 3	1,579,000	204,015	252,010	456,025	14.4
Aug. 10	2,222,000	286,285	266,720	553,005	12.4
Aug. 17	2,975,000	401,340	379,090	780,430	13.1
Aug. 24	2,614,000	288,270	406,435	694,705	13.3
Aug. 31	1,528,000	224,060	216,980	441,040	14.4
Sept. 7	1,346,000	190,410	182,525	372,935	13.9
Sept. 14	1,618,000	200,115	235,180	435,295	13.4
Sept. 21	1,553,000	189,470	240,250	429,720	13.8
Sept. 28	1,285,000	156,895	177,605	334,500	13.0
Oct. 5	1,404,000	191,450	232,165	423,615	15.1
Oct. 12	1,465,000	181,520	174,570	356,090	12.2
Oct. 19	1,818,000	229,950	277,465	507,415	14.0
Oct. 26	2,740,000	347,770	380,500	728,270	13.3
Nov. 2	2,552,000	306,295	366,090	672,385	13.2
Nov. 9	3,047,000	359,630	418,730	778,360	12.8
Nov. 16	2,152,000	245,530	269,195	514,725	12.0
Nov. 23	3,129,000	353,965	449,435	803,400	12.8
Nov. 30	1,817,000	185,920	245,470	431,390	11.9
Dec. 7	2,255,000	266,165	251,170	517,335	11.5
Dec. 14	2,554,000	258,195	337,960	596,155	11.7
Total	45,012,000	5,500,935	6,227,495	11,728,430	
Average of weekly percentages					13.1
Percentage of specialists' purchases and sales to total reported purchases and sales for the entire period					13.0

[1] Volume reported by New York Curb Exchange ticker (approximated to nearest thousand shares). *Cf.* footnote 1, Appendix B-2.
[2] A portion of specialists' round-lot transactions, usually about 3 percent of total reported purchases and sales, represents round-lot purchases and sales to offset odd-lot orders of customers.
[3] Total reported purchases and sales are calculated by doubling the reported volume because every reported transaction involves both a purchase and a sale.

APPENDIX J-2

New York Curb Exchange

Specialists' trading

Odd-lot Transactions by Specialists in All Stocks in Which They Were Registered Between July 8, 1935, and Dec. 14, 1935

Week ended—	Specialists' odd-lot transactions			Week ended—	Specialists' odd-lot transactions		
	Bought	Sold	Total		Bought	Sold	Total
1935	*Shares*	*Shares*	*Shares*	*1935*	*Shares*	*Shares*	*Shares*
July 13	84,249	61,723	145,972	Oct. 12	97,915	58,726	156,641
July 20	76,114	57,375	133,489	Oct. 19	119,411	85,835	205,246
July 27	88,669	58,619	147,288	Oct. 26	184,140	118,399	302,539
Aug. 3	116,288	82,175	198,463	Nov. 2	176,421	112,879	289,300
Aug. 10	151,383	112,184	263,567	Nov. 9	192,742	141,976	334,718
Aug. 17	189,615	135,005	324,620	Nov. 16	147,253	116,111	263,364
Aug. 24	150,145	134,166	284,311	Nov. 23	182,838	140,774	323,612
Aug. 31	103,605	86,675	190,280	Nov. 30	103,897	90,125	194,022
Sept. 7	86,602	66,746	153,348	Dec. 7	141,608	99,209	240,817
Sept. 14	111,917	84,755	196,672	Dec. 14	142,980	116,418	259,398
Sept. 21	102,243	81,190	183,433				
Sept. 28	89,112	60,677	149,789	Total	2,932,903	2,178,536	5,111,439
Oct. 5	93,756	76,794	170,550				

APPENDIX J-3

New York Curb Exchange

Specialists' trading

Round-lot Transactions for Own Account and Account of Others Effected by Registered Specialists in 25 Stocks [1] Between July 8, 1935, and Nov. 9, 1935

Week ended	Reported volume [2]	Specialists' round-lot transactions: For own account [3]: Transactions	For own account: Percentage of total reported purchases and sales [4]	For account of others: Transactions	For account of others: Percentage of total reported purchases and sales [4]	Total: Transactions	Total: Percentage of total reported purchases and sales [4]
1935	*Shares*	*Shares*	*Percent*	*Shares*	*Percent*	*Shares*	*Percent*
July 13	160,850	35,250	10.9	96,400	30.0	131,650	40.9
July 20	164,450	41,150	12.5	91,550	27.8	132,700	40.3
July 27	149,150	48,600	16.3	74,200	24.9	122,800	41.2
Aug. 3	189,500	66,400	17.5	103,450	27.3	169,850	44.8
Aug. 10	311,450	80,850	13.0	176,000	28.2	256,850	41.2
Aug. 17	411,250	97,300	11.8	241,000	29.3	338,300	41.1
Aug. 24	282,700	76,900	13.6	171,850	30.4	248,750	44.0
Aug. 31	184,550	49,850	13.5	108,250	29.3	158,100	42.8
Sept. 7	186,500	57,350	15.4	88,600	23.7	145,950	39.1
Sept. 14	233,650	72,950	15.6	109,150	23.3	182,100	38.9
Sept. 21	257,800	70,350	13.7	128,000	24.8	198,350	38.5
Sept. 28	152,600	44,700	14.6	78,150	25.6	122,850	40.2
Oct. 5	165,800	53,850	16.2	78,000	23.5	131,850	39.7
Oct. 12	161,050	39,700	12.3	86,850	27.0	126,550	39.3
Oct. 19	223,650	67,950	15.2	103,850	23.2	171,800	38.4
Oct. 26	407,450	121,100	14.9	190,000	23.3	311,100	38.2
Nov. 2	312,650	76,900	12.3	174,100	27.8	251,000	40.1
Nov. 9	333,300	80,100	12.0	215,150	32.3	295,250	44.3
Total	4,288,350	1,181,250	13.8	2,314,550	27.0	3,495,800	40.8

APPENDIX J-4

New York Curb Exchange

Odd-lot Transactions by Specialists in 25 Stocks [1] in Which They Were Registered Between July 8, 1935, and Nov. 9, 1935

Week ended—	Specialists' odd-lot transactions: Bought	Sold	Total	Week ended—	Specialists' odd-lot transactions: Bought	Sold	Total
1935	*Shares*	*Shares*	*Share*	*1935*	*Shares*	*Shares*	*Shares*
July 13	10,843	11,569	22,412	Sept. 21	17,247	15,465	32,712
July 20	9,504	10,957	20,461	Sept. 28	9,351	9,572	18,923
July 27	9,763	10,636	20,399	Oct. 5	10,606	11,412	22,018
Aug. 3	11,081	11,717	22,798	Oct. 11	9,927	9,030	18,957
Aug. 10	14,517	16,807	31,324	Oct. 19	13,010	12,104	25,114
Aug. 17	18,037	19,670	37,707	Oct. 26	21,295	21,977	43,272
Aug. 24	12,454	17,625	30,079	Nov. 2	19,237	21,527	40,764
Aug. 31	10,967	11,890	22,857	Nov. 9	18,666	21,575	40,241
Sept. 7	10,766	11,484	22,250				
Sept. 14	15,254	15,668	30,922	Total	242,525	260,685	503,210

[1] These stocks are: American Superpower Corporation, Delaware, common; Carrier Corporation common; Catalin Corporation of America common; Commonwealth Edison Co; Como Mines Co.; Consolidated Gas, Electric Light & Power Co. of Baltimore common; Distillers Corporation—Seagrams, Ltd., common; Flintkote Co., A common; Ford Motor Co. of Canada, Ltd., A nonvoting; Glen Alden Coal Co.; Gulf Oil Corporation of Pennsylvania; Hudson Bay Mining & Smelting Co., Ltd.; Humble Oil & Refining Co.; International Mining Corporation common; Imperial Oil, Ltd; International Petroleum Co., Ltd., common; Louisiana Land & Exploration Co.; New Jersey Zinc Co.; Newmont Mining Corporation; Niles-Bement-Pond Co. common; Parke, Davis & Co.; Parker Rust-Proof Co. common; Sherwin-Williams Co. common; Standard Oil Co. of Kentucky; and Swift-Compania Internacional, S. A. C., capital.

[2] Volume reported by New York Curb Exchange ticker for 25 stocks. *Cf.* footnote 1, Appendix B-2.

[3] A portion of specialists' round-lot transactions, usually about 3 percent of total reported purchases and sales, represents round-lot purchases and sales to offset odd-lot orders of customers.

[4] Total reported purchases and sales are calculated by doubling the reported volume because every reported transaction involves both a purchase and a sale.

APPENDIX K-1

New York Stock Exchange

Trading off the floor

Round-lot Transactions in All Stocks Initiated Off the Floor for Account of All Members Between June 24, 1935, and Dec. 14, 1935

Week ended—	Reported volume [1]	Members' transactions off the floor: Bought	Sold	Total	Percentage of members' purchases and sales to total reported purchases and sales [2]
1935	*Shares*	*Shares*	*Shares*	*Shares*	*Percent*
June 29	4,960,338	277,430	281,325	558,755	5.6
July 6	3,997,910	216,003	248,457	464,460	5.8
July 13	6,336,057	286,745	324,965	611,710	4.8
July 20	6,378,900	310,627	364,291	674,918	5.3
July 27	7,463,750	353,382	399,960	753,342	5.0
Aug. 3	9,747,500	470,801	522,300	993,101	5.1
Aug. 10	9,729,330	468,998	559,844	1,028,842	5.3
Aug. 17	11,103,470	478,170	636,316	1,114,486	5.0
Aug. 24	10,481,780	421,728	516,392	938,120	4.5
Aug. 31	7,197,370	295,355	489,933	785,288	5.5
Sept. 7	7,240,290	351,750	454,007	805,757	5.6
Sept. 14	10,812,780	582,760	630,572	1,213,332	5.6
Sept. 21	9,582,020	463,980	557,010	1,020,990	5.3
Sept. 28	5,834,270	266,706	271,475	538,181	4.6
Oct. 5	8,471,087	374,405	431,202	805,607	4.8
Oct. 12	6,928,212	354,463	366,130	720,593	5.2
Oct. 19	10,459,258	475,811	528,755	1,004,566	4.8
Oct. 26	14,274,511	749,246	784,585	1,533,831	5.4
Nov. 2	11,084,580	647,014	614,339	1,261,353	5.7
Nov. 9	12,126,573	649,457	699,637	1,349,094	5.6
Nov. 16	12,712,730	671,805	759,803	1,431,608	5.6
Nov. 23	18,913,437	1,011,800	1,018,547	2,030,347	5.4
Nov. 30	10,404,305	517,073	620,647	1,137,720	5.5
Dec. 7	12,358,221	667,532	612,418	1,279,950	5.2
Dec. 14	11,671,123	617,435	626,604	1,244,039	5.3
Total	240,269,802	11,980,476	13,319,514	25,299,990	
Average of weekly percentages					5.3
Percentage of members' purchases and sales to total reported purchases and sales for the entire period					5.3

[1] Volume reported by New York Stock Exchange ticker. *Cf.* footnote 1, Appendix B-1.

[2] Total purchases and sales are calculated by doubling the reported volume because every reported transaction involves both a purchase and a sale.

