The industry, however, seems to believe that termination of 22(d) would have severe consequences. I believe that their case is entitled to a close examination. If this examination, as I would expect, fails to validate the industry's claim, the expectation of excessively harmful repercussions could be disregarded and 22(d) should then in my judgment be terminated.

The qualification introduced in the testimony thus amounts to no more than that the industry's contention be studied before action on 22(d) is taken.

Question 3. The testimony suggests, as one of two alternatives of dealing with the front-end load, that the present load be left unchanged but some compensation be made to holders who redeem at a loss. Several possibilities suggest themselves. (1) Some grace period could be allowed within which a buyer could cancel the entire transaction and get his money back. This might take care of flagrant cases of "overselling" and would protect buyers who discovered early that they had made the wrong decision. The grace period would have to be relatively short, say a month or two. Else buyers who had no reason to regret their decision in principle might nevertheless claim a refund if the market turned against them. This approach does not, however, take care of buyers who lapse or redeem later on. (2) Compensation could be made to all buyers who redeem, or only to those who redeem at a loss. The best procedure would seem to be that compensation to the buyer be limited to the excess of the front-end load over the normal sales load, allowing any loss from stock market movements to be borne by the buyer. (3) Compensation could also be made to buyers who allow their contract to lapse without redeeming. This approach would remove the temptation, inherent in (2) above, to redeem shares after a contract had lapsed, instead of keeping them in the expectation that payments would be resumed at a later date. Administratively, however, this procedure might be very difficult. It would mean that the fund would have to make restitution of part of the load to all buyers who lapsed even temporarily. When they resumed, the original charge would have to be reinstituted. This could happen several times during the life of a contract. It would establish an undesirable motivation on the part of the buyer.

A more detailed study would have to be made to decide among these alternatives. The grace period proposal gives a minimum of protection and should involve no great difficulties. If alternatives (2) and (3) turn out not feasible or not advisable, I would regard the proposal made in the testimony to reduce the front-end load as preferable to the alternative of a grace period.

Question 4. In commenting on measures that might be taken to limit speculative activity of mutual funds, I did not have specifically in mind disclosure requirements for sales. This approach seems a possibility nevertheless. However, simple disclosure of the fact of a sale probably would not suffice, since funds now publish their their portfolios quarterly anyway. Requirement to disclose the reasons for sale, on the other hand, probably could be circumvented, since sales can always be claimed to have been made in order to raise money for purchase of other stocks. It would be difficult to prove that a fund selling a block of stock had information not available to the rest of the market, and in most cases the fund probably would not have such information. To give adverse tax treatment to short term gains would resemble, in a sense, the present treatment of short term gains by insiders. While this solution is not within the legislative scope of the Committee, it would deserve consideration by the appropriate Committees if speculative activity of the funds continues to increase.

QUESTIONS BY MR. WATKINS

In the course of my verbal testimony, I promised to supply certain data in response to questions by Representative Watkins. I hope it will be agreeable to you and Mr. Watkins if I make these data a part of this letter. The question raised by Mr. Watkins was how mutual funds could operate under a 5 percent sales charge, and what parts of the industry would and would not be able to operate under such a charge.

A study was prepared in 1966 by Booz, Allen and Hamilton, Inc., for the National Association of Securities Dealers, Inc., entitled "Over the Counter