14. IS THE FRONT-END LOAD JUSTIFIED BECAUSE MOST OF THOSE WHO HAVE INVESTED IN CONTRACTUAL PLANS HAVE MADE OR COULD REALIZE A PROFIT DESPITE THE FRONT-END LOAD DEDUCTIONS?

Despite the generally rising levels of the stock markets during the past 15 or 20 years, 10 and 12 years after purchasing contractual plans, 25 percent and 33 percent of the investors in two of the four contractual plans which have submitted data had lost money.

Nor have the plan sponsors denied that most of those who lost money did so because of the front-end load deductions. In view of the generally rising market levels, very few would have had a loss had the usual sales load deduction been applicable rather than the front-end load.

Even more important, perhaps, is the fact the the risks created by this form of selling are borne solely by the planholders. The sale of a security does not create a profit-sharing arrangement between the broker-dealer and his customer. Yet the sellers take one-half of the first year's payments and only half (or less) of the investor's payments for that period go to work for him.

15. WHAT REMEDIES DO THE PLAN SPONSORS PROPOSE?

The plan sponsors have admitted that this area deserves attention and that these problems were "actually called to our attention primarily by the SEC."[1] The remedies they offer are, however, woefully inadequate.

One such suggestion is to extend the 30-day refund privilege, presently offered by plan sponsors that account for 70 percent of the contractual plan business, to all contractual plans. However, experience shows that this privilege does not reduce the high redemption and lapse rates on contractual plans.

The Special Study's survey of contractual plans sold in February 1959 found that 3½ years later the combined figure (36.6%) for redemptions and lapses on contractual plans sold with the 30-day refund privilege was higher than the comparable figure (32.9%) for contractual plans sold without that privilege.[2]

Another suggestion made by the plan sponsors is that they be given a fair chance to demonstrate that they can improve planholder persistency. Over four years have elapsed since these problems were discussed in the Report of the Special Study of Securities Markets. Yet we have been told that *one* sponsor has initiated a series of follow-up letters to customers who cease making payments. The Commission does not know the pertinent facts of that experiment. We do know that the Special Study found that a substantial portion of reactivated accounts subsequently became inactive once again.

For four years the Commission has eagerly awaited evidence of self-regulatory procedures that have substantially improved the front-end load situation. We are still waiting.

16. WHY IS DISCLOSURE A PARTICULARLY INADEQUATE PROTECTION FOR THE CONTRACTUAL PLAN INVESTOR?

Some members of this Committee have questioned why, given the present regulatory limits on front-end loads, disclosure is not adequate to protect investors. In a similar vein, some have wondered why disclosure of the front-end load coupled with an offer of the 30-day refund privilege is not adequate to protect investors against "overpersuasiveness" by salesmen.

These are reasonable questions. But the hard fact is that the front-end load deduction, in effect, commits a purchaser to invest in shares of a particular mutual fund usually over ten years on the basis of information supplied to him at the time he begins the plan. At the time he is sold the plan, and, indeed, for years thereafter, he may be satisfied that he will be able and willing to complete his payments.

But how can he know what his financial future will be? Adverse personal circumstances long after the sale may render him financially unable to continue his purchases—and I do not suggest, as the plan sponsors have, that those circumstances are limited to his being unemployed or suffering an illness which results in his being unable to continue in his employment. He may have an unexpected

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[1] Testimony of Association of Mutual Fund Plan Sponsors, Inc., R. 441.
[2] See *Report of Special Study of Securities Markets*, 88th Cong., 1st Sess., House Doc. No. 95, Pt. 4, p. 263, Table XI–11.