

is a product that is offered to the public, with full disclosure for sale in a highly competitive industry. As a product, a mutual fund is one of the few products which can prove its excellence statistically. For example, I can prove that the security equity fund, which portfolio we run, has the best performance record in the industry during the 3 years we have managed it. This is not true of most products offered for sale. For example, can Chevy prove its excellence over Ford?

The independent broker-dealer chooses which product he wishes to sell. The independent dealer is important because he rewards excellence by selling the best product the industry has to offer. At the other extreme, a captive sales force sells whatever its management company offers.

For example, reading the testimony of Mr. Loeffler who preceded me, page 6, he says at the bottom talking about IDS's captive sales force, he says:

However, the only products sold by IDS * * * are the shares of the IDS-managed funds.

Very simply, if the 5 percent load goes through, in order to maintain his income, the independent dealer will be forced to affiliate with one of the few surviving larger mutual funds with a captives sales force. Small funds, such as our own, will not be able to afford to distribute product. The market will be abandoned to the multibillion dollar behemoths of the industry.

Second, H.R. 9510 proposes to amend section 203(b) and 205(1) so that any investment adviser to any investment company must register with the SEC—and by so doing, it cannot charge a fee based on performance. As I told you, we run the portfolios of two registered investment companies. We also have about 10 clients whose private portfolios we run. We charge a clients' fee of 1 percent of average assets or 10 percent of total appreciation, whichever is greater. We qualify for the performance fee if we beat the market by a certain percentage.

We do not solicit accounts. We do not hold ourselves out to the public generally. Individuals or corporations who have noticed the fund's performance seek us out and ask us to manage money for them, despite the fact that our fee schedule is substantially above that charged by the funds we run.

The SEC's rationale is to "insulate investment company shareholders from arrangements that give investment managers a direct pecuniary interest in pursuing high risk investment policies."

What do you say to something which just is not true?

On the one hand my firm's name—our pride of craft—is intimately involved with the public record we show for the funds. On the other hand, individual clients are charged fees which relate directly to their performance in the market.

A reputation of honesty and excellence cannot be bought. I have built my company on these contracts and on my name. I resent any meretricious implication which would cause legislation to put me out of business. Accordingly, I urge you to scrap the relevant amendments in sections 203(b) and 205(1).

Third, I have noted in reading the accounts of these procedures that the committee is interested in receiving specific proposals from the industry.