

The principle of self-regulation has worked remarkably well, as the SEC point out. I believe the regulatory role of the NASD should be strengthened vis-a-vis the members. At the same time, however, Congress should make the NASD structurally more responsive to its membership by allowing immediate judicial review of administrative decisions before disciplinary action has been enforced. For instance, we have recently submitted to the NASD a new concept for marketing mutual funds. It will involve a cut in the load from 8.5 percent to 6.5 percent and, at the same time, strengthen the economics—and this is very important—for the independent dealer and his salesmen. This plan is nonexclusive and because of the benefits to all involved, we believe it will be copied throughout the industry.

As you know, the NASD's administrative authority to approve or disapprove this plan is absolute and final. If it does not approve the plan, its judgment cannot be tested in court unless the NASD puts us out of business for doing it any way. It is a high price to pay to prove a point.

At the present time, as only the very large funds or their closely affiliated dealers have the manpower and the money to afford the time to serve on the NASD's key committees, and specifically the investment companies committee, I believe the decisions of the investment companies committee and the NASD may reflect the interest of the very large mutual funds and not necessarily the best interests of the industry as a whole.

I suggest to you that whatever problems the industry might have would be solved very simply by natural competitive forces if administrative decisions by the NASD were immediately subject to some independent, disinterested judgment.

Thank you, Mr. Chairman and members of the subcommittee.

Mr. MOSS. Mr. Watkins?

Mr. WATKINS. No questions.

Mr. MOSS. I find your statement on page 4, item 3, most interesting, because it acquaints me with a broad new authority in the hands of the NASD that I was not previously aware of, and I think one might be highly illuminating to the SEC because we have had some discussions as to whether or not we should turn this regulatory function over to the NASD. I think it was the subject of the exchange of letters between Senator Sparkman and the then chairman or president of NASD.

Mr. ALGER. I think it is a very subtle thing.

If you will, Mr. Chairman—

Mr. MOSS. I would like to have the subtlety made a little more apparent.

Mr. ALGER. Well, we feel, I feel, that the NASD, as the SEC has pointed out, has done a very good job over the years. Practically speaking, the investment companies committee has a great deal to do with, in fact controls, the marketing structure of the mutual fund industry. It is represented only by members of large, gigantic funds and their interests.

Our suggestion is that if the investment companies committee or rulings by the NASD could be made subject to judicial review without having to go out of business—no one wants to do this to prove