APPENDIX K-2

New York Curb Exchange

Trading off the floor

Round-lot Transactions in All Stocks Initiated Off the Floor for Account of All Members Between July 8, 1935, and Dec. 14, 1935

Week ended—	Reported volume [1]	Members' transactions off the floor			Percentage of members' purchases and sales to total reported purchases and sales [2]
		Bought	Sold	Total	
1935	*Shares*	*Shares*	*Shares*	*Shares*	*Percent*
July 13	1, 150, 000	59, 630	78, 655	138, 285	6. 0
July 20	1, 069, 000	68, 965	80, 995	149, 960	7. 0
July 27	1, 140, 000	63, 720	61, 595	125, 315	5. 5
Aug. 3	1, 579, 000	76, 205	73, 515	149, 720	4. 7
Aug. 10	2, 222, 000	99, 575	108, 065	207, 640	4. 7
Aug. 17	2, 975, 000	129, 315	133, 455	262, 770	4. 4
Aug. 24	2, 614, 000	103, 450	154, 230	257, 680	4. 9
Aug. 31	1, 528, 000	63, 370	62, 285	125, 655	4. 1
Sept. 7	1, 346, 000	57, 035	77, 865	134, 900	5. 0
Sept. 14	1, 618, 000	75, 680	133, 900	209, 580	6. 5
Sept. 21	1, 553, 000	63, 535	89, 450	152, 985	4. 9
Sept. 28	1, 285, 000	58, 885	48, 145	107, 030	4. 2
Oct. 5	1, 404, 000	66, 685	67, 525	134, 210	4. 8
Oct. 12	1, 465, 000	70, 310	52, 655	122, 965	4. 2
Oct. 19	1, 818, 000	94, 890	104, 215	199, 105	5. 5
Oct. 26	2, 740, 000	126, 710	127, 930	254, 640	4. 7
Nov. 2	2, 552, 000	138, 055	114, 130	252, 185	4. 9
Nov. 9	3, 047, 000	144, 560	146, 560	291, 120	4. 8
Nov. 16	2, 152, 000	107, 520	105, 390	212, 910	4. 9
Nov. 23	3, 129, 000	136, 225	170, 935	307, 160	4. 9
Nov. 30	1, 817, 000	60, 355	110, 080	170, 435	4. 7
Dec. 7	2, 255, 000	114, 270	90, 815	205, 085	4. 5
Dec. 14	2, 554, 000	92, 220	122, 690	214, 910	4. 2
Total	45, 012, 000	2, 071, 165	2, 315, 080	4, 386, 245	
Average of weekly percentages					5. 0
Percentage of members' purchases and sales to total reported purchases and sales for the entire period					4. 9

[1] Volume reported by New York Curb Exchange ticker (approximated to nearest thousand shares). *Cf.* footnote 1, Appendix B-2.

[2] Total reported purchases and sales are calculated by doubling the reported volume because every reported transaction involves both a purchase and a sale.

APPENDIX L-1

New York Stock Exchange

Trading off the floor

Changes in Position Resulting From Trading in All Stocks by Members Off the Floor in Relation to Changes in the Price Index for 144 Trading Days

Date	Price index [1]		Members' transactions off the floor		Daily changes in position	Changes in position in relation to changes in price index [2]
	Close	Daily change	Bought	Sold		
1935			*Shares*	*Shares*	*Shares*	
June 24	83. 2	−0. 3	61, 955	62, 035	−80	With
June 25	82. 0	−1. 2	54, 217	73, 672	−19, 454	With
June 26	81. 0	−1. 0	65, 875	48, 403	+17, 472	Against
June 27	80. 6	−0. 4	34, 287	40, 665	−6, 378	With
June 28	81. 3	+0. 7	48, 435	46, 460	+1, 975	With
June 29	81. 2	−0. 1	12, 661	10, 090	+2, 571	Against
July 1	81. 7	+0. 5	38, 080	31, 855	+6, 225	With
July 2	81. 7	0. 0	51, 538	78, 780	−27, 242	No trend
July 3	82. 2	+0. 5	45, 575	45, 072	+503	With
July 5	83. 1	+0. 9	57, 630	58, 740	−1, 110	Against
July 6	83. 2	+0. 1	23, 180	34, 010	−10, 830	Against
July 8	84. 2	+1. 0	52, 955	85, 880	−32, 925	Against
July 9	83. 8	−0. 4	51, 380	69, 655	−18, 275	With
July 10	84. 4	+0. 6	54, 100	58, 775	−4, 675	Against
July 11	83. 5	−0. 9	51, 710	45, 545	+6, 165	Against
July 12	84. 3	+0. 8	59, 340	50, 510	+8, 830	With
July 13	84. 2	−0. 1	17, 260	14, 600	+2, 660	Against
July 15	84. 2	0. 0	46, 995	53, 003	−6, 008	No trend
July 16	84. 3	+0. 1	42, 582	53, 340	−10, 758	Against
July 17	84. 8	+0. 5	70, 030	63, 430	+6, 600	With
July 18	84. 7	−0. 1	68, 290	78, 967	−10, 677	With
July 19	84. 0	−0. 7	59, 540	74, 818	−15, 278	With
July 20	84. 2	+0. 2	23, 190	40, 733	−17, 543	Against
July 22	85. 5	+1. 3	58, 415	74, 255	−15, 840	Against
July 23	85. 4	−0. 1	82, 249	86, 720	−4, 471	With
July 24	86. 1	+0. 7	65, 398	63, 190	+2, 208	With
July 25	85. 2	−0. 9	65, 330	92, 772	−27, 442	With
July 26	85. 7	+0. 5	38, 480	42, 730	−4, 250	Against
July 27	86. 7	+1. 0	43, 510	40, 293	+3, 217	With
July 29	87. 6	+0. 9	92, 275	102, 260	−9, 985	Against
July 30	86. 9	−0. 7	72, 023	94, 480	−22, 457	With
July 31	88. 0	+1. 1	95, 650	96, 420	−770	Against
Aug. 1	87. 7	−0. 3	76, 508	105, 690	−29, 182	With
Aug. 2	87. 0	−0. 7	86, 795	82, 990	+3, 805	Against
Aug. 3	88. 3	+1. 3	47, 550	40, 460	+7, 090	With
Aug. 5	88. 9	+0. 6	66, 605	91, 310	−24, 705	Against
Aug. 6	88. 8	−0. 1	75, 997	109, 276	−33, 279	With
Aug. 7	88. 8	0. 0	71, 480	83, 190	−11, 710	No trend
Aug. 8	89. 1	+0. 3	80, 167	82, 125	−1, 958	Against
Aug. 9	91. 2	+2. 1	113, 071	125, 950	−12, 879	Against
Aug. 10	92. 1	+0. 9	61, 678	67, 993	−6, 315	Against
Aug. 12	92. 1	0. 0	113, 130	142, 778	−29, 648	No trend
Aug. 13	92. 7	+0. 6	101, 515	132, 030	−30, 515	Against
Aug. 14	92. 7	0. 0	94, 015	112, 993	−18, 978	No trend
Aug. 15	91. 7	−1. 0	56, 680	92, 765	−36, 085	With
Aug. 16	92. 5	+0. 8	71, 585	84, 580	−12, 995	Against
Aug. 17	92. 9	+0. 4	41, 245	71, 170	−29, 925	Against
Aug. 19	90. 7	−2. 2	87, 625	120, 010	−32, 385	With
Aug. 20	90. 9	+0. 2	92, 235	76, 240	+15, 995	With
Aug. 21	91. 7	+0. 8	67, 220	87, 370	−20, 150	Against
Aug. 22	92. 0	+0. 3	64, 665	93, 645	−28, 980	Against
Aug. 23	91. 8	−0. 2	65, 835	90, 250	−24, 415	With
Aug. 24	89. 9	−1. 9	44, 148	48, 877	−4, 729	With
Aug. 26	91. 0	+1. 1	58, 611	74, 523	−15, 912	Against
Aug. 27	88. 3	−2. 7	92, 873	174, 500	−81, 627	With
Aug. 28	88. 1	−0. 2	63, 656	97, 780	−34, 124	With
Aug. 29	88. 7	+0. 6	34, 000	57, 100	−23, 100	Against
Aug. 30	89. 2	+0. 5	33, 785	56, 340	−22, 555	Against
Aug. 31	89. 9	+0. 7	12, 430	29, 690	−17, 260	Against
Sept. 3	89. 0	−0. 9	41, 107	61, 485	−20, 378	With
Sept. 4	90. 2	+1. 2	53, 100	60, 810	−7, 710	Against
Sept. 5	91. 1	+0. 9	79, 825	106, 855	−27, 030	Against
Sept. 6	92. 5	+1. 4	110, 758	162, 707	−51, 949	Against

[1] Standard Statistics Daily Stock Price Index for 90 stocks.

[2] The changes in position were classified as being "with" changes in the market index when—
1. The index advanced, and purchases exceeded sales.
2. The index declined, and sales exceeded purchases.

The changes in position were classified as being "against" changes in the market index when—
1. The index advanced and sales exceeded purchases.
2. The index declined and purchases exceeded sales.

APPENDIX L-1—Continued

New York Stock Exchange

Date	Price index: Close	Price index: Daily change	Members' transactions off the floor: Bought	Members' transactions off the floor: Sold	Daily changes in position	Changes in position in relation to changes in price index
			Shares	*Shares*	*Shares*	
Sept 7	93.0	+0.5	66,960	62,150	+4,810	With
Sept. 9	93.4	+0.4	111,710	124,041	−12,331	Against
Sept. 10	94.2	+0.8	105,830	113,236	−7,406	Against
Sept. 11	94.6	+0.4	151,371	155,054	−3,683	Against
Sept. 12	93.6	−1.0	84,553	109,871	−25,318	With
Sept. 13	93.7	+0.1	100,571	95,362	+5,209	With
Sept. 14	93.5	−0.2	28,725	33,008	−4,283	With
Sept. 16	93.0	−0.5	84,155	89,164	−5,009	With
Sept. 17	93.1	+0.1	74,207	57,403	+16,804	With
Sept. 18	93.9	+0.8	88,244	126,489	−38,245	Against
Sept. 19	91.9	−2.0	84,760	136,714	−51,954	With
Sept. 20	89.4	−2.5	109,588	122,140	−12,552	With
Sept. 21	89.8	+0.4	23,026	25,100	−2,074	Against
Sept. 23	90.5	+0.7	41,060	51,620	−10,560	Against
Sept. 24	91.7	+1.2	50,035	45,190	+4,845	With
Sept. 25	92.1	+0.4	49,260	52,095	−2,835	Against
Sept. 26	92.0	−0.1	56,700	52,525	+4,175	Against
Sept. 27	91.8	−0.2	47,741	46,135	+1,606	Against
Sept. 28	91.9	+0.1	21,910	23,910	−2,000	Against
Sept. 30	92.0	+0.1	60,905	50,150	+10,755	With
Oct. 1	91.1	−0.9	50,070	75,520	−25,450	With
Oct. 2	88.1	−3.0	89,975	130,770	−40,795	With
Oct. 3	89.4	+1.3	70,005	53,207	+16,798	With
Oct. 4	90.2	+0.8	66,000	79,280	−13,280	Against
Oct. 5	90.9	+0.7	37,450	42,275	−4,825	Against
Oct. 7	91.6	+0.7	42,188	44,180	−1,992	Against
Oct. 8	91.0	−0.6	50,140	63,960	−13,820	With
Oct. 9	91.4	+0.4	46,271	48,850	−2,579	Against
Oct. 10	93.2	+1.8	101,839	89,480	+12,359	With
Oct. 11	93.3	+0.1	114,025	119,660	−5,635	Against
Oct. 14	94.3	+1.0	81,688	82,484	−796	Against
Oct. 15	95.0	+0.7	115,700	151,686	−35,986	Against
Oct. 16	94.6	−0.4	103,834	133,495	29,661	With
Oct. 17	94.1	−0.5	61,669	62,500	−831	With
Ocl. 18	93.8	−0.3	53,145	59,690	−6,545	With
Oct. 19	95.3	+1.5	59,775	38,900	+20,875	With
Oct. 21	96.8	+1.5	166,410	137,365	+29,045	With
Oct. 22	97.2	+0.4	143,644	144,202	−558	Against
Oct. 23	97.9	+0.7	143,453	153,463	−10,010	Against
Oct. 24	97.8	−0.1	119,536	136,560	−17,024	With
Oct. 25	98.7	+0.9	123,843	140,365	−16,522	Against
Oct. 26	99.6	+0.9	52,360	72,630	−20,270	Against
Oct. 28	99.0	−0.6	143,020	107,716	+35,304	Against
Oct. 29	98.9	−0.1	91,429	70,085	+21,344	Against
Oct. 30	98.2	−0.7	124,060	111,195	+12,865	Against
Oct. 31	99.0	+0.8	118,740	104,380	+14,360	With
Nov. 1	100.1	+1.1	111,420	131,113	−19,693	Against
Nov. 2	99.9	−0.2	58,345	89,850	−31,505	With
Nov. 4	100.2	+0.3	100,917	123,217	−22,300	Against
Nov. 6	102.1	+1.9	167,450	169,220	−1,770	Against
Nov. 7	101.7	−0.4	141,710	156,645	−14,935	With.
Nov. 8	102.6	+0.9	179,560	188,125	−8,565	Against
Nov. 9	102.8	+0.2	59,820	62,430	−2,610	Against
Nov. 12	101.7	−1.1	126,115	110,601	+15,514	Against
Nov. 13	102.9	+1.2	127,320	131,112	−3,792	Against
Nov. 14	104.9	+2.0	180,360	241,130	−60,770	Against
Nov. 15	105.2	+0.3	134,510	178,500	−43,990	Against
Nov. 16	105.9	+0.7	103,500	98,460	+5,040	With
Nov. 18	105.5	−0.4	163,625	204,140	−40,515	With
Nov. 19	106.9	+1.4	145,946	166,565	−20,619	Against
Nov. 20	105.6	−1.3	228,114	218,000	+10,114	Against
Nov. 21	106.6	+1.0	170,860	160,610	+10,250	With
Nov. 22	104.3	−2.3	207,025	185,701	+21,324	Against
Nov. 23	106.0	+1.7	96,230	83,531	+12,699	With
Nov. 25	104.6	−1.4	155,980	238,989	−83,009	With
Nov. 26	103.1	−1.5	116,363	139,370	−23,007	With
Nov. 27	104.0	+0.9	114,800	79,485	+35,315	With
Nov. 29	102.7	−1.3	94,815	131,783	−36,968	With
Nov. 30	102.8	+0.1	35,115	31,020	+4,095	With
Dec. 2	101.3	−1.5	59,462	71,800	−12,338	With
Dec. 3	104.1	+2.8	123,640	78,710	+44,930	With
Dec. 4	104.9	+0.8	155,860	161,217	−5,357	Against
Dec 5	104.7	−0.2	105,240	121,013	−15,773	With

