THE FLOOR DEPARTMENT

MEMORANDUM

June 16, 1972

Mr. Alton B. Harris, Assistant Counsel of the Securities Industry Study visited the Exchange on June 15. He spent the morning with Mr. Stephen M. Peck, a specialist, on the trading Floor. He then went to lunch with Messrs. Norman Miller and Stan West of the Research Department, Mr. James Swartz, Department of Civic and Governmental Affairs and Mr. O'Reilly and Mr. O'Donohue of the Floor Department.

At lunch, Mr. Harris explained how the hearings before the U. S. Senate Sub-Committee on Securities of the Committee on Banking, Housing and Urban Affairs would operate in July and August of this year. He said that the hearings would be divided into four areas namely (1) the decision to permit Exchange member organizations to sell insurance; (2) the basis for the determination to put certain listed stocks on NASDAQ; (3) self-regulation, particularly with respect to specialists; and (4) capital structure of firms. He said there would be four days of hearings before the Committee, one day for each subject. Prior to the hearings a report on each of the subjects will be prepared by the Staff of the Committee. That report will be sent to the parties appearing before the Committee about three weeks before their appearance. The questioning at the hearing will be based on what is in the report. Mr. Harris mentioned that there also will be two days of hearings set aside to give the Exchange or any other interested parties an opportunity to bring before the Committee whatever they desire. He said that the Committee would not really be critical or interested in the merits of any particular subject, that it would be concentrating on the development of items or events, rationale for action or inaction, and the interaction between the self-regulatory bodies and the SEC in these areas.

After lunch, the group returned to Mr. O'Reilly's office and there was a discussion of the new measures of specialist performance. Dr. William C. Freund joined the group for a time after Mr. West left. Mr. Harris was interested in what the measures were meant to do and how they differed from the previous surveillance methods used by the Department. He wanted to know if the measures would ever be used for disciplinary purposes or released to the public as we do now with respect to %TTV, percentage of transactions at one-quarter or less variations, etc. In summary, Mr. Harris was informed that the measures were still experimental and in the developmental state. He was told that if he returned a year from now the Exchange would be in a better position to give him a true evaluation of the measures and their effectiveness. He also wanted to know how often the Special Committee who recommended adoption of the measures met, what was the time table with respect to fully developing and implementing the measures and whether or not the SEC was consulted regarding the measures.

After the discussion on the new measures of performance, Mr. O'Reilly explained the systems and procedures used by the Department for surveillance of specialists. Mr. Harris asked the following: (1) how many transaction journals are looked at on the average each day; (2) how many people perform the examination; (3) how many cautionary letters to specialists are sent out each month; (4) what would happen if a specialist unit received two cautionary letters on the same subject within a six month period? When he was told it probably would be sent to the Advisory Committee, he asked how many such cases had been sent to the Advisory Committee; (5) how many situations were there where a specialist was sent two letters within a year's period; (6) how many letters dealing with continuity and depth were sent to specialists in a year; (7) how many stocks were taken away from specialists in the last five years; (8) how many cases on specialist performance were sent to the Advisory Committee during the last five years; (9) how many cases were sent to the Board of Governors during the last five years; and (10) with respect to Items 8 and 9, what was the penalty in and disposition of each case.

Mr. Harris also asked for the following material: (1) a transaction journal; (2) a transaction journal that had been the basis of a letter of caution to the specialist with the area in question marked off plus a copy of the Form 81 that was requested from the specialist; (3) a monthly market study; (4) a black book sheet; and (5) a recapitulation sheet. With respect to these items, he said the name of the stock and individuals could be blanked out. He also asked for a copy of all circulars of a substantive nature which was sent to specialists during the last five years. I told Mr. Harris we would come back with respect to his various requests and questions.

J. J. O'Donohue