

The original documents are located in Box 60, folder “Securities and Exchange Commission (1)” of the Philip Buchen Files at the Gerald R. Ford Presidential Library.

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Gerald R. Ford donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

File 1421
October 1, 1974
No Action
PA
SEC
Regulatory

The Honorable Robert P. Griffin
United States Senate
Washington, D. C. 20510

Dear Bob:

Some time ago you sent me a note, enclosing a memorandum to you from Phil Van Dam about Dave Boland of Grand Rapids on the S.E.C. and Province of Quebec bonds.

I am sorry to be so late in getting back to you, but these have been crowded times for me, as you know.

This same matter was over six months ago called to my attention by Dave, so I might intercede with then Vice President Ford, but I thought then that it would be inappropriate to do so.

However, I have asked another attorney on our staff to review the material, so as to consider anew what ought to be done, if anything.

Warmest regards.

Sincerely yours,

Philip H. Buchen
Counsel to the President



MEMORANDUM

TO: PHIL BUCHEN
FROM: BOB GRIFFIN
DATE: AUGUST 27, 1974

Enclosed is a memo from Phil Van Dam, a lawyer who runs my Detroit office. His memo concerning J. David Boland of Grand Rapids is self-explanatory.

I am certain that someone on President Ford's staff will already be familiar with the background of this.

Because of the possibility that the case could surface in the Jack Anderson column, you might want to take a good look at it.

RPG:bb
Enclosure



19 August 1974

TO: SENATOR ROBERT P. GRIFFIN

FROM: PHILIP VAN DAM ^{QJ0}

RE: Mr. J. David Boland
1331 Lake Drive, S.E.
Grand Rapids, MI 49506

Province of Quebec Bonds and Quebec Hydroelectric
Commission Bonds



I have once in the past attempted to discuss the above matter with you. Your preoccupation with other matters precluded a full discussion. However, I feel that the problem, since it involves President Ford, should be reviewed.

Mr. Boland is a Grand Rapids Construction Contractor who, a number of years ago, purchased approximately \$250,000 worth of bonds issued by the government of Quebec. The bonds were backed by forest reserves located in Quebec and stumpage fees therefrom.

For some reason, not entirely clear to me even now, Boland lost his shirt on the deal. Since then he has conducted a "personal" investigation into the matter. He had quizzed Canadian officials, American stockbrokers, the officials of the S.E.C. and has approached your office, Senator Hart's office and then-Congressman Ford's office.

Without going into great detail, his basic contention is that the Government of Quebec has perpetrated a fraud in the floating of the bonds in that the forest reserves and stumpage fees allegedly backing both bond issues do not exist to the degree represented.

When he became convinced a fraud existed, he sued the Province in Canadian Courts and the matter was resolved against him

Boland has given up his fight to get his money back. But in preparing his law suit and attempting to get answers from the S.E.C. he became convinced that the S.E.C. had been derilic in its responsibilities regarding the issuance of the bonds.

He received contradictory information from the S.E.C. regarding its role in the bond issuance. He has been told at various times by the S.E.C. that it "certifies" foreign government bonds; that it only checks prospectus of foreign government bonds; that it has no role at all in the issuance of such bonds.

In one instance his persistent questioning caused the S.E.C. to order Quebec to change a bond prospectus. Subsequently, he has been told by the S.E.C. that it had no authority to do what it did.

Everytime Quebec releases a bond issue, and there have been many, Boland questions the activity of the S.E.C. relative to the particular issue. It seems that the value, geographic size and estimated number of actual trees standing in the timber reserve area fluctuate substantially from bond issue to bond issue.

At one time when Boland went to the S.E.C. in Washington he was told his entire file had been lost -- it was subsequently found.

Eventually, Boland went to Congressman Ford's office for help with the S.E.C. Ford's office did some preliminary investigation and decided, shortly before Ford became Vice-President, to draft a letter for Ford's signature raising some hard questions (copy attached).



When Mr. Ford became Vice-President he decided not to send the letter.

Boland has also contacted Jack Anderson regarding this matter. I am advised by Boland that Anderson is very interested in the situation and is investigating it.

Boland is convinced that Anderson is interested in the problem from point of view of exposing a scandall in the S.E.C.

However, I am concerned that Anderson, if he is looking at it, is interested in the situation from the point of view of Ford having dropped the matter. Boland tells me that he (Boland) told Anderson that Ford had declined to send the attached letter.

I am also advised and have been given copies of a French language newspaper clipping by Boland that state that the various bond issues have raised questions in Quebec.

The newspaper story further states that Jack Anderson is looking into the matter and that the question of validity of the bond issue is before the Provincial Parliament.

Your office made a routine inquiry into this matter a couple of years ago. At that point the S.E.C. advised that Mr. Boland's allegations were unfounded.

In April of 1974 Boland sent a telegram to the S.E.C. complaining of yet another provincial bond issue and forwarded a copy to the Detroit office asking us to help him get his telegram answered.

I sent a copy of the telegram to the S.E.C. along with a brief



ote asking the S.E.C. to answer the telegram and that hopefully their answer would be dispositive of the matter.

The office was advised by Ralph Hocker, Associate Director of the S.E.C. that the prospectus in question and representations therein were accurate.

Mr. Boland would like your office to do more. Specifically, he would like you to send an up dated version of the Ford letter to the S.E.C.

Gordon Van der til, formerly of Ford's office, "feels" there is something suspicious going on and tells me that Mr. Ford felt that way also.

I personally don't feel there is any need to do anything more. In as much as Boland helped draft the Ford letter I suggested to him that he write it. Boland is giving that some thought.

My primary concern is that Jack Anderson may make something of this matter whether or not there is anything there.

I suggest that this matter be brought to the attention of the appropriate person on Ford's staff.

PVD:jh



TO: (20000, 10. 1. 1971)
 TO: Securities & Exchange Commission

November 5, 1973

Mr. Ray Carratt, Chairman
 Securities and Exchange Commission
 500 North Capitol Street
 Washington, D.C. 20446

Dear Mr. Carratt:

I have been contacted by Mr. J. David Boland, a constituent, regarding the sale of Quebec Provincial bonds and Quebec Hydroelectric Bonds in the United States. According to Mr. Boland, the Quebec Bonds have used forest reserves, and stampage fees to be derived therefrom, as Provincial backing for the bond issues.

Information supplied by Mr. Boland indicates that the following reserves for forestry and logging were carried on the annual prospectuses listed, at the amounts specified:

Forestry-Logging Reserves in Millions of Dollars
 (by year as listed on respective prospectuses)

<u>Prospectus</u>	<u>Forest Reserve Year</u>							
	<u>1964</u>	<u>1965</u>	<u>1966</u>	<u>1967</u>	<u>1968</u>	<u>1969</u>	<u>1970</u>	<u>1971</u>
November 1963	248.1	253.8	274.3	312.3				
July 15, 1969	243.9	254.4	265.4	293.4	261.3			
March 15, 1970		249.4	262.7	312.4	273.8	304.8		
Jan 1, 1971		249.4	262.7	312.4	296.4	326.7		
May 26, 1971			293.7	321.4	312.3	340.9	370.0	
October 1971			293.7	321.4	312.3	340.9	370.0	
January 1972					308.4	330.6	370.0	
January 1973							330.1	320.0
April 1973								325.0



November 5, 1973

S.E.C. Chairman

Page 2.