APPENDIX L-1—Continued

New York Stock Exchange

Date	Price index: Close	Price index: Daily change	Members' transactions off the floor: Bought	Members' transactions off the floor: Sold	Daily changes in position	Changes in position in relation to changes in price index	
			Shares	*Shares*	*Shares*		
Dec. 6	104.4	−0.3	132,385	109,183	+23,202	Against	
Dec. 7	105.6	+1.2	90,945	70,495	+20,450	With	
Dec. 9	105.7	+0.1	153,790	125,296	+28,494	With	
Dec. 10	103.9	−1.8	117,680	153,736	−36,056	With	
Dec. 11	104.3	+0.4	129,165	103,767	+25,398	With	
Dec. 12	102.9	−1.4	106,290	124,010	−17,720	With	
Dec. 13	101.9	−1.0	84,290	96,410	−12,120	With	
Dec. 14	102.1	+0.2	26,220	23,385	+2,835	With	
Total	-------	+18.9	11,980,476	13,319,514	−1,339,038		*Days*
						With trend	70
						Against trend	69
						No trend	5
							144

APPENDIX L–2

New York Curb Exchange

Trading off the floor

Changes in Position Resulting From Trading in All Stocks by Members Off the Floor in Relation to Changes in the Price Index for 133 Trading Days

Date	Price index [1]		Members' transactions off the floor		Daily changes in position	Changes in position in relation to changes in price index [2]
	Close	Daily change	Bought	Sold		
1935			*Shares*	*Shares*	*Shares*	
July 8	26.54	+0.06	4,700	7,050	−2,350	Against
July 9	26.54	.00	14,655	22,980	−8,325	No trend
July 10	26.54	.00	11,700	17,325	−5,625	No trend
July 11	26.33	−.21	11,025	10,080	+945	Against
July 12	26.42	+.09	14,050	17,900	−3,850	Against
July 13	26.34	−.08	3,500	3,320	+180	Against
July 15	26.37	+.03	13,975	16,950	−2,975	Against
July 16	26.21	−.16	14,690	16,800	−2,110	With
July 17	26.50	+.29	7,725	10,950	−3,225	Against
July 18	26.48	−.02	12,900	15,875	−2,975	With
July 19	26.09	−.39	13,275	15,620	−2,345	With
July 20	26.14	+.05	6,400	4,800	+1,600	With
July 22	26.18	+.04	12,165	8,025	+4,140	With
July 23	26.37	+.19	17,020	14,650	+2,370	With
July 24	26.37	.00	4,615	6,300	−1,685	No trend
July 25	26.41	+.04	10,800	13,020	−2,220	Against
July 26	26.45	+.04	13,070	12,850	+220	With
July 27	26.50	+.05	6,050	6,750	−700	Against
July 29	26.68	+.18	8,850	11,480	−2,630	Against
July 30	26.95	+.27	15,025	11,480	+3,545	With
July 31	27.04	+.09	14,400	13,260	+1,140	With
Aug. 1	26.82	−.22	11,300	9,150	+2,150	Against
Aug. 2	26.80	−.02	14,950	18,815	−3,865	With
Aug. 3	27.21	+.41	11,680	9,330	+2,350	With
Aug. 5	27.49	+.28	12,725	14,125	−1,400	Against
Aug. 6	27.28	−.21	13,620	12,050	+1,570	Against
Aug. 7	27.22	−.06	14,505	33,365	−18,860	With
Aug. 8	27.29	+.07	12,425	12,000	+425	With
Aug. 9	27.65	+.36	33,350	23,725	+9,625	With
Aug. 10	27.89	+.24	12,950	12,800	+150	With
Aug. 12	27.80	−.09	22,355	23,405	−1,050	With
Aug. 13	27.92	+.12	27,385	20,300	+7,085	With
Aug. 14	27.97	+.05	15,925	27,025	−11,100	Against
Aug. 15	28.00	+.03	24,875	26,625	−1,750	Against
Aug. 16	28.12	+.12	17,350	23,250	−5,900	Against
Aug. 17	28.14	+.02	21,425	12,850	+8,575	With
Aug. 19	27.59	−.55	17,325	22,960	−5,635	With
Aug. 20	27.30	−.29	20,350	43,675	−23,325	With
Aug. 21	27.58	+.28	17,330	16,885	+445	With
Aug. 22	27.54	−.04	15,870	17,845	−1,975	With
Aug. 23	27.59	+.05	20,750	19,045	+1,705	With
Aug. 24	27.06	−.53	11,825	33,820	−21,995	With
Aug. 26	27.25	+.19	14,800	11,580	+3,220	With
Aug. 27	26.33	−.92	20,725	20,440	+285	Against
Aug. 28	26.61	+.28	9,530	7,400	+2,130	With
Aug. 29	26.79	+.18	5,585	9,590	−4,005	Against
Aug. 30	26.78	−.01	9,705	8,680	+1,025	Against
Aug. 31	27.05	+.27	3,025	4,595	−1,570	Against
Sept. 3	26.84	−.21	7,900	7,750	+150	Against
Sept. 4	26.90	+.06	6,610	7,070	−460	Against
Sept. 5	27.26	+.36	18,910	21,090	−2,180	Against
Sept. 6	27.37	+.11	14,850	25,685	10,835	Against
Sept. 7	27.43	+.06	8,765	16,270	−7,505	Against
Sept. 9	27.33	−.10	17,325	41,640	−24,315	With
Sept. 10	27.42	+.09	9,225	27,750	18,525	Against
Sept. 11	27.32	−.10	18,100	15,240	+2,860	Against
Sept. 12	27.25	−.07	9,950	19,005	−9,055	With
Sept. 13	27.44	+.19	16,980	21,810	−4,830	Against
Sept. 14	27.43	−.01	4,100	8,455	−4,355	With
Sept. 16	27.25	−.18	7,000	16,430	−9,430	With
Sept. 17	27.15	−.10	9,325	13,980	−4,655	With
Sept. 18	27.41	+.26	15,815	13,470	+2,345	With
Sept. 19	27.02	−.39	14,170	20,910	−6,740	With

[1] New York Herald Tribune average price of 25 New York Curb Exchange stocks.

[2] The changes in position were classified as being "with" changes in the price index when—
(1) The index advanced and purchases exceeded sales.
(2) The index declined and sales exceeded purchases.
The changes in position were classified as being "against" changes in the price index when—
(1) The index advanced and sales exceeded purchases.
(2) The index declined and purchases exceeded sales.

APPENDIX L–2—Continued

New York Curb Exchange

Date	Price index		Members' transactions off the floor		Daily changes in position	Changes in position in relation to changes in price index
	Close	Daily change	Bought	Sold		
1935			*Shares*	*Shares*	*Shares*	
Sept. 20	26.57	−0.45	11,350	21,085	−9,735	With
Sept. 21	26.58	+.01	5,875	3,575	+2,300	With
Sept. 23	26.77	+.19	9,845	11,025	−1,180	Against
Sept. 24	27.09	+.32	11,990	7,110	+4,880	With
Sept. 25	27.24	+.15	11,850	8,745	+3,105	With
Sept. 26	27.10	−.14	12,505	9,905	+2,600	Against
Sept. 27	27.25	+.15	8,025	5,560	+2,465	With
Sept. 28	27.33	+.08	4,670	5,800	−1,130	Against
Sept. 30	27.33	.00	8,525	11,825	−3,300	No trend
Oct. 1	27.05	−.28	14,170	12,455	+1,715	Against
Oct. 2	26.14	−.91	18,475	18,100	+375	Against
Oct. 3	26.56	+.42	11,005	8,045	+2,960	With
Oct. 4	26.78	+.22	11,890	14,220	−2,330	Against
Oct. 5	27.02	+.24	2,620	2,880	−260	Against
Oct. 7	27.10	+.08	10,540	8,495	+2,045	With
Oct. 8	27.02	−.08	10,655	7,445	+3,210	Against
Oct. 9	27.09	+.07	9,370	8,230	+1,140	With
Oct. 10	27.60	+.51	16,195	11,040	+5,155	With
Oct. 11	27.72	+.12	23,550	17,445	+6,105	With
Oct. 14	27.98	+.26	16,135	23,820	−7,685	Against
Oct. 15	28.09	+.11	21,175	15,710	+5,465	With
Oct. 16	27.90	−.19	18,930	26,590	−7,660	With
Oct. 17	27.90	.00	18,810	15,685	+3,125	No trend
Oct. 18	27.83	−.07	14,540	12,860	+1,680	Against
Oct. 19	28.02	+.19	5,300	9,550	−4,250	Against
Oct. 21	28.42	+.40	19,325	18,905	+420	With
Oct. 22	28.56	+.14	20,275	22,350	−2,075	Against
Oct. 23	28.74	+.18	22,735	30,050	−7,315	Against
Oct. 24	28.80	+.06	15,800	18,125	−2,325	Against
Oct. 25	29.06	+.26	36,125	26,150	+9,975	With
Oct. 26	29.37	+.31	12,450	12,350	+100	With
Oct. 28	29.28	−.09	32,895	19,245	+13,650	Against
Oct. 29	29.30	+.02	22,150	17,995	+4,155	With
Oct. 30	29.17	−.13	28,515	18,845	+9,670	Against
Oct. 31	29.16	−.01	15,750	15,220	+530	Against
Nov. 1	29.69	+.53	26,750	27,390	−640	Against
Nov. 2	29.76	+.07	11,995	15,435	−3,440	Against
Nov. 4	30.05	+.29	44,420	23,015	+21,405	With
Nov. 6	30.44	+.39	25,830	28,950	−3,120	Against
Nov. 7	30.20	−.24	26,665	32,915	−6,250	With
Nov. 8	30.30	+.10	38,095	50,315	−12,220	Against
Nov. 9	30.21	−.09	9,550	11,365	−1,815	With
Nov. 12	29.85	−.36	24,210	21,245	+2,965	Against
Nov. 13	29.94	+.09	21,315	17,140	+4,175	With
Nov. 14	30.27	+.33	27,630	27,375	+255	With
Nov. 15	30.44	+.17	19,630	24,240	−4,610	Against
Nov. 16	30.40	−.04	14,735	15,390	−655	With
Nov. 18	30.35	−.05	31,275	28,565	+2,710	Against
Nov. 19	30.49	+.14	16,450	16,380	+70	With
Nov. 20	30.40	−.09	34,260	27,665	+6,595	Against
Nov. 21	30.70	+.30	26,715	16,925	+9,790	With
Nov. 22	30.06	−.64	22,900	63,540	−40,640	With
Nov. 23	30.55	+.49	4,625	17,860	−13,235	Against
Nov. 25	30.43	−.12	14,780	28,760	−13,980	With
Nov. 26	30.14	−.29	14,580	31,635	−17,055	With
Nov. 27	30.41	+.27	11,640	20,685	−9,045	Against
Nov. 29	30.22	−.19	15,005	18,900	−3,895	With
Nov. 30	30.47	+.25	4,350	10,100	−5,750	Against
Dec. 2	30.26	−.21	9,920	10,560	−640	With
Dec. 3	30.73	+.47	14,710	8,675	+6,035	With
Dec. 4	31.06	+.33	25,325	16,255	+9,070	With
Dec. 5	31.05	−.01	18,345	21,990	−3,645	With
Dec. 6	31.28	+.23	28,595	19,635	+8,960	With
Dec. 7	31.37	+.09	17,375	13,700	+3,675	With
Dec. 9	31.55	+.18	11,345	31,255	−19,910	Against
Dec. 10	30.98	−.57	17,875	23,110	−5,235	With
Dec. 11	30.97	−.01	26,020	22,920	+3,100	Against
Dec. 12	30.80	−.17	20,100	28,065	−7,965	With
Dec. 13	30.64	−.16	12,180	12,490	−310	With
Dec. 14	30.83	+.19	4,700	4,850	−150	Against
Total		+4.35	2,071,165	2,315,080	−243,915	*Days* With trend 70 Against trend 58 No trend 5 133

