

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC. *M. F. Cohen* *11/6*

888 SEVENTEENTH STREET N. W. WASHINGTON, D. C. 20005 *Jas. Haack*

Presented
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Common

Statement To
Securities and Exchange Commission
Regarding
Proposed Report to Congress Entitled
"Public Policy Implications of
Investment Company Growth"

11/18/66

Mr. Chairman, other members of the Commission: my name is Robert L. Cody. I am appearing before you as Chairman of the Investment Companies Committee of the National Association of Securities Dealers. With me are S. Whitney Bradley, member at large of the NASD Board of Governors and member of the Investment Companies Committee; Ray Moulden, Director of the NASD's Investment Companies Department, and James Ratzlaff, Secretary of the Investment Companies Committee. We have been assigned by Mr. Haack, NASD President, and by the Chairman of the NASD Board to examine on behalf of the Association and the Investment Companies Committee the Commission's proposed report to the Congress on its study of the public policy implications of investment company growth.

We wish to thank the Commission for the opportunity to review the report prior to its presentation to Congress and

for your courtesy in receiving us this afternoon to hear our relatively brief comments.

It would be unfair in view of the immense amount of work represented by the report to pretend that we have been able in two days to digest, test and evaluate the myriad details, both of language and statistics, assumptions, conclusions and recommendations that have been incorporated in this effort to analyze the regulatory and economic problems stemming from the substantial growth of the investment company business since enactment of the Investment Company Act of 1940, and particularly the increasingly rapid development over the past few years.

We can, however, comment upon our impressions of the report as a whole, the impact that its release is likely to have upon the financial community and the investing public and the possible consequences of adoption of the package of proposals contained in the report. We shall not attempt to comment on any of the specific proposals nor, with one exception, to suggest correction of any of the content of the report.

As you know, the Investment Companies Committee and the Board of Governors of the NASD have a long history of efforts to maintain and improve standards in the investment company business. Most if not all of these efforts have been

made in cooperation with the Commission. We expect to continue our efforts to fulfill our responsibilities in this direction.

✓ We believe that in the discussion of the NASD's concern over certain types of compensation in Chapter IV (Section C-5(b)) the report is incomplete to a material degree in failing to recognize the fact that for more than five years the NASD has had before the Commission certain specific proposals regarding reciprocal business awaiting clearance from the Commission to permit the Association to adopt them.

As to the rest of the report, we believe that its release will have a highly negative impact upon our member dealers and their representatives and will seriously impair public confidence in investment companies, in spite of the cautionary language in the introduction. The over-all thrust of the report, the manner in which much of it is written, and many of its conclusions cannot fail to produce a sensational reaction in the press upon which the investing public must rely for information regarding the report. Very frankly, some Sections of the report do not in our opinion measure up to the kind of reasoned document we would expect to emanate from the Commission.

We have given careful attention to the recommendations the Commission proposes to make to the Congress and to their probable effect on the securities business and the investing public. We believe that NASD is in a unique position to view the consequences and impact on the securities business as a whole, on retail dealers both large and small, of the regulatory scheme that would emerge should the Congress accept and enact all of the recommendations the Commission proposes in this study.

It is obvious to us that if all or even most of the major legislative recommendations of the Commission should become law this Commission must be prepared to assume responsibility for the substantial impairment of the investment company business as a convenient and effective medium of investment for millions of shareholders and potential investors of widely varying objectives and financial resources. Further, in spite of certain relatively minor proposals obviously in the public interest, the more significant of the Commission's legislative proposals, if enacted, would appear to invite further erosion of the securities business, which this Commission and our Association by law are obligated to foster and to promote.

The proposals for the drastic curtailment of economic incentive to organize, develop and manage open-end investment companies and to sell their shares cannot fail to

have not only a disrupting effect upon the investment company business and the securities business as a whole but could conceivably lead to the ultimate demise of this important investment medium.

The proposals in this report for reducing the economic incentive and reward of the dealers who sell mutual fund shares cannot be viewed in the context of this report alone. On the contrary, they must be looked upon as a part of the total fabric of actions recently taken and proposed by the Commission to alter drastically nearly every phase of the mechanism of the securities markets and to reduce the profitability of nearly every branch of the securities business.

We know that each of you has read in draft form the several chapters of this proposed report in the course of its preparation.

We urge that each of you individually now set aside two days out of your busy schedule, as we have just done, to read this report again from beginning to end. As you do so we urge that you reflect upon the total content of the report and decide whether you want this to be your report and, further, whether you are prepared to accept full responsibility for the serious and permanent consequences which it will bring about. We believe that if you undertake

such a reappraisal you will recognize the need for a number of changes in the thrust of the report and in the recommendations which it now contains.

In summary, we would not perform our assigned function should we fail to point out that the sum of these recommendations would remove so much of the incentive from this important phase of the securities business as to threaten seriously its economic survival, and this without any substantially overriding benefit to the investing public whose best interests the Commission and this Association are charged by law with protecting. The net result as we see it, therefore, could be only a very material lessening of public investment opportunity.

We do not pretend that the rapid growth of the investment company business has created no problems, regulatory and otherwise, or that all elements of this business are operating as they should, but recognition of the need for sensible correctives need not be accompanied by proposals to dismember an industry that we feel and that Congress evidently felt was worthy of Federal statutory sanction.