Certain variances for the same forest reserves year(s) should be noted:

Forest reserve year 1964 - a \$4,200,000 variance from November 1968 to July 1969
Forest reserve year 1965 - a \$5,000,000 variance on the prospectuses from 1968 through 1971
Forest reserve year 1966 - a \$28,300,000 variance in reserves on the prospectuses between 1968 and 1971
Forest reserve year 1967 - a \$28,000,000 variance in reserves on the prospectuses between 1968 and 1971
Forest reserve year 1968 - a \$51,000,000 variance in reserves on the prospectuses between 1969 and 1971
Forest reserve year 1969 - a \$36,100,000 variance in reserves on the prospectuses between 1970 and 1971
Forest reserve year 1970 - a \$39,900,000 variance in reserves on the prospectuses between 1971 and 1973
Forest reserve year 1971 - A \$5,000,000 variance in reserves on the prospectuses between January 1973 and April 1973

The total variances for the years noted represents a \$197,500,000 difference in value of forest reserves as listed on the prospectuses.

Mr. Doland points out an additional discrepancy and matter of great concern. The May 26, 1971 "Province of Quebec" Bond Prospectus showed provincial timber reserves for 1970 at \$370,000,000. This was based on, according to the prospectus, 80 billion cubic feet of timber reserves on 307,000 square miles of forest land.

After Mr. Doland's calling this matter to the attention of the S.E.C., the government of Quebec deleted the timber reserve figures.

On October 1, 1971, the Quebec Hydroelectric Commission issued a bond prospectus pledging provincial forest reserves in the amount of 110 billion cubic feet of timber on 249,000 square miles of forest land.

Although the May and October 1971 bond issues were for two different governmental entities, they used the same forest land of the province for backing. Survey experts indicate that there is no possible way to re-survey the vast tracts of land mentioned in the three month period between the two issues.

It must be noted that the October prospectus (while claiming 58,000 fewer square miles of forest land than the May offering) shows 30 billion cubic feet of timber more than in May.

In summary, there ~~seems~~ to be some serious questions which must be answered. Two major concerns should be the \$197,500,000 variance in yearly dollar values

November 5, 1973

S.E.C. Chairman

page 3.



and the variance in the timber reserve/square mile figures.

Additionally, other questions came to mind in light of the foregoing.

1/ Why did the Securities and Exchange Commission order the Province of Quebec to delete the 80 billion cubic feet of timber reserves figure from the May 1971 prospectus, demand a provincial validation of reserves, and only four months later approve the Quebec Hydroelectric Commission bond which showed reserves of 30 billion cubic feet more than the May issue with 58,000 fewer square miles of reserve land?

2/ How could the S.E.C. approve the Province of Quebec May 19, 1971 issue, after forcing deletion of the forest reserve figures, without requiring deletion from the revised prospectus of the dollar figure attributed to forest reserves?

3/ If the S.E.C. felt that the May 1971 figure of 80 billion cubic feet of forest reserves was erroneous (and therefore caused its deletion) does this action not imply that the prospectuses for the preceding ten years might also have been wrong?

4/ Disregarding the \$197,500,000 gross variance or discrepancy in stated yearly values of the forest reserves, and keeping in mind that some of the annual figures stated may have been estimates, why is there such a difference in revenue values over the referenced time periods? Stumpage fees vary in Quebec for various species of tree, but how could estimates be as high as \$51,000,000 different (forestry reserve year 1968 - difference between July 15, 1969 prospectus and October 1, 1971 prospectus)?

5/ Mr. Boland wonders why his questions to Mr. Hocker and Mr. Charles Whitman (both S.E.C. employees) received opposite answers. Mr. Hocker indicated to Mr. Boland that foreign government bonds are not certified by the S.E.C.; Mr. Whitman insisted in a conversation with Mr. Boland on April 2, 1973, that the timber reserves and income statements had been certified by the S.E.C.

6/ If the Securities and Exchange Commission does certify, why did they refuse to certify 80 billion cubic feet of timber reserves in May 1971 and only four months later certify 110 billion cubic feet on 58,000 fewer square miles?

7/ Assuming that the Securities and Exchange Commission validation of reserves is a requisite for bond issue certification, how could the four month time period (between May 1971 and October 1971) have been sufficient to conduct even an aerial survey of the 249,000 square miles (October figures) of forest land listed as reserves?

November 5, 1973

S.E.C. Chairman

page 4.

My information is that a ground survey of only 465 square miles takes about six to nine months. I am told that it is physically and mechanically impossible to survey, even by air, a tract of 249,000 square miles in a three to four month period of time.

3/ If by some super-herculean effort the 249,000 square miles were accurately surveyed in 1971 for the October bond issue, and if the S.E.C. did certify the October 1971 issue, the prospectuses following October 1971 should have reflected accurate forest reserve data.

To survey 465 square miles, one must expend \$50,000 or more, I am told. Using these estimates, and taking into account only the square miles of timber reserve land listed on the October 1971 prospectus, the cost of survey would be approximately \$26,800,000 ($249,000 \div 465 \times \$50,000$). To the best of my knowledge, neither this figure, nor any approximating it, has ever been reflected in any subsequent Quebec bond prospectuses as an expense to the Lands and Forests Department of the provincial government. WHY?

9/ An accurate forest reserve survey of Quebec should also list, for purposes of ascertaining potential revenue to retire bonded indebtedness, the various species of timber. Quebec receives revenue from stump surveys when provincial holdings are cut. It is my understanding that stumpage fees paid by logging concerns (the source of Quebec revenue in this instance) are based on different rates for different species. I do not believe that any of the Quebec prospectuses have ever listed forest reserves by species, even though specie does very apparently have an effect on potential revenue to be realized from the payment by logging companies of stumpage fees.

10/ Again assuming an accurate October 1971 survey (I would suppose the S.E.C. would expect no less in view of their demand for deletion of forest reserve figures from the May 1971 prospectus) it would be of great interest to know who certified and attested to the document's accuracy.

Lacking such certification of the forest reserve survey, it would be even more interesting to learn why the S.E.C. approved the October 1971 Quebec Hydroelectric Bond issue, and subsequent Province of Quebec bond issues, for sale in the United States.

As you may have discovered by this time, Mr. Garratt, my interest in this entire matter is of the highest priority. My assistants and I have worked for many hours in the past in attempting to help Mr. Boland recoup a financial loss suffered by him in 1961 through allegedly unscrupulous methods used by Quebec speculators. This matter was adjudicated (not in Mr. Boland's favor) by the Provincial Courts in 1967.