APPENDIX M-1

New York Stock Exchange

Trading off the floor

Comparison Between Round-lot Transactions Initiated Off the Floor for Account of All Members in 20 Selected Stocks [1] and in All Other Stocks Between June 27, 1935, and Dec. 18, 1935

Week ended—	Reported volume [2]		Purchases and sales of members off floor		Percentage of members' purchases and sales to total reported purchases and sales [4]	
	20 stocks	All other stocks	20 stocks [3]	All other stocks	20 stocks	All other stocks
1935	*Shares*	*Shares*	*Shares*	*Shares*	*Percent*	*Percent*
July 3	717, 300	3, 627, 508	102, 050	381, 448	7. 1	5. 3
July 10	802, 900	4, 393, 340	114, 350	431, 955	7. 1	4. 9
July 17	805, 600	4, 936, 190	122, 690	445, 655	7. 6	4. 5
July 24	1, 010, 600	6, 571, 557	151, 791	623, 974	7. 5	4. 7
July 31	1, 247, 400	7, 147, 490	167, 993	708, 230	6. 7	5. 0
Aug. 7	1, 181, 400	8, 123, 930	183, 423	754, 428	7. 8	4. 6
Aug. 14	1, 585, 300	9, 980, 100	248, 275	979, 170	7. 8	4. 9
Aug. 21	1, 278, 800	8, 888, 910	192, 026	756, 699	7. 5	4. 3
Aug. 28	1, 211, 900	8, 443, 590	187, 968	781, 395	7. 8	4. 6
Sept. 4	457, 100	3, 673, 370	67, 600	372, 246	7. 4	5. 1
Sept. 11	1, 729, 600	10, 175, 250	299, 665	1, 050, 832	8. 7	5. 2
Sept. 18	1, 267, 900	7, 740, 590	214, 650	757, 102	8. 5	4. 9
Sept. 25	1, 083, 200	6, 834, 910	187, 833	602, 755	8. 7	4. 4
Oct. 2	977, 100	6, 625, 380	134, 940	571, 371	6. 9	4. 3
Oct. 9	947, 800	5, 663, 477	137, 172	506, 634	7. 2	4. 5
Oct. 16	1, 407, 500	8, 915, 243	204, 890	889, 001	7. 3	5. 0
Oct. 23	1, 440, 700	11, 078, 880	186, 049	1, 038, 167	6. 5	4. 7
Oct. 30	1, 362, 500	10, 415, 188	160, 879	1, 131, 920	5. 9	5. 4
Nov. 6	1, 255, 100	8, 685, 330	251, 590	923, 062	10. 0	5. 3
Nov. 13	1, 672, 900	9, 817, 923	259, 938	1, 023, 500	7. 8	5. 2
Nov. 20	2, 734, 160	15, 687, 097	452, 054	1, 610, 796	8. 3	5. 1
Nov. 27	2, 111, 600	14, 468, 875	319, 800	1, 429, 144	7. 6	4. 9
Dec. 4	1, 388, 100	7, 862, 871	205, 145	738, 277	7. 4	4. 7
Dec. 11	1, 559, 449	11, 364, 150	290, 370	1, 122, 325	9. 3	4. 9
Dec. 18	1, 505, 964	7, 674, 175	279, 223	685, 877	9. 3	4. 5
Totals	32, 741, 873	208, 795, 124	5, 122, 364	20, 315, 963		
Average of weekly percentages					7. 7	4. 8
Percentage of members' purchases and sales to total reported purchases and sales for the entire period					7. 8	4. 9

[1] See Appendix B-3, footnote 1, for names of stocks.
[2] Volume reported by New York Stock Exchange ticker. *Cf.* footnote 1, Appendix B-1.
[3] Transactions reported in 2-H reports (see Appendix A-2).
[4] Total reported purchases and sales are calculated by doubling the reported volume because every reported transaction involves both a purchase and a sale.

APPENDIX M-2

New York Curb Exchange

Trading off the floor

Comparison Between Round-lot Transactions Initiated Off the Floor for Account of All Members in 8 Selected Stocks [1] and in All Other Stocks Between July 8, 1935, and Dec. 14, 1935

Week ended—	Reported volume [2]		Purchases and sales of members off floor		Percentage of members' purchases and sales to total reported purchases and sales [4]	
	8 stocks	All other stocks	8 stocks [3]	All other stocks	8 stocks	All other stocks
1935	*Shares*	*Shares*	*Shares*	*Shares*	*Percent*	*Percent*
July 13	195, 600	954, 400	14, 100	124, 185	3. 6	6. 5
July 20	118, 500	950, 500	11, 750	138, 210	5. 0	7. 3
July 27	185, 200	954, 800	16, 300	109, 015	4. 4	5. 7
Aug. 3	360, 200	1, 218, 800	36, 800	112, 920	5. 1	4. 6
Aug. 10	469, 000	1, 753, 000	47, 320	160, 320	5. 0	4. 6
Aug. 17	532, 000	2, 443, 000	47, 200	215, 570	4. 4	4. 4
Aug. 24	620, 900	1, 993, 100	58, 500	199, 180	4. 7	5. 0
Aug. 31	364, 300	1, 163, 700	24, 600	101, 055	3. 4	4. 3
Sept. 7	240, 000	1, 106, 000	14, 500	120, 400	3. 0	5. 4
Sept. 14	237, 700	1, 380, 300	14, 500	195, 080	3. 1	7. 1
Sept. 21	221, 200	1, 331, 800	15, 700	137, 285	3. 5	5. 2
Sept. 28	170, 800	1, 114, 200	14, 700	92, 330	4. 3	4. 1
Oct. 5	226, 300	1, 177, 700	12, 700	121, 510	2. 8	5. 2
Oct. 12	214, 900	1, 250, 100	15, 400	107, 565	3. 6	4. 3
Oct. 19	206, 100	1, 611, 900	11, 200	187, 905	2. 7	5. 8
Oct. 26	486, 800	2, 253, 200	54, 450	200, 190	5. 6	4. 4
Nov. 2	398, 300	2, 153, 700	36, 900	215, 285	4. 6	5. 0
Nov. 9	455, 700	2, 591, 300	43, 000	248, 120	4. 7	4. 8
Nov. 16	271, 600	1, 880, 400	19, 800	193, 110	3. 6	5. 1
Nov. 23	323, 300	2, 805, 700	20, 400	286, 760	3. 2	5. 1
Nov. 30	241, 100	1, 575, 900	15, 600	154, 835	3. 2	4. 9
Dec. 7	227, 700	2, 027, 300	14, 600	190, 485	3. 2	4. 7
Dec. 14	247, 700	2, 306, 300	16, 200	198, 710	3. 3	4. 3
Total	7, 014, 900	37, 997, 100	576, 220	3, 810, 025		
Average of weekly percentages					3. 9	5. 1
Percentage of members' purchases and sales to total reported purchases and sales for the entire period					4. 1	5. 0

[1] See Appendix B-4, footnote 1, for names of stocks.
[2] Volume reported by New York Curb Exchange ticker. *Cf.* footnote 1, Appendix B-2.
[3] Transactions reported in 2-H reports (see Appendix A-2).
[4] Total reported purchases and sales are calculated by doubling the reported volume because every reported transaction involves both a purchase and a sale.

APPENDIX M-3

STUDY OF THE RELATION BETWEEN THE VOLUME OF TRADING BY MEMBERS OFF THE FLOOR AND THE ACTIVITY OF THE MARKET

In order to determine the relation between the volume of trading in all stocks by members off the floor for their own account and the general activity of the market, 120 full trading sessions on the New York Stock Exchange were arranged in order from the day of highest reported volume to the day of lowest reported volume. The sessions were divided into 12 periods each consisting of 10 days, and a comparison was made between trading off the floor and total trading for each 10-day period. The result, commencing with the period of greatest activity, was as follows:

New York Stock Exchange

10-day periods in order of activity	Average daily percent of members' trading off the floor to total trading	10-day periods in order of activity	Average daily percent of members' trading off the floor to total trading
First	5.4	Seventh	5.0
Second	5.4	Eighth	4.9
Third	5.3	Ninth	5.2
Fourth	5.7	Tenth	5.1
Fifth	5.5	Eleventh	5.0
Sixth	5.0	Twelfth	5.6

For the 10 most active days, such members' trading constituted only a slightly smaller percentage of the total trading (5.4 percent) than for the 10 least active days (5.6 percent). On the whole, neither an increase nor a decrease in the activity of the market appeared to affect the relative extent of the trading of members off the floor.[1]

A similar survey of trading by members off the floor over a period of 110 full trading sessions on the New York Curb Exchange, gives a somewhat different result. Arranging these sessions into 11 periods of 10 days each in order of their activity and comparing the volume of trading by members off the floor with the total volume for each period, the following result is obtained:

New York Curb Exchange

10-day periods in order of activity	Average daily percent of members' trading off the floor to total trading	10-day periods in order of activity	Average daily percent of members' trading off the floor to total trading
First	4.7	Seventh	5.7
Second	4.4	Eighth	4.8
Third	4.9	Ninth	5.5
Fourth	4.5	Tenth	5.3
Fifth	4.8	Eleventh	5.4
Sixth	5.2		

For the 10 most active days, trading by members off the floor constituted a smaller percentage of the total trading (4.7 percent) than for the 10 least active days (5.4 percent). Although the minimum percentage of such trading did not occur during the period of

[1] See table attached hereto as exhibit I.

greatest activity, nor the maximum percentage during the period of least activity, the percentage tended to increase slightly as volume decreased.[2]

EXHIBIT I.—*New York Stock Exchange*

Percentage of Round-lot Transactions Initiated Off the Floor for Account of All Members to Total Reported Purchases and Sales for Each of 120 Full Trading Sessions Between June 24, 1935, and Dec. 13, 1935, Arranged in Order from the Day of Highest Volume to the Day of Lowest Volume. All stocks

