ent directors of the fund would be required to make a specific finding, in the exercise of business judgment, that a proposed management fee contract is reasonable. Third, and finally, a fund shareholder could commence an action in a Federal court to recover, on behalf of the mutual fund, any portion of a management fee which the court found was unreasonable. In such an action, the court could upset a management fee contract upon the finding that the approval by the directors was an abuse of business judgment.

We think that this proposal minimizes any risk there may be to the public interest in this area and ought to be adopted.

CONTRACTUAL PLANS

In another proposal, the Commission urges the abolition of contractual or front-end load mutual funds. In view of the growth of these funds in recent years it is evident that the public has found them useful. The Exchange, therefore, urges that it would be preferable to regulate any areas of real or potential abuse rather than abolishing this investment media.

MUTUAL FUND HOLDING COMPANIES

Proposed Section 7 of the bill would repeal present sections of the 1940 Act which permit, within certain limits, the purchase of shares of an investment company by a registered investment company. It would prohibit in all instances the purchase by a registered investment company of shares of another investment company and would likewise prohibit the purchase by any investment company of shares of any registered investment company. It also would prohibit brokers or dealers in securities, registered investment companies or their principal underwriters from knowingly selling any share of a registered investment company to any investment company.

Here again, we would question whether the remedy suggested is not more drastic than is necessary. Section 7 goes too far in precluding ownership by investment companies of shares of other investment companies. For example, it would prevent one registered closed end investment company from purchasing any shares in another closed end fund. It also seems to us to be an unfair and unenforceable burden to require brokers and dealers to be the instrument of enforcement with respect to the sale of registered investment company shares to an investment company outside the jurisdiction of the SEC.

The Exchange urges that restrictions on broker-dealers be eliminated and that a workable framework of regulation be established to prevent any specific abuses which may be created by one fund holding shares of other funds, rather than to abolish this particular form of investment media.

AGENCY RULE-MAKING AND CONGRESSIONAL PREROGATIVES

Finally, it is our feeling that many of the individual provisions in these bills give those in the securities business legitimate cause for concern. It is our impression that many of the proposals give the SEC the broadest type of rule-making authority which, in effect, results in the delegation by Congress of its legislative functions to a Federal administration agency. It is our feeling that it is preferable to draft such provisions along the lines of Section 16 of the Securities Exchange Act of 1934 and to set our specific requirements that must be met rather than to grant vague, broad, rule-making authorization to the SEC.

CONCLUSION

The New York Stock Exchange is not, and has not been opposed to regulation of the securities industry. We spend much of our time and energy in regulating the activities of our members and their employees. We have long recognized the wisdom of Congress in enacting the Federal securities acts and the benefits to the public that have resulted therefrom. But we do believe that additional legislation should not be adopted except to meet a clearly demonstrated need and that whatever legislation is adopted should be practicable and workable.

The legislation before this Committee promises to set down the legislative guidelines which will be controlling for many years. We agree wholeheartedly with the SEC that the investment companies have been useful and desirable for investors, but we feel that the documentation—and lack of it—in the Com-