The purpose of this letter is not to seek to assist Mr. Boland personally, nor



November 5, 1973

S.E.C. Chairman

page 5.

any persons having a financial interest with him. Rather, it is a broader purpose which causes me to write you regarding the foregoing questions.

It is a great concern to me that this matter be investigated to the fullest extent of the law and with all resources at your command to insure that any future Quebec bond issues are thoroughly and completely scrutinized in all respects before being certified by your commission for sale in the United States.

I would appreciate your keeping me informed periodically as to how your investigation proceeds.

Sincerely,



Regulatory
SEC

Dear Baxter:

You were thoughtful to write, and I appreciate your kind expression of delight and confidence in my appointment.

I will certainly keep your recommendation of Dr. Gordon Guyer in mind; he does indeed have an excellent background.

Bunny will be pleased to learn of your letter. Thank you for your good wishes.

Most sincerely yours,

Phillip W. Buchen
Counsel to the President

Mr. A. Baxter C. Woodman
P. O. Box 6404 - Station C
Grand Rapids, Michigan 49506

PWB:JF;em



October 7, 1974

Mr. Phil Buchen
White House
Washington , D.C.

First I wish to compliment you on your distinguished position in the service of our country and the President of the United States. Little did you think some years back you would have such great responsibilities. You have my most sincere best wishes and confidence.

Second I hope you will pardon my "hunt and peck" with two fingers. I sold out our business as of November 1, 1971. Have been spending our winters in Green Valley , Arizona which is about 25 miles South of Tucson. Some time in the near future hope to make it our regular residence. Have been keeping very busy and wonder how I ever had time to run our business.

Changes some times take place. I am not being critical of Secretary of Agriculture Butz, but if he should ever leave, I would like to have the administration consider Dr. Gordon Guyer of Michigan State University. He is former head of the Entomology Dept. and is now Director of the Extension Service, which is quite a management job and involves many people. As head of Entomology he had to set up many programs, which brought him in contact with all fields of agriculture from beekeeper, cattlemen, fruit growers, to Christmas tree growers. There is very little in agriculture that does not have use for Entomology.

Dr. Guyer is one of the finest speakers I have ever heard and can think on his feet with out notes. He is a very practical man with extra good judgement, can make decisions, and can be hard when necessary. Everyone likes him and he has all kinds of friends from little men to big men.

He has one great knack that few people have. That is the ability to converse on the level of any group or person he is talking with, making them feel at ease and bringing the best out of them, whether it be the President of a University or just plain "Joe". I might add that his appearance might be like Melvin Laird, except taller and thinner. I would guess his age to be about 55.

Once more I wish to make sure you understand I am not advocating any change, but if the situation should come about, I feel that I may be doing a service by suggesting Dr. Gordon Guyer.

Give Bunty my regards. A lot of "water has gone over the dam" since I first knew her.

BW

Sincerely
Baxter Woodman



A handwritten signature in cursive script that reads "Baxter Woodman".

THE WHITE HOUSE

WASHINGTON

October 14, 1974

MEETING WITH RAY GARRETT, JR.

Monday, October 14, 1974

12:15 p.m. (15 minutes)

The Oval Office

From: Dean Burch

DB

PURPOSE

To receive a brief rundown of the responsibilities and principal concerns of the Securities and Exchange Commission, from the Chairman of that Commission.

BACKGROUND, PARTICIPANTS & PRESS PLAN

- A. Background: This is one of a series of meetings with the chairmen of the independent regulatory commissions, to acquaint you with the substance of their work -- and them with you.
- B. Participants: Chairman Ray Garrett, Jr.
- C. Press Plan: White House photographer. Meeting may be announced.

TALKING POINTS (a Memorandum prepared by Chairman Garrett is attached) (Tab A)

NOTE: Mr. Garrett was appointed to head the SEC in August 1973. He is a distinguished securities attorney from Chicago. He followed Brad Cook who resigned under pressure during the Mitchell-Stans trial. One of Chairman Garrett's colleagues is Commissioner Phil Loomis who was a classmate of yours at the Yale Law School.

(1) At the Chairman's discretion, the White House senior staff is always available for consultation: Don Rumsfeld and Phil Buchen on matters of substance, Bill Walker with regard to personnel.

continued



(2) We will be receptive to the Chairman's recommendations as to Commission appointments -- e.g., the possible reappointment of Commissioner Pollack in June 1975 -- to make sure that the necessary expertise is represented.

(3) Seek the Chairman's views on the prospects for passage of H.R. 5050 (which may get through the House in the post-Election session). This bill embodies the revolutionary new requirement for "negotiated rates" on sale of securities. Bitterly opposed by the securities industry.



MEMORANDUM

October 14, 1974

TO: The Honorable Dean Burch,
Counsellor to the President

FROM: Ray Garrett, Jr., Chairman
Securities and Exchange Commission

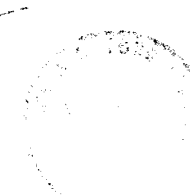
RE: Possible Topics for Discussion at Conference with
the President at 12:15 p.m., October 14, 1974

Pursuant to the request of your staff, I have set forth three areas that the President may wish to discuss at our conference.

Budget, Appointments, etc. The Securities and Exchange Commission has no current problems in this area that need be of concern to the President. The next Commissioner's term of office to expire -- we have staggered five-year terms -- is that of Irving M. Pollack, Democrat, on June 5, 1975. I am very eager to see Mr. Pollack reappointed, but that does not require immediate attention.

Legislation. After the election, and before Christmas, we expect the Congress to approve comprehensive legislation affecting the securities markets and the Securities and Exchange Commission's authority and responsibility. This is the most comprehensive piece of legislation relating to securities market regulation since the creation of the Securities and Exchange Commission in 1934. The Secretary of the Treasury and the President's Congressional Liaison Staff, as well as the Securities and Exchange Commission, successfully urged favorable action by Congressman Staggers' Committee on Interstate and Foreign Commerce on H.R. 5050, the House counterpart to several bills already adopted by the Senate. Assuming no surprise in what comes out of conference, we expect to recommend that the President sign this legislation.

Other related legislation has been submitted, but we do not expect any action on them by this Congress.



Securities Markets. It is well known that our markets for stocks and bonds have been in a prolonged, declining trend. The declining trend appears to be part of a world-wide phenomenon, generally thought to be closely related to inflation. One result has been great difficulty for the securities industry -- the broker-dealer and investment banking firms -- to raise capital from the public for corporate expansion.

This subject was aired at the Pre-Summit Conference on Banking and Finance. Last week we saw an upsurge in stock prices and trading volume on the New York Stock Exchange, but it is impossible to tell whether this indicates a long-range favorable trend.

It is not so well recognized that the securities industry has been suffering severely. Attached, for your information, is a copy of one of our two submissions to the Pre-Summit Conference on Banking and Finance.