Date	Reported volume [1]	Percentage of members' purchases and sales to total reported purchases and sales [2]	Date	Reported volume [1]	Percentage of members' purchases and sales to total reported purchases and sales [2]
1935	*Shares*	*Percent*	*1935*	*Shares*	*Percent*
Nov. 14	3,947,950	5.3	July 29	1,752,270	5.5
Nov. 22	3,918,510	5.0	Nov. 4	1,748,020	6.4
Nov. 20	3,814,777	5.8	Aug. 5	1,735,510	4.5
Nov. 25	3,372,355	5.9	July 23	1,734,150	4.9
Nov. 8	3,351,279	5.5	Sept. 13	1,731,300	5.7
Nov. 21	3,279,560	5.1	Aug. 16	1,711,900	4.6
Nov. 18	3,198,320	5.7	Oct. 29	1,708,400	4.7
Nov. 6	3,075,440	5.5	July 30	1,679,580	5.0
Dec. 4	2,964,041	5.3	Aug. 22	1,667,660	4.7
Nov. 15	2,937,590	5.3	Oct. 17	1,613,337	3.8
Nov. 19	2,883,140	5.4	Oct. 14	1,587,990	5.2
Oct. 21	2,871,908	5.3	Aug. 15	1,581,870	4.7
Oct. 22	2,835,730	5.1	Dec. 2	1,519,380	4.3
Nov. 7	2,785,280	5.4	Aug. 2	1,517,710	5.6
Oct. 23	2,756,795	5.4	July 18	1,495,007	4.9
Sept. 11	2,590,850	5.9	Sept. 16	1,491,250	5.8
Oct. 15	2,573,010	5.2	Oct. 3	1,484,880	4.1
Dec. 9	2,507,730	5.6	Aug. 26	1,455,610	4.6
Oct. 25	2,471,438	5.3	Oct. 18	1,449,800	3.9
Aug. 12	2,424,030	5.3	Aug. 8	1,432,860	5.7
Dec. 6	2,369,710	5.1	Oct. 1	1,422,460	4.4
Aug. 13	2,362,940	4.9	Oct. 4	1,419,627	5.1
Dec. 10	2,341,299	5.8	Aug. 28	1,390,390	5.8
Nov. 26	2,331,510	5.5	Aug. 7	1,389,220	5.6
Dec. 5	2,259,850	5.0	July 22	1,369,090	4.8
Oct. 16	2,243,111	5.3	July 17	1,357,540	4.9
Sept. 20	2,217,950	5.2	July 9	1,344,830	4.5
Oct. 2	2,189,700	5.0	Sept. 17	1,334,460	4.9
Aug. 9	2,188,000	5.5	July 25	1,334,400	5.9
Nov. 29	2,170,860	5.2	July 8	1,305,550	5.3
Oct. 24	2,156,110	5.9	July 24	1,305,490	4.9
Sept. 6	2,153,840	6.3	Sept. 30	1,257,230	4.4
Oct. 30	2,146,900	5.5	July 2	1,198,190	5.4
Nov. 12	2,140,010	5.5	Oct. 8	1,182,110	4.8
Dec. 12	2,135,760	5.4	July 10	1,149,560	4.9
Dec. 11	2,126,290	5.5	July 19	1,148,720	5.8
Aug. 27	2,125,720	6.3	June 25	1,143,560	5.6
Oct. 28	2,112,310	5.9	Sept. 27	1,123,170	4.2
Aug. 19	2,068,660	5.0	June 24	1,116,470	5.6
Oct. 11	2,054,662	5.7	July 12	1,097,517	5.0
Nov. 13	2,047,700	6.3	Sept. 26	1,090,900	5.0
Nov. 1	2,038,230	5.9	Sept. 25	1,083,730	4.7
Sept. 9	2,000,290	5.9	Sept. 24	1,009,110	4.7
Sept. 10	1,978,240	5.5	Sept. 23	1,008,340	4.6
Aug. 20	1,975,670	4.3	Sept. 4	1,000,740	5.7
Aug. 14	1,946,800	5.3	July 11	995,760	4.9
Sept. 18	1,939,380	5.5	July 26	986,380	4.1
Dec. 3	1,926,520	5.3	June 26	957,110	6.0
Sept. 19	1,923,380	5.8	July 15	948,310	5.3
July 31	1,908,020	5.0	Oct. 7	945,360	4.6
Dec. 13	1,893,584	4.8	Sept. 3	904,080	5.7
Sept. 5	1,891,670	4.9	Aug. 29	903,640	5.0
Aug. 23	1,891,150	4.1	July 16	899,823	5.3
Aug. 1	1,889,050	4.8	Oct. 9	882,110	5.4
Sept. 12	1,879,970	5.2	July 5	880,430	6.6
Oct. 10	1,863,970	5.1	Aug. 30	830,730	5.4
Nov. 27	1,859,410	5.2	June 28	754,030	6.3
Oct. 31	1,814,240	6.1	June 27	736,288	5.1
Aug. 6	1,772,970	5.2	July 3	720,050	6.3
Aug. 21	1,753,680	4.4	July 1	683,370	5.1

[1] Volume reported by New York Stock Exchange ticker. *Cf.* footnote 1, Appendix B-1.
[2] Total reported purchases and sales are calculated by doubling the reported volume because every reported transaction involves both a purchase and a sale.

[2] See table attached hereto as exhibit II. The exhibit contains 111 days but the least active day, July 22 was omitted from consideration for purposes of convenience.

APPENDIX M-3—Continued

EXHIBIT II.—*New York Curb Exchange*

Percentage of Round-lot Transactions Initiated Off the Floor for Account of All Members to Total Reported Purchases and Sales for Each of 111 Full Trading Sessions Between July 8, 1935, and Dec. 13, 1935, Arranged in Order from the Day of Highest Volume to the Day of Lowest Volume. All stocks

Date	Reported volume [1]	Percentage of members' purchases and sales to total reported purchases and sales [2]	Date	Reported volume [1]	Percentage of members' purchases and sales to total reported purchases and sales [2]
1935	*Shares*	*Percent*	*1935*	*Shares*	*Percent*
Nov. 8	1,157,000	3.8	Sept. 5	331,000	6.0
Nov. 22	687,000	6.3	Sept. 20	329,000	4.9
Nov. 20	672,000	4.6	Sept. 18	327,000	4.5
Nov. 14	581,000	4.7	Sept. 19	324,000	5.4
Nov. 6	580,000	4.7	Oct. 17	322,000	5.4
Aug. 13	572,000	4.2	Aug. 21	318,000	5.4
Aug. 12	571,000	4.0	Sept. 9	313,000	9.4
Nov. 7	567,000	5.3	Aug. 2	307,000	5.5
Oct. 23	566,000	4.7	Sept. 13	306,000	6.3
Aug. 9	565,000	5.0	July 31	301,000	4.6
Nov. 18	549,000	5.5	Sept. 12	300,000	4.8
Oct. 25	546,000	5.7	Aug. 8	293,000	4.2
Nov. 25	545,000	4.0	Oct. 14	290,000	6.9
Dec. 9	528,000	4.0	Oct. 18	290,000	4.7
Nov. 21	521,000	4.2	Dec. 3	289,000	4.0
Dec. 10	520,000	3.9	Aug. 1	275,000	8.7
Oct. 22	518,000	4.1	Aug. 7	273,000	8.8
Aug. 19	515,000	3.9	Sept. 25	269,000	8.8
Dec. 6	510,000	4.7	Oct. 4	268,000	4.9
Nov. 15	509,000	4.3	July 23	259,000	6.1
Oct. 30	506,000	4.7	Dec. 2	256.000	3.9
Aug. 14	505,000	4.3	Sept. 26	255,000	4.4
Aug. 20	499,000	6.4	Sept. 27	254,000	2.6
Dec. 11	499,000	4.9	Oct. 1	242,000	5.5
Aug. 15	499,000	5.2	Oct. 8	239,000	3.8
Aug. 23	494,000	4.0	Sept. 10	239,000	7.7
Oct. 28	490,000	5.3	July 18	237,000	6.1
Nov. 1	485,000	5.6	July 9	235,000	8.0
Aug. 16	484,000	4.2	July 10	233,000	6.2
Dec. 4	474,000	4.3	Sept. 16	232,000	5.1
Nov. 12	454,000	5.0	July 30	232,000	5.7
Aug. 5	446,000	3.0	Oct. 3	231,000	4.1
Dec. 12	445,000	5.4	Aug. 28	228,000	3.7
Oct. 11	434,000	4.7	Sept. 24	227,000	4.2
Oct. 21	431,000	4.4	Sept. 17	223,000	5.0
Sept. 6	424,000	4.8	July 29	221,000	4.6
Nov. 19	422,000	3.9	July 12	221,000	7.2
Aug. 27	421,000	4.9	July 19	215,000	6.7
Dec. 5	419,000	4.8	Oct. 9	214,000	4.1
Oct. 24	418,000	4.1	July 25	213,000	5.8
Nov. 4	410,000	8.2	Sept. 30	208,000	4.9
Dec. 13	409,000	3.0	July 26	201,000	6.5
Nov. 29	398,000	4.3	Aug. 29	200,000	3.9
Aug. 22	395,000	4.3	Oct. 7	198,000	4.8
Oct. 15	384,000	4.8	July 11	193,000	5.5
Oct. 10	380,000	3.6	Sept. 4	191,000	3.6
Oct. 29	378,000	5.3	July 15	186,000	8.3
Oct. 31	375,000	4.1	Aug. 30	181,000	5.1
Aug. 26	366,000	3.6	July 17	180,000	5.2
Nov. 26	364,000	6.4	Sept. 3	179,000	4.4
Oct. 16	355,000	6.4	July 16	179,000	8.8
Nov. 27	352,000	4.6	Sept 23	172,000	6.1
Aug. 6	339,000	3.8	July 24	169,000	3.2
Nov. 13	337,000	5.7	July 8	165,000	3.6
Sept. 11	334,000	5.0	July 22	163,000	6.2
Oct. 2	333,000	5.5			

[1] Volume reported by the New York Curb Exchange ticker (approximated to nearest thousand shares). *Cf.* footnote 1, Appendix B-2.

[2] Total reported purchases and sales are calculated by doubling the reported volume because every reported transaction involves both a purchase and a sale.

APPENDIX N-1

Volume and market value of stock and bond sales on all securities exchanges for the year 1935 [1]

Name of exchange	Volume of sales		Market value of sales		
	Stock sales [2]	Bond sales [3]	Stock sales [2]	Bond sales [3]	Total market value of stock and bond sales
	Shares	*Par value*			
New York Stock	[4] 498,680,078	[4] $3,505,457,170	$13,337,791,388	$2,796,814,845	$16,134,606,233
New York Curb	[4] 84,718,794	[4] 1,206,832,000	1,205,287,316	932,550,772	2,137,838,088
Total	[4] 583,398,872	[4] 4,712,289,170	14,543,078,704	3,729,365,617	18,272,444,321
Baltimore Stock	681,812	2,544,880	[5] 10,749,050	[5] 559,767	[5] 11,308,817
Boston Stock	6,569,422	1,002,725	[6] 206,204,247	699,480	[6] 206,903,727
Buffalo Stock [7]	144,313	37,500	1,288,577	22,340	1,310,917
Chicago Board of Trade	260,486	82,300	2,542,235	44,630	2,586,865
Chicago Curb	678,426	82,000	1,027,313	59,251	1,086,564
Chicago Stock	12,026,926	484,600	182,964,202	216,366	183,180,568
Cincinnati Stock	234,682	173,500	5,915,316	151,795	6,067,111
Cleveland Stock	529,069	2,000	13,956,241	2,075	[8] 13,958,316
Colorado Springs Stock [9]	1,194,029	160,300	1,443,871	162,290	1,606,161
Denver Stock [10]	17,539,401	(11)	1,071,677	(11)	1,071,677
Detroit Stock	5,777,061	(11)	62,197,033	(11)	62,197,033
Honolulu Stock [9]	837,815	472,200	6,836,387	480,365	7,316,752
Los Angeles Stock	8,193,312	33,000	71,219,114	33,923	71,253,037
Milwaukee Grain & Stock [9]	59,207	(11)	346,855	(11)	346,855
Minneapolis-St. Paul Stock [9]	346,049	49,100	3,429,747	32,133	3,461,880
New Orleans Stock	153,730	2,003,610	1,108,550	1,995,646	3,104,196
New York Produce [12]	434,790	38,250	880,692	14,730	895,422
New York Real Estate	320	150,000	1,084	61,570	62,654
Philadelphia Stock	4,467,909	1,227,656	92,474,937	458,391	92,933,328
Pittsburgh Stock	2,329,860	79,850	30,016,882	83,961	30,190,843
Richmond Stock [9]	24,687	224,900	1,887,331	245,464	2,132,795
St. Louis Stock	149,630	161,000	3,470,441	51,408	3,521,849
Salt Lake City Stock	7,388,009	(11)	2,660,159	(11)	2,660,159
San Francisco Curb	2,451,091	362,500	24,138,744	323,815	24,462,559
San Francisco Mining [9]	9,773,420	(11)	856,149	(11)	856,149
San Francisco Stock	7,723,780	841,000	118,414,685	861,440	119,276,125
Seattle Mining [9] [13]	615,364	(11)	205,114	(11)	205,114
Seattle Stock [9]	718,072	42,500	140,215	23,280	163,495
Standard Stock Exchange of Spokane	8,297,084	(11)	2,427,284	(11)	2,427,284
Washington Stock	17,937	1,096,400	999,651	1,079,867	2,079,518
Wheeling Stock [9]	14,554	(11)	729,177	(11)	729,177
Total	99,632,247	11,351,771	851,692,960	7,663,987	859,356,947
Grand total	683,031,119	4,723,640,941	15,394,771,664	3,737,029,604	19,131,801,268
			Percent	*Percent*	*Percent*
Percentage of sales on New York Stock and New York Curb Exchanges to grand total			94.5	99.8	95.5
Percentage of sales on other exchanges to grand total			5.5	.2	4.5

[1] Sales on exchanges registered with the Commission and exchanges exempt from such registration (except the Manila Stock Exchange, for which complete figures are not available). Data compiled from monthly reports of the exchanges to the Commission.

[2] "Stock sales" include sales of voting trust certificates, American depositary receipts, certificates of deposit, warrants, and rights.

[3] "Bond sales" include sales of mortgage certificates and certificates of deposit.

[4] Prior to April 1935, the New York Stock and New York Curb Exchanges did not include "stopped" or "odd-lot" sales in their reports.

[5] Excludes transactions made "without record" during the months of January and February 1935.

[6] Clearing house money values reported for stock sales during the months of January, February, March, and April 1935.

[7] Registration withdrawn Mar. 24, 1936.

