

3. Little justification is given for many of the proposals in either the SEC's report on investment companies or in its technical analysis of H.R. 9510 and H.R. 9511.

THE IMPORTANCE OF SELF-REGULATION

Those who are actively engaged in the securities business recognize that their future success depends on the confidence of the public investor. If confidence is lost, so too may be their industry. Thus the industry regulates itself out of a self-interest which is consistent with the public interest.

In many instances the requirements which the Exchange imposes on our member organizations and listed companies are more strict than are required by the Securities Acts or the Securities and Exchange Commission. Other self-regulatory agencies including the other stock exchanges and the National Association of Securities Dealers, Inc. also impose regulatory requirements on their members.

As a result investors using American markets have working for them three layers of protection for their interests. First, the conviction of men in the securities industry that the confidence of investors is their most valued asset. Secondly, strong self-regulatory agencies and exchanges within the industry which can be flexible and responsive to changing conditions. Third, Federal and state governmental agencies and a system of laws designed to provide both the disclosure of information and protection of public interests. In our opinion it is in the public interest that all three layers of protection be continued and that this concept be embodied in the bills before this Committee.

LIMITATIONS ON SALES CHARGES

Abandoning the concept of self-regulation the Commission is seeking a statutory maximum on mutual fund sales charges of five percent of the net asset value of shares purchased. Further, the SEC asks that it be granted the sole authority to increase or change the maximum.

The Exchange opposes this proposal as not being in the public interest. We question the wisdom of asking Congress to turn its back on self-regulation in this area. The Commission makes no showing that the investment fund industry is, in fact, a public utility and hence must have its rates regulated by a governmental agency and nowhere in the Commission report is there evidence that it has made a detailed analysis of the economic consequences of a five percent maximum.

The Exchange strongly endorses the approach of strengthening self-regulation in this area. We recognize that a number of problems remain to be resolved if the self-regulatory approach is to be followed. We believe, however, that self-regulation is vastly preferable to the approach suggested by the SEC. The NASD would seem to be the most appropriate organization to be given this self-regulatory responsibility. The NASD regulates profits and markups in a number of other areas. This would seem to be a logical extension of that responsibility.

MANAGEMENT FEES

Proposed Section 8 of the bill would establish an entirely new standard in the law to give the SEC indirect rate making authority over management fees. The bill suggests that new concepts be introduced in our securities laws, existing law be repealed and numerous State court cases be overturned.

The Exchange feels that these proposals would work to the detriment of mutual fund shareholders by stimulating burdensome and costly litigation and making it increasingly difficult for the industry to find men of stature and independence to serve as directors. In our view the SEC proposals will not help funds to improve results for investors but may well hinder them in this effort. Further, there appears to be no basis for the implication that fund directors and shareholders are not fully competent to determine what fees and salaries are reasonable for investment advice and that this decision must be made for them by the courts.

We understand that the Investment Company Institute has indicated to the SEC its willingness to go beyond the present concept. As we understand that proposal, it contained three important points. First, the number of independent directors would be increased from 40 percent to a majority. Second, the independ-