Aside from certain tax proposals to strengthen securities firms in the future, the foreseeable problem likely to concern the President in the coming year is the relationship of commercial banks and bank holding companies to the securities industry. Some, though apparently not all, of the major bank holding company systems are pressing for the legal right to become more directly engaged in the securities business through permissive rules which they seek to have adopted by the Board of Governors of the Federal Reserve System or through relaxing amendments to the Glass-Steagall Act.

The problem is not only what is good for banks. Direct bank competition could be so devastating to existing securities firms that the problem is also whether we wish to preserve an independent securities industry, meaning one not dominated by banks and bank holding companies. Without such an independent securities industry, the freedom of access of companies to the public capital market might be curtailed.

Attachment



OFFICE OF
THE CHAIRMAN

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

STATEMENT OF CHAIRMAN RAY GARRETT, JR. REGARDING "CAPITAL MARKETS AND CAPITAL FORMATION"

Ensuring the availability of adequate long term capital over the next decade is clearly one of the most necessary requirements for this country's future economic growth. However, in addition to measures designed to make capital available for investment and to make investment attractive, we must be certain that the mechanism for raising equity and long-term debt is not destroyed by the disappearance of a high capacity, diversified, securities industry.

The securities industry is in an alarming downward trend. New York Stock Exchange member firms, which account for approximately 75 percent of the revenues of the industry, lost \$66 million before tax in 1973 and have reported a \$49 million loss for this first half of 1974. The profit problem is widespread: in eleven of the last twenty-four months, 50 percent or more of the New York Stock Exchange firms have reported losses. And between 1971 and 1973 the number of New York Stock Exchange carrying public customer accounts declined 16 percent. Further, it does not appear that the industry is simply suffering through the low point in this profitability cycle, offsetting the high point in the late 1960's. Our preliminary data indicate that the return on equity in the industry currently is well below that experienced at the bottom of the previous cycle and about one-tenth of the median rate of the past seven years.

An upward trend in prices and volume will benefit the securities industry, but there are other adverse trends that need examination. I recommend that interested government agencies conduct a coordinated review of the respective role of, and government policies toward, our many different financial institutions considering both existing statutes and future requirements with respect to the process of capital formation for American industry. As one example, securities industry has expressed deep concern that the aggressive expansion of banks and bank holding companies into new services in recent years while the securities industry has been declining, has created an unequal competitor for the securities industry, both because of the size of the banks and because they appear to be regulated by agencies whose primary concern is the health of the banking system. If we are to preserve a healthy securities industry independent of domination by commercial banks, protective measures may be indicated.



SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

Sec

October 18, 1974

Honorable Philip W. Buchen
Counsel to the President
The White House
Washington, D.C. 20500

Dear Mr. Buchen:

I wanted to take this opportunity to tell you how much I enjoyed meeting you and the President on Monday.

As we discussed, this Commission is involved with a number of pressing issues with broad implications. Of current concern to us is whether, and on what terms, certain foreign entities should be able to obtain access to our securities markets. For your information, I am enclosing a copy of the release we recently issued in which we solicited comments from all interested persons on this topic.

Sincerely yours,

Ray Garrett, Jr.
Chairman

Enclosure

SEC
October 25, 1974

Dear Chris:

I appreciate having your October 9th thoughts about fixed commission rates on the stock exchanges. I can certainly understand your feelings.

You won't be surprised to know that I've never studied that issue of SEC policy. And, as you know, SEC jurisdiction over its own actions is, by law, independent of the Executive Branch. I'm glad to know of at least one tough issue that law and custom require me to stay away from.

It was good to hear from you.

Sincerely yours,

Philip W. Buchen
Counsel to the President

Mr. Christopher R. Sheppard
c/o Weiss, Peck and Greer
120 Broadway
New York, New York 10005



c/o Weiss, Peck & Greer
120 Broadway
New York, N. Y. 10005
October 9, 1974

The Honorable Philip W. Buchen
Counsel to the President
The White House
Washington, D. C. 20500

Dear Mr. Buchen:

In yesterday's economic address to the Nation, I was perversely gratified to hear President Ford refer to the capital markets of our country as being in "a state of disarray". This, to my knowledge, is the first time in recent history that a governmental official has acknowledged the true state of the U. S. capital markets. To go one step further, I would classify the state of our markets as "a shambles".

Allowing for the fact that Washington now seems to realize Wall Street's plight, it seems inconceivable to me that the SEC's ongoing drive to implement fully negotiated commissions should be allowed to be continued. Attrition in the recent past has already caused many marginal firms to close and doubtless many others will shut their doors before year-end. This in itself may not be considered a complete disaster since many of these firms had very little economic viability and were not needed by the public or the financial community. However, if the surviving firms, faced with the task of raising gigantic amounts of capital for the country over the next decade are not allowed to prosper under a reasonable regulatory environment, the system as we know it will fail.

As regards, the controversy between the SEC and their insistence on fully negotiated rates and the mainstream of thinking on Wall Street, I think the problem can be distilled down to three very basic assumptions:



The Honorable Philip W. Buchen

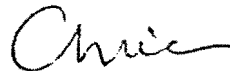
October 9, 1974

1. Commissions of small lots, 100-200 shares, are way too high and deter the individual investor from entering the marketplace.
2. Commissions on institutional orders, whether they be blocks of stock, or orders to sell or buy large amounts of stock are absurdly low. On a block of stock worth a million dollars, present commissions are roughly 35% of a 1968 commission. By comparison, the commission cost of a purchase or sale of 100 shares of a \$40 stock in 1968 was \$39 versus today's figure of \$58. During this time period, the percentage of individual business done on the New York Stock Exchange declined from 51% to an estimated 30-32%, while institutional business rose to a current level of about 68-70%.
3. Institutions, by a large majority, favor a continuation of some form of fixed rates, coupled with a volume discount on large transactions. I am sure this would be perfectly acceptable to the Exchange community. At present, institutional orders are negotiated on the portion over \$300,000, while the SEC's proposal would start negotiating from ground zero. I contend that negotiating from a zero base would be a ruinous practice and would decimate Wall Street. What is needed to restore a respectable level of profitability to the capital markets is to raise the level from which we are asked to negotiate to perhaps \$500,000 or \$600,000 instead of the current \$300,000 figure. If decent profits became evident, it would then be helpful to us all to lower commissions somewhat on small trades.

While my letter cannot pretend to be an economic panacea, I do believe that would be a giant step in curing some of our existing problems.

Very much hope to see you and Mrs. Buchen at Mountain Lake this Winter. With a little good fortune for Wall Street, I will be visiting there too. With all best regards.

Sincerely yours,



Christopher R. Sheppard

CRS/rf

Phil A:

Could you please check
on whether there will
be a Presidential statement
to Congress on this matter.
If there is not one in the
works, should we act to
propose this step?
P.