[8] In addition, passbooks amounting to $336,837 were traded on the Cleveland Stock Exchange during the year 1935.

[9] Exempt exchange.

[10] Registration withdrawn Apr. 15, 1936.

[11] No bonds listed or traded.

[12] Suspended Feb. 25, 1935.

[13] Merged with Seattle Stock Exchange Oct. 1, 1935. Figures include transactions to that date.

APPENDIX O-1

RULES FOR THE REGULATION OF TRADING ON EXCHANGES RECOMMENDED BY THE SECURITIES AND EXCHANGE COMMISSION FOR ADOPTION BY NATIONAL SECURITIES EXCHANGES

FIRST RULE. *Excessive trading by members.*—No member, and no firm of which he is a partner, and no partner of such firm, shall effect on the exchange purchases or sales for any account in which such member, firm, or partner is directly or indirectly interested, which purchases or sales are excessive in view of the financial resources of such member, firm, or partner or in view of the market for such security.

SECOND RULE. *Trading for joint account.*—(a) No member, while on the floor, shall, without the prior approval of the exchange, initiate the purchase or sale on the exchange of any security classified for trading as a stock by the exchange for any account in which he, or the firm of which he is a partner, or any partner of such firm, is directly or indirectly interested with any person other than such firm or partner.

(b) The provisions of this rule shall not apply to any purchase or sale (1) by any member for any joint account maintained solely for effecting bona-fide domestic or foreign arbitrage transactions, or (2) by an odd-lot dealer or a specialist for any joint account in which he is expressly permitted to have an interest or participation by the eleventh or fourteenth rules, respectively.

THIRD RULE. *Report of joint accounts.*—(a) No member, and no firm of which he is a partner, and no partner of such firm, shall, directly or indirectly, hold any interest or participation in any joint account for buying or selling any security on the exchange, unless such joint account is reported to and not disapproved by the exchange.

(b) Such report shall be filed with the exchange by any member, firm, or partner participating in such joint account before any transactions are effected on the exchange for such joint account and shall include in substance the following:

(1) Names of persons participating in such account and their respective interests therein.
(2) Purpose of such account.
(3) Amount of commitments in such account.
(4) A copy of any written agreement or instrument in writing relating to such account.

(c) Every member, the firm of which he is a partner, and every partner of such firm who is directly or indirectly interested in any substantial joint account for buying or selling any specific security on the exchange, or in any joint account which actively trades in any security on the exchange, shall file with the exchange not later than Saturday of each week with respect to every such joint account existing at the close of business on the preceding Wednesday a report containing in substance the following information, unless such information is reported to the exchange by some other member, firm, or partner:

(1) Name and amount of each security purchased or sold during the week ending on such Wednesday on the exchange.
(2) Amount of commitments in such account at the close of business on such Wednesday.
(3) Any change which renders no longer accurate any portion of the original statement filed under paragraph (*b*).

(*d*) Every member, the firm of which he is a partner, and every partner of such firm who has knowledge of any substantial joint account for buying or selling any specific security on the exchange or of any joint account which actively trades in any security on the exchange by reason of transactions executed by or through such member, firm or partner for such account, shall file with the exchange not later than Saturday of each week with respect to every such joint account existing at the close of business on the preceding Wednesday a report containing in substance the following information, if known, unless such information has previously been reported to the exchange:

(1) Names of persons participating in such account and their respective interests therein.
(2) Purpose or such account.
(3) Name and amount of each security purchased or sold during the week ending on such Wednesday.
(4) Amount of commitments in such account at the close of business on such Wednesday.

FOURTH RULE. *Discretionary transactions.*—(*a*) No member, while on the floor, shall execute or cause to be executed on the exchange any transaction for the purchase or sale of any security classified for trading as a stock by the exchange with respect to which transaction such member is vested with discretion as to (1) the choice of security to be bought or sold, (2) the total amount of any security to be bought or sold, or (3) whether any such transaction shall be one of purchase or sale.

(*b*) The provisions of paragraph (*a*) of this rule shall not apply (1) to any discretionary transactions executed by such member for any bona-fide cash investment account or for the account of any person who, due to illness, absence, or similar circumstances, is actually unable to effect transactions for his own account; provided that such member shall keep available for inspection a detailed record of any such transaction and the grounds for exercising such discretion and shall file with the exchange on August 1, 1935, and quarter annually thereafter a report covering the preceding quarterly period showing the name of each account for which any such transaction was executed, the amount of such discretionary purchases or sales and the grounds for exercising such discretion with respect to each account, or (2) to any transaction permitted under the second rule for any account in which the member executing such transaction is directly or indirectly interested.

(*c*) No member, and no firm of which he is a partner and no partner of such firm shall execute or cause to be executed on the exchange purchases or sales of any security classified for trading as a stock by the exchange for any account with respect to which such member, firm or partner is vested with any discretionary power, which purchases or sales are excessive in size or frequency in view of the financial resources in such account.

FIFTH RULE. *Trading by member while acting as broker.*—(*a*) No member shall (1) personally buy or initiate the purchase of any security on the exchange for his own account or for any account in which he, or the firm of which he is a partner or any partner of such firm, is directly or indirectly interested, while such member personally holds or has knowledge that his firm or any partner thereof holds an unexecuted market order to buy such security in the unit of trading for a customer, or (2) personally sell or initiate the sale of any security on the exchange for any such account, while he personally holds or has knowledge that his firm or any partner thereof holds an unexecuted market order to sell such security in the unit of trading for a customer.

(*b*) No member shall (1) personally buy or initiate the purchase of any security on the exchange for any such account, at or below the price at which he personally holds or has knowledge that his firm or any partner thereof holds an unexecuted limited price order to buy such security in the unit of trading for a customer, or (2) personally sell or initiate the sale of any security on the exchange for any such account at or above the price at which he personally holds or has knowledge that his firm or any partner thereof holds an unexecuted limited price order to sell such security in the unit of trading for a customer.

(*c*) The provisions of this rule shall not apply (1) to any purchase or sale of any security in an amount of less than the unit of trading made by an odd-lot dealer to offset odd-lot orders of customers, or (2) to any purchase or sale of any security, delivery of which is to be upon a day other than the day of delivery provided in such unexecuted market or limited-price order.

SIXTH RULE. *Successive transactions by members.*—No member, and no firm of which he is a partner and no partner of such firm shall execute or cause to be executed on the exchange the purchase of any security at successively higher prices or the sale of any security at

successively lower prices for the purpose of creating or inducing a false, misleading, or artificial appearance of activity in such security, or for the purpose of unduly or improperly influencing the market price of such security, or for the purpose of making a price which does not reflect the true state of the market in such security.

SEVENTH RULE. *Trading by members holding options.*—No member, while on the floor, shall initiate the purchase or sale on the exchange for his own account or for any account in which he, or the firm of which he is a partner or any partner of such firm, is directly or indirectly interested, of any security classified for trading as a stock by the exchange, in which he holds or has granted any put, call, straddle, or option, or in which he has knowledge that the firm of which he is a partner or any partner of such firm holds or has granted any put, call, straddle, or option.

EIGHTH RULE. *Record of orders.*—(a) Every member or the firm of which he is a partner or any partner of such firm shall preserve for at least 12 months a record of every order transmitted by such member, firm, or partner to the floor of the exchange, which records shall include the name, amount, and price of the security and the time when such order was so transmitted.

(*b*) Every member shall preserve for at least 12 months a record of every order originating on the floor of the exchange given to such member for execution, and of every order originating off the floor, transmitted by any person other than a member, firm, or partner, to such member on the floor, which record shall include the name, amount, and price of the security and the time when such order was so given or transmitted.

NINTH RULE. *Registration of specialists.*—No member shall act as a specialist in any security unless such member is registered as a specialist in such security by the exchange.

TENTH RULE. *Trading by specialists.*—No specialist shall effect on the exchange purchases or sales of any security in which such specialist is registered, for any account in which he, or the firm of which he is a partner, or any partner of such firm, is directly or indirectly interested, unless such dealings are reasonably necessary to permit such specialist to maintain a fair and orderly market, or to act as an odd-lot dealer in such security.

ELEVENTH RULE. *Joint accounts of specialists.*—No specialist, and no firm of which he is a partner, and no partner of such firm, shall, directly or indirectly, acquire or hold any interest or participation in any joint account for buying or selling on the exchange any security classified for trading by the exchange as a stock in which such specialist is registered, except a joint account with a partner of such specialist, a member of the exchange, or a firm of which a member is a partner.

TWELFTH RULE. *Records of specialists.*—Every specialist shall keep a legible record of all orders placed with him in the securities in which he is registered as a specialist and of all executions, modifications, and cancelations of such orders, and shall preserve such record and all memoranda relating thereto for a period of at least 12 months.

THIRTEENTH RULE. *Registration of odd-lot dealers.*—No member of the exchange shall act as an odd-lot dealer in a security unless such member is registered as an odd-lot dealer in such security by the exchange.

FOURTEENTH RULE. *Joint accounts of odd-lot dealers.*—No odd-lot dealer, and no firm of which he is a partner, and no partner of such firm, shall, directly or indirectly, acquire or hold any interest or participation in any joint account for buying or selling on the exchange any security in which such odd-lot dealer is registered, except a joint account with a partner of such odd-lot dealer, a member of the exchange, or a firm of which a member is a partner.

FIFTEENTH RULE. *Options of specialists and odd-lot dealers.*—No specialist or odd-lot dealer, and no firm of which such specialist or odd-lot dealer is a partner and no partner of such firm, shall acquire, hold, or grant, directly or indirectly, any interest in any put, call, straddle, or option in any security classified for trading as a stock by the exchange in which such specialist or odd-lot dealer is registered.

SIXTEENTH RULE. *Short selling.*—(*a*) No member shall use any facility of the exchange to effect on the exchange a short sale of any security in the unit of trading at a price below the last sale price of such security on the exchange.

(*b*) The provisions of this rule shall not apply to any short sale (1) by an odd-lot dealer to offset odd-lot orders of customers, (2) by an odd-lot dealer to liquidate a long position which is less than the unit of trading, provided the net change in the position of such odd-lot dealer after any such short sale is not more than the unit of trading in such security, or (3) by any member, with the approval of the exchange, for the purpose of equalizing the price of a security on the exchange with the price of the same security on another national securities exchange which is the principal market for such security.

APPENDIX P–1

Classification of Over-the-counter Brokers and Dealers Registered With the Commission as of Jan. 1, 1936

Classified according to—	Number	Number who are members or member firms of securities exchanges	Classified according to—	Number	Number who are members or member firms of securities exchanges
Function:			Form of organization:		
Brokers only	574	344	Sole proprietorships	2,043	338
Dealers only	958	33	Partnerships	1,540	861
Both brokers and dealers	3,740	1,027	Corporations	1,738	210
Total active brokers and dealers	5,272	1,404	Miscellaneous	4	1
Inactive	53	6	Total	5,325	1,410
Total	5,325	1,410			

APPENDIX P–2

Number of Over-the-counter Brokers and Dealers Registered With the Commission as of Jan. 1, 1936, Extending Credit to Customers

	Number of brokers and dealers	
Number extending credit to customers:		
Margin accounts	1,045	
Partial-payment contracts	255	
Miscellaneous	306	
Total	1,606	
Less number extending credit in more than one of the above forms	189	
Total number extending credit		1,417
Number extending no credit to customers		3,908
Total		5,325

APPENDIX Q-1

RULES FOR THE REGULATION OF OVER-THE-COUNTER MARKETS

RULE MA1. *Transactions by unregistered brokers and dealers.*—(a) On and after January 1, 1936, no broker or dealer, singly or with any other person or persons, shall make use of the mails or any means or instrumentality of interstate commerce for the purpose of making or creating or enabling another to make or create a market, otherwise than on a national securities exchange, such market being hereinafter designated as an over-the-counter market, for both the purchase and sale of any security or use any facility of any such market unless he shall be registered with the Commission.

(*b*) This rule shall not apply to any broker or dealer who transacts business only in exempted securities, commercial paper, bankers' acceptances, or commercial bills or in unregistered securities the market in which is predominantly intrastate and which have not previously been registered under the Securities Exchange Act of 1934 or listed on an exchange.

RULE MA2. *Registration of brokers and dealers.*—(a) A broker or dealer who files a registration statement with the Commission on Form 1–M may be admitted to registration subject to such rules and regulations as the Commission may from time to time prescribe.

(*b*) The filing of such statement shall not be construed as a waiver of any constitutional right.

