

Article 48A, Section 224, Annotated Code of Maryland; Section 4(a) (8), Chapter 176D, Annotated Laws of Massachusetts; Michigan Statutes Annotated, Section 24.12024; Minnesota Statutes Annotated 72.13; Mississippi Statutes § 5681; 19 Missouri Statute Annotated, § 375.936(8) (Supplement 1966); Montana Statute § 40-3510; Nebraska Statute § 44-361; Nevada Statute, Title 57, § 686.160; New Hampshire Revised Statute Annotated, § 417:4(8); New Jersey Statute Annotated, § 17:29B-4(8) (Supplement 1966); New Mexico Statute § 58-9-12(8); New York Insurance Law § 209; Section 58-54.4(8), General Statutes of North Carolina; Section 26-30-04(8), Revised Code of North Dakota; Section 3901.21(G), Ohio Revised Statutes, Annotated; Oklahoma Statutes Annotated, Title 36, Section 1204(8); Oregon Revised Statutes, Section 739.540; 40 Purdon's Pennsylvania Statutes Annotated, Section 275; Section 27-29-4(8), General Laws of Rhode Island; Section 37-1213(3), General Statutes of South Carolina; Section 31-13-16, South Dakota Code; Section 56-1204(8), Tennessee Revised Statutes; Section 4(8), Article 21.21, Vernon's Civil Statutes Annotated; Section 31-27-14, Utah Code Annotated; Section 4724(8), Title 8, Vermont Statutes Annotated; Code of Virginia, Section 38.1-52(8)(a); Revised Code of Washington 48.30.140; Section 33-11-9, Michie's West Virginia Code; Section 207.04(1)(h), Wisconsin Statutes; Section 26-158(8)(a), Wyoming Statutes.

STATEMENT OF NORMAN ABRAHAM, PRESIDENT, POOLED FUNDS, INC.

Mr. Chairman and members of the committee, my name is Norman Abraham. I am the founder and President of Pooled Funds, Inc., one of the two existing registered investment companies which has an investment policy contemplating investment in the shares of other mutual funds. Mr. Milton Mound, President of First Multifund of America, Inc., the other such fund, has already appeared before you. Each of these funds would be in effect abolished by the proposed changes to Section 12(d) of the Investment Company Act of 1940.

On pages 311 through 324 of its Report, the SEC proposed legislation which would "prevent the creation and operation of fund holding companies". By giving funds of this type that name, the SEC was obviously attempting to equate them to the public utility holding companies whose operations were, for good and sufficient reasons, severely controlled and regulated by the Public Utility Holding Company Act of 1935. The name so given by the SEC is, of course, completely misleading, since a public utility holding company necessarily operates by virtue of control of subsidiaries, whereas a fund of this type is already limited by law to holding not more than 3% of the outstanding stock of other investment companies, or 5% in the case of certain "specialty" companies.

I will attempt to establish that not one of the dangers cited by the SEC in its Report is actually applicable to either fund of this type presently registered and that legislation can be passed which would obviate any such dangers in future funds of this type without abolishing them.

The first danger cited by the SEC is that funds of this type will control portfolio mutual funds. The Report admits that such control is very difficult in the case of domestic investment companies in view of the 3% and 5% limitations. However, it is indicated that affiliated funds might be created each of which could invest up to such limits. Pooled Funds, Inc., has undertaken to the SEC that no such affiliated funds will be created, and is in accord with the suggested compromise which has been presented to the SEC which would extend the 3% limit to all affiliates. We also support the provisions of the proposed compromise which would prohibit us from voting shares of portfolio funds except in the same proportion as all other shareholders so vote, and from redeeming more than 1% of an underlying fund's outstanding shares during any period of less than thirty days. These provisions of the proposed compromise completely solve any problem which there might have been in relation to control of portfolio funds or sizable redemptions of underlying funds in the case of adverse market conditions. In our case, we also expect to be able to minimize the problem, without any legislation, by switching, without sales load, portfolio funds held by us to other more conservative funds in the same group in the event of adverse market conditions.

The next danger cited by the SEC is that there are two layers of advisory fees. Pooled Funds, Inc. meets this problem by reducing its advisory fee by the advisory fees of its portfolio funds. First Multifund of America, Inc. meets the