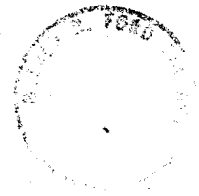




Theodore C. Barreault
Director of Congressional Relations

Office of the Chairman
Securities and Exchange Commission
Washington, D. C. 20549

202 755-1100





SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

January 14, 1975

Honorable Philip W. Buchen
Counsel to the President
The White House
Washington, D. C. 20500

Dear Phil:

Late last month, Representative John Moss, in his capacity as Chairman of the House Subcommittee on Commerce and Finance, wrote to President Ford asking for his continued support for H.R. 5050 in the new Congress.

It is our understanding that, even though this legislation will of course have a new number, nothing else about it will be changed. Since the Commission continues to endorse this legislation strongly, we urge that the Administration join us in our efforts to seek quick passage of this bill in the next few months. We are continuing to work closely with the Departments of Treasury and Justice, and hope the outstanding efforts made on behalf of this legislation by you, Max Friedersdorf and OMB will be repeated.

If you believe it appropriate, it might prove to be a great shot in the arm to the investing public to know that President Ford has made increased investor protection and reform of the securities market place part of the legislative program that will accompany his State of the Union Message. We recommend that official notice be taken of this legislation by the President and we would be pleased to do anything necessary in furthering that course.

Let's hope that last month's defeat in the Rules Committee was only a temporary setback for this vital legislation.

Kindest regards,

Ray Garrett, Jr.
Chairman

THE WHITE HOUSE
WASHINGTON

SEC

February 6, 1975

MEMORANDUM FOR:

BILL SEIDMAN

FROM:

PHILIP BUCHEN *Phil*

Attached is a copy of the talk by Ray Garrett which deals in part with the problems of capital formation by public utilities.

I spoke with him about supplying an expert from the Commission's staff to help you and Frank Zarb come up with solutions to the problem. He has agreed to ask Mr. Aaron Levy to call you on this matter.

Attachment





SECURITIES AND
EXCHANGE COMMISSION

Washington, D. C. 20549

(202) 755-4846



HOLD FOR RELEASE 8:30 P.M., EASTERN STANDARD TIME

CAPITAL MARKETS AT THE CROSSROADS

An Address By

Ray Garrett, Jr., Chairman

Securities and Exchange Commission

January 22, 1975

ECONOMIC CLUB OF NEW YORK

Waldorf Astoria
New York, N. Y.

THE WHITE HOUSE

WASHINGTON

February 10, 1975

For filing

MEMORANDUM FOR: PHIL BUCHEN

FROM: KEN LAZARUS *KL*

SUBJECT: Securities Exchange Act Amendments

Attached are: (1) a letter to you from SEC Chairman Garrett requesting the President's support of the subject bill; and (2) Geoff Shepard's memo to you suggesting that public support be withheld at this time in order to facilitate amendments meeting certain concerns of Justice, Treasury and OMB.

I agree with the general proposition that we should avoid formal communications to the regulatory agencies lest they be misinterpreted. However, your phone call can indicate general Administration support of the goals of the subject bill with only two reservations: (1) the measure should not interfere with the litigating authority of the Department of Justice; and (2) it should contain no provision which would have the effect of diminishing the legislative and budget oversight functions of OMB. Such a phone call would likely prompt Garrett to move to have these objectionable features excised from the bill.

I am advised that the President has agreed to meet with a group of stock exchange people later this week and will comment on the subject bill. You might also apprise Garrett of this fact.

*Collected
Ray Garrett
2/12/75*





Theodore C. Barreaux
Director of Congressional Relations

Office of the Chairman
Securities and Exchange Commission
Washington, D. C. 20549

202 755-1100

for Ken Lazarus
Phil A:

Could you please check
on whether there will
be a Presidential statement
to Congress on this matter.
If there is not one in the
works, should we act to
propose this step?
P.



SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

OFFICE OF
THE CHAIRMAN

January 14, 1975

197B
1/16/75
to LAZARUS

Honorable Philip W. Buchen
Counsel to the President
The White House
Washington, D. C. 20500

Dear Phil:

Late last month, Representative John Moss, in his capacity as Chairman of the House Subcommittee on Commerce and Finance, wrote to President Ford asking for his continued support for H.R. 5050 in the new Congress.

It is our understanding that, even though this legislation will of course have a new number, nothing else about it will be changed. Since the Commission continues to endorse this legislation strongly, we urge that the Administration join us in our efforts to seek quick passage of this bill in the next few months. We are continuing to work closely with the Departments of Treasury and Justice, and hope the outstanding efforts made on behalf of this legislation by you, Max Friedersdorf and OMB will be repeated.

If you believe it appropriate, it might prove to be a great shot in the arm to the investing public to know that President Ford has made increased investor protection and reform of the securities market place part of the legislative program that will accompany his State of the Union Message. We recommend that official notice be taken of this legislation by the President and we would be pleased to do anything necessary in furthering that course.

Let's hope that last month's defeat in the Rules Committee was only a temporary setback for this vital legislation.

Kindest regards,

Ray Garrett, Jr.

Ray Garrett, Jr.
Chairman



THE WHITE HOUSE
WASHINGTON

February 7, 1975

MEMORANDUM FOR:

PHIL BUCHEN

SUBJECT:

Securities Exchange Act Amendments

Ray Garrett, Chairman of the Securities and Exchange Commission, wrote you on January 14 to ask that President Ford include Rep. Moss's proposals to amend the Securities Exchange Act as a part of the President's State of the Union message (Tab A).

H. R. 5050 (the Moss bill at Tab B) has now been reintroduced as H. R. 10 in the 94th Congress. Treasury has only minor problems with the proposed legislation; Justice has more serious problems but feels on balance the bill is better than nothing; and OMB favors the bill except for the litigating authority and legislative and budget bypass provisions (Section 4(d) at page 3 of the bill attached at Tab B).

Since the Administration wants the room to negotiate various compromises with Moss (and since it is not an Administration-submitted bill), it will not be included in a list of "must have" legislation should the President prepare one.

Rather than sending a letter back to Garrett laying out the Administration strategy, Wally Scott and I suggest that you call Garrett and indicate that Treasury and Justice will be testifying on the bill and stating the Administration's position in hearings, but that because of our current reservations (especially the legislative and budget bypass provisions) the President will not call for passage of this bill as currently introduced.

Please let me know if I can be of further help.


GEOFF SHEPARD

Attachments







SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

January 14, 1975

976
1/16/75
12:00 PM
Honorable Philip W. Buchen
Counsel to the President
The White House
Washington, D. C. 20500

Dear Phil:

Late last month, Representative John Moss, in his capacity as Chairman of the House Subcommittee on Commerce and Finance, wrote to President Ford asking for his continued support for H.R. 5050 in the new Congress.

It is our understanding that, even though this legislation will of course have a new number, nothing else about it will be changed. Since the Commission continues to endorse this legislation strongly, we urge that the Administration join us in our efforts to seek quick passage of this bill in the next few months. We are continuing to work closely with the Departments of Treasury and Justice, and hope the outstanding efforts made on behalf of this legislation by you, Max Friedersdorf and OMB will be repeated.

