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should include specific interdiction of devices ordinarily deemed inherently speculative—as, for example, the purchase of “puts,” “calls,” “straddles,” “spreads,” “strips,” “straps,” and “special options,” selling short, and trading in commodity futures.⁴¹

Like the borrowing and lending recommendations of the two preceding portions of the present section, this measure would exclude foundations from a class of financial transactions in which they ought not to be engaged. When combined with the business and self-dealing restrictions proposed elsewhere in the report, these rules would confine the unrelated financial activities of private foundations to areas which are appropriate for organizations whose assets have been committed to the advancement of the public welfare and whose concerns should be exclusively with the attainment of charitable aims.

F. BROADENING OF FOUNDATION MANAGEMENT

The Treasury Department's study of private foundations has revealed the existence of a group of interrelated problems which are at once more pervasive and more fundamental, but less concrete, less easy to identify, and less susceptible of isolation, than those with which the preceding sections of this Part have dealt. By their very nature, these problems evade precise definition and quantitative analysis. One cannot compile statistics which demonstrate their character and extent. In the main, one cannot report individual instances of their effect. For all of these attributes, however, they possess both reality and significance.

For the purposes of discussion, one may separate these problems into three general categories.

(1) Abuse potentialities of donor influence.

The ability of a donor to wield substantial influence over the management of a private foundation which he has established or endowed presents continuing opportunities for the diversion of the foundation to purposes which are not wholly charitable. General prohibition of financial intercourse between donor and foundation, as Part II-A of this Report recommends, would, it is true, foreclose the most palpable abuses which have arisen in this area. Restrictions of foundation ownership of businesses and postponement of deductions for contributions of interests in controlled property would further reduce the possibilities for diversion and conflicts of responsibility. Nonetheless, the modes of human satisfaction have almost infinite diversity; and the ways in which wealth can be employed for personal advantage are, consequently, multiple and highly varied. Many donors, too, have manifested a common and deep-seated tendency to regard foundations which they have created as their own, to be availed of for their own ends where a contemplated use does not involve obvious and direct deflection of assets from charity and where no specific statutory prohibition lies in the way. Combination of these facts makes it difficult to escape the conclusion that real danger of abuse through substantial donor influence—albeit in forms less straightforward and apparent than those which have thus far occupied the attention of the Treasury Department and the Congress—will survive the restrictions proposed by other portions of this Report.

⁴¹ The suggestions advanced in Part II-E (1) above for the restriction of foundation borrowing would prevent margin purchases of securities.