

case to avoid the basic unfairness to shareholders. Therefore, the only fair approach from an investor's standpoint is immediate disclosure as is required in S. 510. Otherwise, the public's receipt of important information would be delayed to its detriment and legitimate market offers would be unduly impeded. And both results would be in direct conflict with the stated objectives of the bill.

Trading is normally halted in a stock where there are rumors linked to a tender offer. If the 5-day provision in the House bill became the law, the exchange might be forced to halt trading in the stock for the period during which the SEC was conducting its confidential review of the information statement.

The exchange would be in the anomalous position of having to halt trading due to market disruptions occasioned in large part by the operation of a law designed to provide full disclosure to investors. Thus a law and the enforcing agency could operate contrary to the best interests of shareholders.

The prefiling proposal might also provide an opportunity for market manipulations. An information statement might be filed solely to provide the basis for rumors of an impending offer for a company, without any intention of making the offer. The price manipulation could then take place, and it would be difficult, if not impossible, to prove that such manipulation was intended.

For these reasons, the exchange endorses section 2 of S. 510, which provides that an information statement containing the provisions now itemized in both bills be filed with the SEC at the time a tender offer is publicly announced.

Further, S. 510 permits a shareholder to withdraw any shares he has tendered within 7 days after commencement of an offer. Thus, the bill gives a shareholder 7 days in which to become familiar with the information in the statement, or to be informed of any SEC action which might convince him to withdraw his shares.

I would like to speak to that provision for a moment, if I may, Mr. Chairman. That provision of the bill, as we understand it, provides that if I tender my shares in response to an offer, and then some development occurs, or I have a change of heart, or some greater disclosure is made, I may still withdraw those shares during the 7-day period.

In other words, I am not committed during that period of time.

We think this is an important safety valve that is in both bills. And it is particularly important if you adopt the S. 510 approach, and have immediate disclosure, because it still gives shareholders tendering their shares 7 days to decide whether they want to make this an irrevocable act on their part.

It also gives the SEC time to examine these statements and, if additional disclosure is required, they can have this disseminated and shareholders can act in response to that.

Mr. STUCKEY. May I ask a question, Mr. Chairman?

Mr. MOSS. You certainly may, Mr. Stuckey.

Mr. STUCKEY. Let us say that Company A makes a tender offer to Company B, at \$10 above the market price, and they can put their stock up and take it out within the 7 days, right?

Mr. CALVIN. Yes.