If you believe it appropriate, it might prove to be a great shot in the arm to the investing public to know that President Ford has made increased investor protection and reform of the securities market place part of the legislative program that will accompany his State of the Union Message. We recommend that official notice be taken of this legislation by the President and we would be pleased to do anything necessary in furthering that course.

Let's hope that last month's defeat in the Rules Committee was only a temporary setback for this vital legislation.

Kindest regards,

Ray Garrett, Jr.

Ray Garrett, Jr.
Chairman



TAB B

93D CONGRESS
1ST SESSION

H. R. 5050

IN THE HOUSE OF REPRESENTATIVES

MARCH 1, 1973

Mr. MOSS (for himself, Mr. BROYHILL of North Carolina, Mr. STUCKEY, Mr. WARE, Mr. ECKHARDT, Mr. MCCOLLISTER, Mr. HELSTOSKI, Mr. YOUNG of Illinois, and Mr. BRECKINRIDGE) introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

A BILL

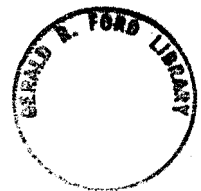
To amend the Securities Exchange Act of 1934, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Securities Exchange
4 Act Amendments of 1973".

5 TITLE I—SELECTION AND ADMINISTRATION
6 OF THE COMMISSION

7 SEC. 101. (a) Section 4 of the Securities Exchange Act
8 of 1934 (15 U.S.C. 78d) is amended to read as follows:

I



1 "SECURITIES AND EXCHANGE COMMISSION

2 "SEC. 4. (a) There is hereby established a Securities
3 and Exchange Commission (hereinafter referred to as the
4 'Commission') to be composed of five Commissioners to be
5 appointed by the President by and with the advice and con-
6 sent of the Senate. Not more than three of such Commis-
7 sioners shall be members of the same political party, and in
8 making appointments members of different political parties
9 shall be appointed alternately as nearly as may be practicable.
10 No Commissioner shall engage in any business, voca-
11 tion, or employment other than that of serving as Commis-
12 sioner, nor shall any Commissioner participate, directly or
13 indirectly, in any stock market operations or transactions of
14 a character subject to regulation by the Commission pur-
15 suant to this title. Each Commissioner shall hold office for a
16 term of five years and until his successor is appointed and
17 has qualified, except that he shall not so continue to serve
18 beyond the expiration of the session of Congress in session
19 at the time of the expiration of said fixed term of office, and
20 except (1) any Commissioner appointed to fill a vacancy
21 occurring prior to the expiration of the term for which his
22 predecessor was appointed shall be appointed for the re-
23 mainder of such term, and (2) any Commissioner may be
24 removed by the President for neglect of duty or malfeasance
25 in office, but for no other cause.

1 "(b) The President shall appoint a Chairman from
2 the Commission's membership, by and with the advice and
3 consent of the Senate; and the Commissioner so appointed
4 shall serve as Chairman until the expiration of his term as
5 Commissioner (except that he may continue to serve as
6 Chairman for so long as he remains a Commissioner and his
7 successor as Chairman has not taken office). In considering
8 any nomination to the office of Chairman, the Senate shall
9 give consideration to the qualifications of the nominee to
10 serve as Chairman of the Commission. An individual may
11 be appointed as a Commissioner at the same time he is ap-
12 pointed as Chairman.

13 "(c) The Commission is authorized to appoint and
14 fix the compensation of such officers, attorneys, examiners,
15 and other experts as may be necessary for carrying out its
16 functions under this Act, without regard to the provisions
17 of other laws applicable to the employment and compensa-
18 tion of officers and employees of the United States, and the
19 Commission may, subject to the civil service laws, appoint
20 such other officers and employees as are necessary in the
21 execution of its functions and fix their salaries in accordance
22 with title 5, United States Code, as amended.

23 "(d) Notwithstanding any other provision of law—

24 "(1) the Commission is authorized to conduct in
25 its own name and through its own attorneys litigation in

1 any State court and in the United States district courts,
2 courts of appeal and Supreme Court in any civil action
3 in which the Commission is participating or chooses to
4 participate.

5 “(2) whenever the Commission submits any budget
6 estimate or request to the President or the Office of
7 Management and Budget, it shall concurrently transmit
8 a copy of that estimate or request to the Congress.

9 “(3) whenever the Commission transmits any legis-
10 lative recommendations, or testimony, or comments on
11 legislation to the President or the Office of Management
12 and Budget, it shall concurrently transmit a copy thereof
13 to the Congress. No officer or agency of the United
14 States shall have any authority to require the Commis-
15 sion to submit its legislative recommendations or testi-
16 mony or comments on legislation, to any officer or agency
17 of the United States for approval, comments, or review,
18 prior to the submission of such recommendations, testi-
19 mony, or comments to the Congress. In instances in
20 which the Commission voluntarily seeks to obtain the
21 comments or review of any agency of the United States
22 or of any other person, the Commission shall include a
23 description of such actions in its legislative recommenda-
24 tions, testimony, or comments on legislation which it
25 transmits to the Congress.

1 “(e) (1) Notwithstanding section 24 of this Act, or any
2 other provision of law, whenever the House Interstate and
3 Foreign Commerce Committee or the Senate Banking, Hous-
4 ing and Urban Affairs Committee (or any subcommittee or
5 member of either such committee under the authority of a
6 rule or other action of such committee) makes a written
7 request for documents in the possession or under control of
8 the Commission, the Commission shall within two days after
9 the receipt of such request submit to such committee all of
10 such documents (or copies thereof).

11 “(2) If the Commission transfers any document in its
12 possession or under its control to any other agency or to any
13 person, it shall retain copies of such material, or if not
14 feasible, shall condition the transfer on the transferee's
15 returning such document to the Commission for purposes of
16 complying with paragraph (1) of this subsection.

17 “(3) For purposes of this subsection, the term ‘docu-
18 ment’ means any book, paper, correspondence, memorandum,
19 or other record, including a copy of any of the foregoing.

20 “(4) This subsection shall not be deemed to restrict any
21 other authority of either House of Congress or any committee
22 or subcommittee thereof to obtain documents.”

23 (b) Reorganization Plan Numbered 10 of 1950 (64
24 Stat. 1265) is amended by striking out section 3.

25 (c) The amendments and repeals made by this section

1 shall not require the reappointment or affect the terms of
 2 members of the Commission (including the Chairman of the
 3 Commission) holding office on the effective date of the Se-
 4 curities Exchange Act Amendments of 1973.

5 TITLE II—REGULATION OF EXCHANGES AND 6 ASSOCIATIONS

7 SEC. 201. (a) Section 3 (a) (3) of the Securities Ex-
 8 change Act of 1934 (15 U.S.C. 78c (a) (3)) is amended
 9 to read as follows:

10 “(3) The term ‘member’ when used with respect to
 11 an exchange means (A) any person who is permitted to
 12 effect transactions on the exchange without the services of
 13 another person acting as broker, or (B) any person who
 14 transacts business as a broker or a dealer who agrees to be
 15 regulated by an exchange and with respect to whom the
 16 exchange undertakes to enforce compliance with its rules and
 17 with the provisions of this title, and any amendment thereto
 18 and any rule or regulation made or to be made thereunder,
 19 and includes any broker or dealer with which a member is
 20 an associated person.”