RULE MA3. *Effective date of registration.*—(a) Registration of a broker or dealer shall become effective, except as hereinafter provided, on January 1, 1936, or 30 days after the filing of his registration statement with the Commission, whichever is the later date, and unless otherwise ordered by the Commission such registration shall terminate on December 31, 1936.

(*b*) The filing of any amendment to any such statement prior to the effective date of such registration, shall not postpone such effective date; except that, if it appears necessary or appropriate in the public interest or for the protection of investors, the Commission may refuse to permit such registration to become effective until the expiration of not more than 30 days from the filling of such amendment.

(*c*) Unless it appears necessary or appropriate in the public interest or for the protection of investors that the registration of a broker or dealer shall not become effective until the expiration of 30 days from the filing of his registration statement, the Commission may permit such registration to become effective prior to the expiration of 30 days from the filing of such statement when such broker or dealer is a successor by purchase, merger, consolidation, or otherwise, to the business of one or more registered predecessors, or when other unusual circumstances exist.

RULE MA4. *Denial of registration.*—(a) If, after appropriate notice and opportunity for hearing, it appears necessary or appropriate in the public interest or for the protection of investors, the Commission may refuse registration to any broker or dealer who (1) has willfully misrepresented or concealed any material fact in his registration statement, or in any application, report, or document submitted in connection with his registration, or in any proceeding before the Commission with respect to such registration; or (2) has been convicted within 10 years preceding the filing of such registration statement of any felony or misdemeanor involving the purchase or sale of any security or arising out of the conduct of the business of a broker or dealer; or (3) is permanently or temporarily enjoined on the date of the filing of such registration statement, by order, judgment, or decree of any court of competent jurisdiction entered within 10 years preceding the filing of such registration statement, from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security.

If, after appropriate notice and opportunity for hearing, it appears necessary or appropriate in the public interest or for the protection of investors, the Commission may postpone the effective date of registration of any broker or dealer pending the determination by the Commission as to whether such registration shall be refused.

(b) The provisions of this rule shall also apply to any broker or dealer, if any director, or any officer (or person occupying a similar status or performing similar functions), or any partner, or any branch office manager of such broker or dealer, or any person controlling the business of such broker or dealer, has willfully misrepresented or concealed any material fact or has been so convicted or is so enjoined.

(c) For the purposes of this rule a person shall be deemed to have been convicted if he has confessed guilt in open court or a verdict of guilty has been found against him, although judgment or sentence may have been suspended.

RULE MA5. *Revocation of registration.*—(a) The Commission may revoke the registration of any broker or dealer if, after appropriate notice and opportunity for hearing, it finds (1) that any cause existed on the date of filing his registration statement which would have been ground for the refusal of registration under rule MA4 or (2) that subsequent to the date of filing his registration statement such broker or dealer (i) has willfully misrepresented or concealed any material fact in any supplemental statement to his registration statement, or in any application, report, or document submitted in connection with his registration, or in any proceeding before the Commission with respect to such registration; or (ii) has been convicted of any felony or misdemeanor involving the purchase or sale of any security or arising out of the conduct of the business of a broker or dealer; or

(iii) has been permanently or temporarily enjoined, by order, judgment, or decree of any court of competent jurisdiction; from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security; or (iv) has willfully violated any provision of the Securities Act of 1933 or the Securities Exchange Act of 1934, or of any rule or regulation thereunder; or (v) has committed any fraud or engaged in any fraudulent practice in the conduct of the business of a broker or dealer.

If, after appropriate notice and opportunity for hearing, it appears necessary or appropriate in the public interest or for the protection of investors, the Commission may suspend the registration of any broker or dealer pending the determination by the Commission as to whether such registration shall be revoked.

(b) The provisions of this rule shall also apply to any broker or dealer if any director, or any officer (or person occupying a similar status or performing similar functions), or any partner, or any branch office manager of such broker or dealer, or any person controlling the business of such broker or dealer, subsequent to the date of filing the registration statement of such broker or dealer, (1) has willfully misrepresented or concealed any such material fact; or (2) has been so convicted; or (3) has been so enjoined; or (4) has willfully violated any provision of the Securities Act of 1933 or the Securities Exchange Act of 1934, or of any rule or regulation thereunder; or (5) has committed any fraud or engaged in any fraudulent practice in the conduct of the business of a broker or dealer.

(c) For the purposes of this rule a person shall be deemed to have been convicted if he has confessed guilt in open court or a verdict of guilty has been found against him, although judgment or sentence may have been suspended.

RULE MA6. *Cancelation of registration.*—A broker or dealer may cancel his registration by filing written notice with the Commission. The cancelation of such registration shall become effective 10 days after receipt of such notice by the Commission; except that, if it appears necessary or appropriate in the public interest or for the protection of investors, the Commission may by order otherwise direct.

RULE MA7. *Amendments to registration statements.*—After the discovery of any inaccuracy in the registration statement of any broker or dealer or any statement supplemental thereto or after any change which renders no longer accurate any portion of such registration statement or any statement supplemental thereto, such broker or dealer shall file with the Commission a statement on form 2–M correcting such inaccuracy or setting forth such change in accordance with the instructions accompanying form 2–M.

RULE MA8. *Registration of fiduciaries.*—The registration of a broker or dealer shall be deemed to be the registration of any executor, administrator, guardian, conservator, assignee for the benefit of creditors, receiver, or trustee in insolvency or bankruptcy or other fiduciary, appointed or qualified by order, judgment, or decree of a court of competent jurisdiction to continue the business of such registered broker or dealer if such fiduciary files with the Commission, within 30 days after entering upon the performance of his duties, a statement setting forth as to such fiduciary substantially the same information required by Form 1–M.

RULE MA9. *Misrepresentations by brokers and dealers as to registration.*—No broker or dealer, in the conduct of his business, shall knowingly make any false, fraudulent, or misleading statement or any misrepresentation with respect to the registration with the Commission of such broker or dealer or any other broker or dealer, or with respect to the effect or meaning thereof.

RULE MA10. *Broker acting as agent of buyer and seller.*—(a) No registered broker shall act as agent of both buyer and seller in any security transaction on an over-the-counter market unless (1) he procures the written or telegraphic consent of both such buyer and seller at or before the completion of the transaction; or (2) he makes written disclosure to both such buyer and seller before the completion of the transaction that he is so acting.

(b) The terms "buyer" and "seller" as used in this rule shall not include a broker or dealer as defined in the Securities Exchange Act of 1934.

RULE MA11. *Disclosures by broker or dealer.*—(a) No registered broker or dealer shall effect any transaction in a security for or with a customer on an over-the-counter market, unless such broker or dealer at or before the completion of such transaction clearly discloses to such customer in writing (1) whether he is acting as a dealer for his own account, as a broker for such customer, or as a broker for some other person; (2) if he acts as broker for such customer, either the name of the person from whom such security was purchased or to whom it was sold for such customer and the day and time when such transaction took place, or the fact that such information will be furnished upon request of such customer; (3) if he acts as broker for such customer, the amount of the commission or service fee charged by him to such customer, and the amount of commission paid by him to any other broker employed by him in such transaction; and (4) that he is controlled by, or controls, or is under common control with the issuer of such security if such be the fact.

(b) The term "customer" as used in this rule shall not include a broker or dealer as defined in the Securities Exchange Act of 1934.

RULE MA12. *Discretionary accounts and investment counsel.*—(a) No registered broker or dealer who receives or has promise of receiving a fee for advising a customer with respect to any security or is vested by a customer with discretion as to the choice or the total amount of a security to be bought or sold or as to whether the transaction shall be one of purchase or sale, shall on an over-the-counter market—

(1) Effect any transaction for or with such customer in any security in which in the course of his business as a broker or dealer he has a long or short position, or in the distribution or accumulation of which he has any direct or indirect financial interest, or in which he holds or has granted or has knowledge that any principal for whom he is acting holds or has granted any option, unless he clearly discloses to such customer the fact of such position, interest, or option and obtains the written or telegraphic consent of such customer to each such transaction; or

(2) Buy from or sell to such customer any security for any account in which he or any principal for whom he is acting is interested, unless he obtains the written or telegraphic consent of such customer to each such purchase or sale.

(b) The term "customer" as used in this rule, shall not include a broker or dealer as defined in the Securities Exchange Act of 1934.

APPENDIX R-1

Text of Section 15 of the Securities Exchange Act of 1934 as Amended by Public No. 621, 74th Congress

OVER-THE-COUNTER MARKETS

SEC. 15. (a) No broker or dealer (other than one whose business is exclusively intrastate) shall make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills) otherwise than on a national securities exchange, unless such broker or dealer is registered in accordance with subsection (b) of this section.[1]

(b) A broker or dealer may be registered for the purposes of this section by filing with the Commission an application for registration, which shall contain such information in such detail as to such broker or dealer and any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such broker or dealer, as the Commission may by rules and regulations require as necessary or appropriate in the public interest or for the protection of investors. Except as hereinafter provided, such registration shall become effective 30 days after the receipt of such application by the Commission or within such shorter period of time as the Commission may determine.

An application for registration of a broker or dealer to be formed or organized may be made by a broker or dealer to which the broker or dealer to be formed or organized is to be the successor. Such application shall contain such information in such detail as to the applicant and as to the successor and any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the applicant or the successor, as the Commission may by rules and regulations require as necessary or appropriate in the public interest or for the protection of investors. Except as hereinafter provided, such registration shall become effective 30 days after the receipt of such application by the Commission or within such shorter period of time as the Commission may determine. Such registration shall terminate on the forty-fifth day after the effective date thereof, unless prior thereto the successor shall, in accordance with such rules and regulations as the Commission may prescribe, adopt such application as its own.

If any amendment to any application for registration pursuant to this subsection is filed prior to the effective date thereof, such amendment shall be deemed to have been filed simultaneously with and as

[1] By sec. 12 of Public, No. 621, 74th Cong., the provisions of this subsection do not become effective until 90 days after May 27, 1936.

part of such application; except that the Commission may, if it appears necessary or appropriate in the public interest or for the protection of investors, defer the effective date of any such registration as thus amended until the thirtieth day after the filing of such amendment.

The Commission shall, after appropriate notice and opportunity for hearing, by order deny registration to or revoke the registration of any broker or dealer if it finds that such denial or revocation is in the public interest and that (1) such broker or dealer whether prior or subsequent to becoming such, or (2) any partner, officer, director, or branch manager of such broker or dealer (or any person occupying a similar status or performing similar functions), or any person directly or indirectly controlling or controlled by such broker or dealer, whether prior or subsequent to becoming such, (A) has willfully made or caused to be made in any application for registration pursuant to this subsection or in any document supplemental thereto or in any proceeding before the Commission with respect to registration pursuant to this subsection any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact; or (B) has been convicted within 10 years preceding the filing of any such application or at any time thereafter of any felony or misdemeanor involving the purchase or sale of any security or arising out of the conduct of the business of a broker or dealer; or (C) is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security; or (D) has willfully violated any provision of the Securities Act of 1933, as amended, or of this title, or of any rule or regulation thereunder. Pending final determination whether any such registration shall be denied, the Commission may by order postpone the effective date of such registration for a period not to exceed 15 days, but if, after appropriate notice and opportunity for hearing, it shall appear to the Commission to be necessary or appropriate in the public interest or for the protection of investors to postpone the effective date of such registration until final determination, the Commission shall so order. Pending final determination whether any such registration shall be revoked, the Commission shall by order suspend such registration if, after appropriate notice and opportunity for hearing, such suspension shall appear to the Commission to be necessary or appropriate in the public interest or for the protection of investors. Any registered broker or dealer may, upon such terms and conditions as the Commission may deem necessary in the public interest or for the protection of investors, withdraw from registration by filing a written notice of withdrawal with the Commission. If the Commission finds that any registered broker or dealer, or any broker or dealer for whom an application for registration is pending, is no longer in existence or has ceased to do business as a broker or dealer, the Commission shall by order cancel the registration or application of such broker or dealer.

(c) No broker or dealer shall make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce the purchase or sale of, any security (other than commercial paper, bankers' acceptances, or commercial bills) otherwise than on a national securities exchange, by means of any manipulative, deceptive, or other fraudulent device or contrivance. The Commission shall, for the purposes of this subsection, by rules and regulations define such devices or contrivances as are manipulative, deceptive, or otherwise fraudulent.

