

become more expensive. At the same time, § 22(d) of the 1940 Act says all dealers must sell shares of the mutual fund at the same price. The result is that the facts of life in the industry deprive the customer of interbrand competition which would reduce the price and the law prohibits intra-brand competition, insofar as the price is concerned. Under these circumstances, only a revision in the law can protect mutual fund purchasers from ever-increasing sales loads. The operations of the free market are curtailed in the sale of this particular product. The alternatives, as I see it, are either to reduce by law the sales load by placing a flexible limitation thereon, or by repeal of § 22(d) of the 1940 Act. The latter would, as I understand it, be especially upsetting to the equilibrium in the industry, and the industry does not favor repeal. Further, the repeal of § 22(d) would have no effect on those funds which are sold by internal dealer organizations, such as the funds managed by Investors Diversified Services. The other alternative is some power of legal limitation on the sales load, and I am inclined to accept the Commission's proposal embodied in § 21 of the bill amending § 22 of the 1940 Act as the best proposal I have heard yet.

Other means for reducing the cost of mutual funds shares should also be sought. The S.E.C.'s Rule 22d-1 prohibits a reduced sales load for persons acting as a group to gain advantage of a discount available to a large purchaser. This group purchase is resorted to in other commercial areas and it should be available here. Severe advertising restrictions have prevented the public from being adequately informed of no-load funds and may have caused higher sales loads made necessary by increased solicitation expenses which might be reduced by appropriate advertising format.

Finally, I would address myself to the proposal to abolish contractual or front-end load plans. Earlier in my statement I suggested that the bill was a modest proposal and yet I favor a provision which is not so modest. In my opinion, there can be no temporizing with front-end load plans. All of the theoretical justifications which have been expounded and all of the homage paid to the virtue and efficacy of full disclosure, do not detract from the hard experience that many contractual plan owners have suffered, and which others will continue to suffer from the effects of this form of selling unless it is abolished. This is by virtue of the nature of the contractual plan and its potential customers, and by the nature of the persons who are attracted to the sale of contractual plans. What we have is the least sophisticated investors being approached by the least qualified salesmen. The result of this unfortunate encounter is all too often financial distress. The front-end load device is nothing more than a subsidy to the sales organization of the industry paid by those persons least able to afford it. Unconscionable methods of selling goods to customers increasingly have shocked the conscience of the public and the courts. While the front-end load device is not conceived in fraud, it unfortunately too often affects people in a similar fashion. Congress' response to the experience with the device which is detailed in the S.E.C.'s Mutual Fund Report would most appropriately be the complete curtailment of the device.

J. H. HILSMAN & Co., INC.,  
Atlanta, Ga., May 19, 1967.

Hon. ROBERT G. STEPHENS, Jr.,  
The House of Representatives,  
Washington, D.C.

DEAR BOB: The Securities & Exchange Commission has introduced certain revisions to the Investment Company Act of 1940 and the Investment Advisors Act of 1940 in S1659.

Effect of these amendments is to decrease the dealer's/salesman's compensation by reducing the commission that will be paid such dealer or salesman by the mutual fund, and to prohibit the mutual funds from further compensating the dealer/salesman through reciprocal business—that is, the fund in its purchase of securities on an exchange would be prohibited from directing part of the commission to those dealers or salesmen who have participated in the distribution of such mutual fund shares.

Proposed amendments, to me, are abhorrent and have been introduced by the SEC without any consideration of the economic impact on the security dealers