

# NEW YORK STOCK EXCHANGE

ELEVEN WALL STREET

NEW YORK 5, N. Y.

G. KEITH FUNGTON  
PRESIDENT

November 15, 1963

The Honorable Oren Harris  
Chairman  
Committee on Interstate and Foreign Commerce  
House of Representatives  
Room 1334, Longworth House Office Building  
Washington, D. C.

Dear Chairman Harris:

We enclose 50 copies of our response to your letter of October 16, 1963, which asked for an analysis of the adequacy of all of the rules of the Exchange and for an appraisal of the comments of the Study Group concerning the adequacy of those rules for the protection of investors. Exhibit A is an itemization of all of our rules not commented on by the Study Group or the Commission. Exhibit B is a list of all of the Study Group's recommendations affecting the New York Stock Exchange, and our staff comments on each of the recommendations.

The rules of the New York Stock Exchange are not static and over the years they have been continuously reviewed in order to meet changing needs and conditions in the marketplace. We believe the present rules of this Exchange are adequate for the protection of investors. We would otherwise, of course, have moved to change or add to them. However, we are well aware that no set of rules is perfect. Evolutionary improvements are always possible and over the years we have been grateful for constructive suggestions as to how the Exchange can better serve investors. It is in this light that the Exchange is studying the recommendations made by the Study Group. I assure you that if in the course of the Exchange's analysis of the Study Group's Report it appears

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that improvements in our rules are in order, they will be promptly considered and acted upon by our Board of Governors.

As I am sure you are aware, an in-depth analysis of the Study Group Report is a tremendous task because of its bulk, the complexity of many of the matters discussed, and the relatively short period of time that has elapsed since all sections of the report have been generally available. Accordingly, it is impossible at this time to make definitive comments on many of the matters contained in the Report that affect the New York Stock Exchange. Nor was it possible to present to our Board of Governors -- with whom all final decisions rest -- our comments which represent the view of the staff of the Exchange based upon the analysis that it has been possible to make thus far.

In addition to the special work involved in considering the SEC Report, the regular work of the Exchange obviously is going forward: As has been our practice in the past, we will continue to search out and adopt improvements in our methods, rules and regulations in all areas whether or not covered by Study Group recommendations.

Many of the recommendations could have a severe impact on the Exchange market and, accordingly, our Board of Governors at its first policy meeting after the full report was available designated five special committees of the Board to study the most important recommendations and those seeming to have the most immediacy. The five committees are: the Steering Committee, a Committee on Cost and Revenues, a Committee on Floor Trading, a Committee on Odd Lots and a Committee on Specialists. Exhibit B of the attached statement indicates those recommendations that have been assigned to a particular Committee.

The Board has already retained outside consultants to make studies in three extremely important areas: Price Waterhouse & Co. to do a cost study of the odd-lot business; Cresap, McCormick & Paget to make a study of floor trading; and Joel Dean Associates to study the methods for evaluating specialist's performance.

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I want to reiterate several points made a month ago in an informational letter to our members and allied members. Most of the Study Group's recommendations regarding the Exchange deal with the operation of the marketplace, a delicate mechanism serving the investment requirements of millions of individuals and institutions in this country and abroad. Our market is a working symbol of the free enterprise system, recognized and respected throughout the Free World. But this symbol is also a very practical business entity, capable of dramatic reactions to injudicious tampering.

It is one thing from a theoretical viewpoint to recommend changes in the mechanism -- and quite another matter to integrate such changes into day-to-day operations. Before theories can be activated, they must be thoroughly studied; their value to the public and their appropriateness within the overall economic picture must be assured. It is essential, for example, to maintain the market's liquidity and responsiveness to the national investment climate; and it is equally essential to avoid chipping away at the market's foundations by needlessly restricting the activities of any substantial group of buyers and sellers.

Thus, the Exchange must not merely study the immediate and obvious implications of each specific Study Group recommendation; we must also assess the broader and longer-range impact which each may be expected to have on the overall operation of the marketplace.

It is encouraging that Chairman Cary has called for full discussion and study of all recommendations affecting the Exchange. Several meetings have already been held and we are looking forward to future meetings in which Governors and Exchange community experts will participate. We are confident that all of these efforts offer the prospect of continuing progress toward a stronger marketplace, firmly based on the principle and practice of self-regulation and fully responsive to the needs of the investing public.

It is, of course, no surprise to the members and allied members that the Special Study Group found no evidence of "fraudu-

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lent activity" involving this Exchange. And while the report is critical of some specific details of Exchange operations, in general it does not challenge in any basic respect the Exchange's stewardship of the marketplace. Significant to the entire securities industry is the strong endorsement of self-regulation which appears conspicuously throughout the Report.

In light of this endorsement, we hope that the self-regulatory bodies themselves will first be afforded full opportunity to make any changes that appear to be necessary in the public interest. We would like to point out that the Exchange already has rules in many of the areas in which the Study Group recommends that the Commission adopt rules of its own. The Commission should act only when the self-regulators fail to make such changes, or when action is necessary in areas where the Commission has sole jurisdiction. The practical application of the concept of industry self-regulation with Government oversight requires the striking of a delicate balance in which Government should not become involved in the day-to-day self-regulatory operations. The proper role of Government is to determine the effectiveness of self-regulation by reviewing patterns and practices, leaving the daily regulatory job in the hands of the self-regulatory bodies. We believe that this was the relationship envisioned by Congress when passing the Securities Exchange Act, that the philosophy has been proved in practice over the years, and should be encouraged to continue its further development rather than to be curtailed.

Sincerely yours,