(d) Each registration statement hereafter filed pursuant to the Securities Act of 1933, as amended, shall contain an undertaking by the issuer of the issue of securities to which the registration statement relates to file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, such supplementary and periodic information, documents, and reports as may be required pursuant to section 13 of this title in respect of a security listed and registered on a national securities exchange; but such undertaking shall become operative only if the aggregate offering price of such issue of securities, plus the aggregate value of all other securities of such issuer of the same class (as hereinafter defined) outstanding, computed upon the basis of such offering price, amounts to $2,000,000 or more. The issuer shall file such supplementary and periodic information, documents, and reports pursuant to such undertaking, except that the duty to file shall be automatically suspended if and so long as (1) such issue of securities is listed and registered on a national securities exchange, or (2) by reason of the listing and registration of any other security of such issuer on a national securities exchange, such issuer is required to file pursuant to section 13 of this title information, documents, and reports substantially equivalent to such as would be required if such issue of securities were listed and registered on a national securities exchange, or (3) the aggregate value of all outstanding securities of the class to which such issue belongs is reduced to less than $1,000,000, computed upon the basis of the offering price of the last issue of securities of said class offered to the public. For the purposes of this subsection, the term "class" shall be construed to include all securities of an issuer which are of substantially similar character and the holders of which enjoy substantially similar rights and privileges. Nothing in this subsection shall apply to securities issued by a foreign government or political subdivision thereof or to any other security which the

Commission may by rules and regulations exempt as not comprehended within the purposes of this subsection.[2]

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[2] By sec. 12 of Public, No. 621, 74th Cong., the provisions of this subsection do not become effective until 90 days after May 27, 1936.

Attention is directed to secs. 10 and 11 of Public, No. 621, 74th Cong., which reads:

SEC. 10. All brokers and dealers for whom registration is in effect on the date of enactment of this act in accordance with rules and regulations of the Commission prescribed pursuant to sec. 15 of the Securities Exchange Act of 1934 shall be deemed to be registered pursuant to sec. 15 of such act as amended by sec. 3 of this act.

SEC. 11. Nothing in this act shall be deemed to extinguish any liability which may have arisen prior to the effective date of this act by reason of any violation of sec. 15 of the Securities Exchange Act of 1934 or of any rule or regulation thereunder.

Prior to the amendment sec. 15 read as follows:

SEC. 15. It shall be unlawful, in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest and to insure to investors protection comparable to that provided by and under authority of this title in the case of national securities exchanges, (1) for any broker or dealer, singly or with any other person or persons, to make use of the mails or any means or instrumentality of interstate commerce for the purpose of making or creating, or enabling another to make or create, a market, otherwise than on a national securities exchange, for both the purchase and sale of any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills, or unregistered securities the market in which is predominantly intrastate and which have not previously been registered or listed), or (2) for any broker or dealer to use any facility of any such market. Such rules and regulations may provide for the regulation of all transactions by brokers and dealers on any such market, for the registration with the Commission of dealers and/or brokers making or creating such a market, and for the registration of the securities for which they make or create a market and may make special provision with respect to securities or specified classes thereof listed, or entitled to unlisted trading privileges, upon any exchange on the date of the enactment of this title, which securities are not registered under the provisions, of section 12 of this title.

GLOSSARY

Except where otherwise indicated, the definitions contained in this Glossary have not been officially adopted by the Commission but are set forth only to facilitate an understanding of the sense in which certain terms are employed in this report.

ASKED PRICE — The price at which a security is offered for sale.

BID PRICE — The price which is offered for the purchase of a security.

BOND BROKER — A person primarily engaged in the business of effecting transactions in bonds for the account of others.

BOOK — The record kept by the specialist of orders received by him for execution.

BROKER — As defined by the Securities Exchange Act of 1934 the term "broker" means "any person engaged in the business of effecting transactions in securities for the account of others, but does not include a bank" (section 3 (a) (4)).

CALL — An option in favor of the holder of the call to require the maker within a specified time to sell and deliver a specified security at a stipulated price.

CHURN THE MARKET — To create active trading in a security by effecting purchases and sales for the purpose of attracting public interest in the security.

CLEAN UP THE BOOK — To eliminate all orders to sell a particular security which are recorded on a specialist's book at one price level or at successively higher price levels by purchases which exhaust such orders or, conversely, to eliminate all orders to buy a particular security which are recorded on a specialist's book at one price level or at successively lower price levels by sales which exhaust such orders.

CLEARING — The process of set-off and settlement by members of the same clearing association of purchases and sales of the same security made during the day and of payments required to be made for all securities purchased and sold during the day. If the amount of a security sold exceeds the amount purchased, a member clearing such transactions is required to deliver to the persons designated by the clearing association only the excess amount of the security; if the amount of a security purchased exceeds the amount sold, a member clearing such transactions receives from the persons designated by the clearing association only the excess amount of the security. Settlement of the money differences to be paid or received is effected with the clearing association.

CLEARING ASSOCIATION OR CORPORATION An association composed of members of the same exchange or their firms, formed for the primary purpose of clearing contracts to purchase and sell securities. (*Cf.* "clearing", *supra.*)

CLEARING CHARGE The charge made by a clearing association for services rendered in clearing contracts to purchase and sell securities. Also, the charge made by a member of a clearing association to another exchange member for services rendered in clearing the contracts of the latter. (*Cf.* "clearing", *supra.*)

COMMISSION BROKER A person primarily engaged in the business of effecting transactions in securities for the account of members of the public.

COMMISSION HOUSE A firm primarily engaged in the business of effecting transactions in securities for the account of members of the public.

DAYLIGHT TRADING Transactions for the purchase of a security balanced by transactions for the sale of such security within the course of a single trading session; or short sales effected and covered on the same day.

DEALER As defined by the Securities Exchange Act of 1934 the term "dealer" means "any person engaged in the business of buying and selling securities for his own account, through a broker or otherwise, but does not include a bank, or any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as a part of a regular business." (Sec. 3 (a) (5).)

FLOATING SUPPLY That portion of an outstanding issue which is readily available for trading purposes at or near the current market price as distinguished from that portion held for investment.

FLOOR BROKER A member of an exchange who is primarily engaged in the business of executing orders on the floor of the exchange for other members.

FULL LOT See Round-lot.

INVESTMENT BANKER A person engaged in the investment banking business, which term was defined by the Code of Fair Competition for Investment Bankers as follows: "The term 'investment banking business' shall mean the business of underwriting or distributing issues of securities, or of purchasing securities and offering the same for sale as a dealer therein, or of purchasing and selling securities upon the order and for the account of others: *Provided, however,* That the term 'investment banking business' shall not include transactions on regularly organized exchanges, but such term shall include all business relating to such transactions to the extent that such business is not conducted by a member of such exchange or by any person or organization having the privilege of any such exchange for itself or any of its partners or executive officers." (Art. I (1).)

INVESTMENT COUNSEL A person who undertakes, for a fee, to advise clients with respect to the investment of funds or to supervise or manage the investment accounts of clients. Also the advice rendered by such a person.

ISSUER As defined by the Securities Exchange Act of 1934 the term "issuer" means "any person who issues or proposes to issue any security; except that with respect to certificates of deposit for securities, voting-trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors or of the fixed, restricted management, or unit type, the term 'issuer' means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which such securities are issued; and except that with respect to equipment-trust certificates or like securities, the term 'issuer' means the person by whom the equipment or property is, or is to be, used." (Sec. 3 (a) (8)).

JOINT ACCOUNT An account for buying and selling one or more securities in which two or more persons have a joint financial interest.

LIMITED ORDER OR LIMITED PRICE ORDER An order to buy or sell a stated amount of a security at a specified price or at a better price if obtainable.

MARGIN — The amount of cash or securities deposited by a customer with his broker to protect the latter against loss resulting from changes in the price of securities which he has purchased or sold or is carrying for the account of the customer on credit.

MARKET ORDER — An order to buy or sell a stated amount of a security at the most advantageous price as promptly as reasonably practicable.

MEMBER — As defined by the Securities Exchange Act of 1934, the term "member" when used with respect to an exchange means "any person who is permitted either to effect transactions on the exchange without the services of another person acting as broker, or to make use of the facilities of an exchange for transactions thereon without payment of a commission or fee or with the payment of a commission or fee which is less than that charged the general public, and includes any firm transacting a business as broker or dealer of which a member is a partner, and any partner of any such firm" (sec. 3 (a) (3)).

MEMBER FIRM — A firm of which at least one general partner is a member of an exchange.

NARROW THE QUOTED MARKET — To reduce the difference between the prevailing bid and asked prices of a security by making a higher bid or lower offer than that prevailing.

ODD LOT — Any number of shares of a stock or any amount in par value of a bond less than the unit fixed by the exchange for trading in such security.

ODD-LOT BROKER — A member of an exchange engaged primarily in effecting transactions on the floor of the exchange for the account of the odd-lot dealer firm with which he is associated.

ODD-LOT DEALER — A member of an exchange who deals for his own account or that of his firm in lots of less than the unit of trading fixed by the exchange.

OPTION — A privilege in favor of the holder of the option to buy a security from or sell a security to another at a stipulated price within a specified time without being bound to do so.

OVER-THE-COUNTER MARKET — Any market for securities otherwise than on a national securities exchange.

PERSON — As defined by the Securities Exchange Act of 1934, the term "person" means "an individual, a corporation, a partnership, an association, a joint-stock company, a business trust, or an unincorporated organization" (sec. 3 (a) (9)).

POSITION — Total amount of a security or securities of which a person is long or short.

PRIMARY DISTRIBUTION — The original sale to the public of an issue of securities, the consideration for which is received directly or indirectly by the issuer.

PURCHASER ON BALANCE — A person whose total purchases exceed his total sales over a given period of time.

PUT — An option in favor of the holder of the put to require the maker within a specified time to purchase and pay for a specified security at a stipulated price.

RETAIL DISTRIBUTION — The sale of securities directly to the public.

ROUND LOT OR FULL LOT — The number of shares of a stock or the amount in par value of a bond which constitute the unit fixed by the exchange for trading in such security.

SECONDARY DISTRIBUTION — The sale to the public of all or part of an issue of securities which was previously the subject of a primary distribution.

SELLING SYNDICATE — A group of dealers formed for the purpose of distributing all or part of an issue of securities to the public.

SELLER ON BALANCE — A person whose total sales exceed his total purchases over a given period of time.

SHORT SALE — The sale of a security which the seller does not own and which he borrows for the time being in order to make delivery. When the seller ultimately purchases the security and returns the amount borrowed he is said to "cover his short position".

SPREAD — The difference between the bid price and the asked price.

STOP ORDER OR STOP-LOSS ORDER — An order to buy a stated amount of a security at the market if and when a transaction occurs at or above a stated price; or an order to sell a stated amount of a security at the market if and when a transaction occurs at or below a stated price. A stop-order should be distinguished from a "stopped sale" or "stopped stock."

STOPPED SALE OR STOPPED STOCK — A sale effected pursuant to an agreement entered into on the floor of an exchange whereby one member, usually the specialist in such stock, guarantees to purchase or sell to another a stated amount of the stock either at the price of the next sale or at a specified price when the stock sells at such price. Stopped sales are not reported on the ticker.

STRADDLE A combination of a put and a call which grants to the holder the right to require the maker within a specified time to purchase and/or sell a specified security at a stipulated price. The price stipulated in a straddle is almost invariably the market price prevailing at the time the straddle is executed.

TWO-DOLLAR BROKER A floor broker. The name is derived from the fact that the floor broker's compensation for purchasing or selling 100 shares of stock was formerly $2. Although a different rate of commission prevails at the present time, the old title still persists.

UNDERWRITER As defined by the Securities Act of 1933 the term "underwriter" means "any person who has purchased from an issuer with a view to, or sells for an issuer in connection with the distribution of any security, or participates or has a direct or indirect participation in any such undertaking, or participates or has a participation in the direct or indirect underwriting of any such undertaking; but such term shall not include a person whose interest is limited to a commission from an underwriter or dealer not in excess of the usual and customary distributors' or sellers' commission" (sec. 2 (11))

UNLISTED TRADING PRIVILEGES A security admitted to trading on an exchange upon the request of a member as distinguished from the issuer is said to be admitted to "unlisted trading privileges." Such privileges may be granted by an exchange without regard to the preference of the issuer. A security admitted to unlisted trading privileges should be distinguished from a listed security which is admitted to trading upon application of the issuer. (For a discussion of the distinctions between a listed security and one admitted to unlisted trading privileges see report of the Commission to the Congress on "Trading in Unlisted Securities Upon Exchanges", pt. I.)

WHOLESALE DISTRIBUTION The sale of securities to dealers engaged in retail distribution.

WHOLESALE SYNDICATE A group of persons formed for the purpose of selling all or part of an issue of securities to dealers engaged in retail distribution.