21 (b) The amendment made by subsection (a) of this
 22 section shall take effect February 1, 1975.

23 SEC. 202. Section 6 of the Securities Exchange Act of
 24 1934 (15 U.S.C. 78f) is amended to read as follows:

1 “NATIONAL SECURITIES EXCHANGES

2 “SEC. 6. (a) Any exchange may register with the Com-
 3 mission as national securities exchange under the terms
 4 and conditions provided in this section by filing with the
 5 Commission a registration statement in such form as the
 6 Commission may prescribe setting forth the following infor-
 7 mation and accompanied by the following documents:

8 “(1) Copies of its constitution, articles of incorporation,
 9 bylaws, or rules or instruments corresponding to the fore-
 10 going, and its stated policies and practices relating to its
 11 organization, memberships, and procedures, hereinafter col-
 12 lectively referred to in this title as the ‘rules of the exchange’.

13 “(2) Such other information as the Commission may,
 14 by rule, require.

15 “(b) An applicant shall not be registered as a national
 16 securities exchange unless it appears to the Commission that—

17 “(1) such exchange will be able to comply with the
 18 provisions of this title, and the rules and regulations
 19 thereunder, and to enforce compliance by its members
 20 with this title and the rules and regulations thereunder,
 21 and with the rules of the exchange and to carry out the
 22 purposes of this section;

23 “(2) the rules of the exchange provide that any
 24 broker or dealer registered under this title may become a

1 member of such exchange in conformity with the require-
2 ments of subsection (m) of this section;

3 “(3) the rules of the exchange assure a fair repre-
4 sentation of its members, investors, issuers of securities
5 listed on the exchange, and the public, in the adoption
6 of rules of the exchange and amendments thereto, the
7 selection of its officers and directors, and in all other
8 phases of the administration of its affairs, including, as
9 a minimum, provisions that—

10 “(A) at least half of the governing body of the
11 exchange, whether called a Board of Governors,
12 Board of Directors, or some other name, consist of
13 individuals who are not brokers, dealers, members,
14 persons associated with a broker or dealer or persons
15 associated with a member, and who are representa-
16 tive of all segments of the investing public (herein-
17 after referred to as the ‘public representatives’);

18 “(B) the public representatives elect their own
19 successors to the governing body of the exchange;

20 “(C) on voting for members of the governing
21 body of the exchange who are not public representa-
22 tives, the exchange members have cumulative voting
23 rights;

24 “(D) the governing body of the exchange has
25 the power to amend the rules of the exchange;

1 “(E) the exchange appropriate for the use of
2 the public representatives such sums as are neces-
3 sary to permit the public representatives to employ
4 such staff or retain such attorneys, consultants, or
5 other experts as they may reasonably require, inde-
6 pendent of the exchange staff;

7 “(F) the voting power of members of the ex-
8 change is distributed on a fair and equitable basis;
9 and

10 “(G) there are reasonable limits on the length
11 of time and the number of terms members of the
12 governing body may serve;

13 “(4) the rules of the exchange provide for the equi-
14 table allocation of dues, fees, and other charges among
15 its members;

16 “(5) the rules of the exchange are designed to pre-
17 vent fraudulent and manipulative acts and practices, to
18 promote just and equitable principles of trade, to provide
19 safeguards against unreasonable profits or unreasonable
20 rates of commissions or other charges, and, in general,
21 to protect investors and the public interest, and to remove
22 impediments to and perfect the mechanism of a free and
23 open market; and are not designed to permit unfair dis-
24 crimination between or among customers, issuers, or
25 brokers or dealers, to fix minimum profits, to impose any

1 schedule of prices, or to impose any schedule or fix rates
 2 of commissions, allowances, discounts, or other charges,
 3 except that (A) until February 1, 1974, such rules may
 4 fix reasonable minimum rates of commission for transac-
 5 tions or portions of transactions which involve \$200,000
 6 or less; and (B) until February 1, 1975, such rules may
 7 fix reasonable minimum rates of commissions for transac-
 8 tions or portions of transactions which involve \$100,000
 9 or less: *Provided, however,* That the Commission may,
 10 by rule, permit an exchange to fix reasonable minimum
 11 rates of commission until February 1, 1976, for transac-
 12 tions or portions of transactions which involve \$100,000
 13 or less if the Commission finds that the public interest
 14 requires the continuation, establishment, or reestablish-
 15 ment of reasonable fixed minimum rates for such trans-
 16 actions or portions of transactions.

17 “(6) the rules of the exchange provide that its mem-
 18 bers and persons associated with its members shall be
 19 appropriately disciplined for any violation of its rules by
 20 expulsion, suspension, fine, or censure, and in the case of
 21 a person associated with a member, by being suspended
 22 or barred from being associated with a member;

23 “(7) the rules of the exchange provide a fair and
 24 orderly procedure with respect to the disciplining of
 25 members and person associated with members and the

1 denial of membership to any person seeking membership
 2 therein including that the rules, as a minimum, meet
 3 the requirements of subsections (f) and (g) of this
 4 section; and

5 “(8) the rules of the exchange are sufficient and
 6 reasonably necessary to permit the exchange to dis-
 7 charge its regulatory responsibilities under this title.

8 “(c) The Commission shall, upon the filing of an appli-
 9 cation for registration pursuant to subsection (a) publish
 10 notice of the filing and afford interested persons a reasonable
 11 opportunity for comment. Within sixty days of the filing of
 12 an application for registration pursuant to subsection (a)
 13 the Commission shall—

14 “(1) by order grant such registration if the Com-
 15 mission finds that the requirements of this section are
 16 satisfied, or

17 “(2) institute appropriate administrative action to
 18 determine whether the application should be denied. If,
 19 after appropriate notice and opportunity for hearing,
 20 the Commission finds that any requirement of this sec-
 21 tion is not satisfied, the Commission shall by order deny
 22 such registration. The Commission shall conclude admin-
 23 istrative action and issue an order either granting or
 24 denying an application within one hundred and twenty
 25 days of the filing of the application, unless the Com-

1 mission finds good cause for extending the period, in
2 which case the Commission may extend such period for
3 an additional ninety days.

4 “(d) A registered national securities exchange may,
5 upon such terms and conditions as the Commission may
6 deem necessary in the public interest or for the protection
7 of investors, withdraw from registration by filing a written
8 notice of withdrawal with the Commission. If the Commis-
9 sion finds that any such registrant or such other person for
10 whom an application of registration is pending is no longer
11 in existence or has ceased to do business in the capacity
12 specified in the registration statement, the Commission shall
13 by order cancel or deny the registration.

14 “(e) (1) Each registered national securities exchange
15 shall file with the Commission, in accordance with such rules
16 as the Commission may prescribe, copies of any proposed
17 changes in, additions to, deletions from, or amendments to
18 the rules of the exchange, to be accompanied by a summary
19 statement of the basis and purpose of such proposed change,
20 addition, deletion, or amendment, and such other information
21 and documents as the Commission may require to keep cur-
22 rent or supplement the registration statement and documents
23 filed pursuant to subsection (a). No such proposed change,
24 addition, deletion, or amendment shall take effect except in
25 accordance with the provisions of this subsection.

1 “(2) The Commission shall, upon the filing of a pro-
2 posed change, addition, deletion or amendment, publish notice
3 of such proposal together with the exchange’s statement of
4 basis and purpose, and shall afford interested persons a rea-
5 sonable opportunity for comment on the proposed change, ad-
6 dition, deletion or amendment. Such proposed changes, addi-
7 tions, deletions or amendments shall take effect sixty days
8 after publication of such notice by the Commission, unless
9 the Commission, by order, disapproves such proposed change,
10 addition, deletion or amendment as inconsistent with the
11 purposes of this title or otherwise inconsistent with the
12 public interest, but the Commission may extend this time up
13 to an additional ninety days by providing interested persons
14 an opportunity for oral presentation of views, data or argu-
15 ments concerning the proposed change, addition, deletion or
16 amendment.

17 (f) In any proceeding to determine whether a member
18 or person associated with a member should be disciplined
19 rules of a national securities exchange registered under this
20 section shall require that specific charges of any viola-
21 tion be brought; that such member or person associated with
22 a member shall be notified of and be given an opportunity
23 to defend against such charges; and that a record shall be
24 kept. A determination to take disciplinary action shall be
25 supported by a statement setting forth—

1 “(1) any act or practice in which such member or
2 person associated with such member may be found to
3 have engaged, or any required act or practice which
4 such member or person associated with such member
5 may be found to have omitted;

6 “(2) the specific rule or rules of the exchange or
7 provisions of this title or rules or regulations thereunder
8 which any such act or practice, or omission to act, is
9 deemed to violate; and

10 “(3) the sanction or penalty imposed and the
11 reasons for that sanction or penalty.

12 Such statement shall be publicly noticed in accordance with
13 such procedures as the Commission shall, by rule, specify
14 which rule shall, as a minimum, require that such statement
15 be sent to all members of such exchange and be published
16 in a manner reasonably designed to provide investors with
17 notice of such disciplinary action.

18 “(g) In any proceeding to determine whether a person
19 shall be denied membership, rules of a national securities
20 exchange registered under this section shall provide that the
21 applicant for membership shall be notified of, and be given an
22 opportunity to be heard upon, the specific grounds for denial
23 which are under consideration; and that a record be kept. A
24 determination to deny membership shall be supported by a

1 statement setting forth the specific grounds on which the
2 denial is based.

3 “(h) (1) If any registered national securities exchange
4 takes any disciplinary action against or concludes disciplinary
5 proceedings with respect to any member thereof, or any per-
6 son associated with a member, or denies admission to any
7 person seeking membership therein, the exchange shall
8 promptly notify the Commission. Such action or proceed-
9 ings shall be subject to review by the Commission, on its
10 own motion, or upon application by any person aggrieved
11 thereby filed within thirty days after notice of such action
12 has been received by the Commission or within such longer
13 period as the Commission may determine. The Commission
14 may, upon the application of an aggrieved party for review
15 or upon the initiation of review by the Commission on its
16 own motion, order a stay of such disciplinary action pending
17 completion of the review proceeding.

18 “(i) (1) In a proceeding to review disciplinary pro-
19 ceedings of a national securities exchange registered under
20 this section with respect to a member or any person asso-
21 ciated with a member, after notice and opportunity for
22 hearing—

23 “(A) if the Commission finds that such member or
24 such person has engaged in such acts or practices, or
25 has omitted such acts, as the exchange has charged

1 or has found him to have engaged in or to have omitted,
 2 and determines that such acts or practices, or omission
 3 to act, are in violation of the provisions of this title, or
 4 the rules adopted thereunder, or the rules of the exchange
 5 as have been designated in the determination of the
 6 exchange, it shall by order so declare and affirm the
 7 action taken by the exchange or, if appropriate, modify
 8 the sanctions or penalties in accordance with paragraph
 9 (2) of this subsection; or

10 “(B) if the Commission finds that such person has
 11 not engaged in such acts or practices, or has not omitted
 12 such acts, as the exchange has charged or has found
 13 him to have engaged in or to have omitted, or that such
 14 acts or practices are not prohibited by the designated
 15 provisions of this title, or the rules adopted thereunder,
 16 or by the designated rule or rules of the exchange or that
 17 such act is alleged or found to have been omitted is not
 18 required by such designated provisions, rule, or rules, the
 19 Commission shall by order so declare and set aside the
 20 action of the exchange.

21 “(2) If the Commission, having due regard for the
 22 public interest, finds that the disposition of the proceedings
 23 before the exchange with respect to sanctions or penalties
 24 against a member or person associated with a member is in-
 25 appropriate, the Commission may, by order, cancel, reduce,

1 require the remission, increase, broaden the scope of or other-
 2 wise require the modification of such sanction or penalty,
 3 or require the imposition of a different sanction or penalty.

4 “(j) In any proceeding to review the denial of mem-
 5 bership in a registered national securities exchange, if the
 6 Commission, after appropriate notice and opportunity for
 7 hearing, (A) finds that the specific grounds on which such
 8 denial or bar is based exist in fact and are valid under this
 9 section, it shall by order so declare and affirm the exchange's
 10 action; or (B) finds that the specific grounds do not exist
 11 or are invalid under the section, the Commission shall by
 12 order so declared and set aside the action of the exchange and
 13 require it to admit the applicant to membership.

14 “(k) National securities exchanges registered under this
 15 section, with the concurrence of the Commission, may, with
 16 respect to any person who is a member of more than one
 17 exchange, agree to share the costs, functions, and the responsi-
 18 bility for the conduct of examinations and inspections of
 19 such member.

20 “(l) A registered national securities exchange shall
 21 furnish copies of any reports of inspections or examinations
 22 of its members to any other national securities exchange or
 23 national securities association of which such member is a
 24 member upon the request of such member, exchange, or
 25 association, or upon the request of the Commission.

1 “(m) A registered national securities exchange shall
2 permit any broker or dealer registered under this title to
3 become a member of such exchange; except that, any ex-
4 change may—

5 “(1) deny membership to any person who has been
6 expelled or suspended from membership in any other
7 exchange or any registered national securities associa-
8 tion during the period of such expulsion or suspension;

9 “(2) with the approval of the Commission, deny
10 membership to any person on those grounds set forth
11 in section 15 of this title upon which such person may
12 be denied registration under that section;

13 “(3) condition membership on the member’s meet-
14 ing financial responsibility requirements which are ad-
15 ditional to those imposed by rules or regulations adopted
16 pursuant to section 15 of this title and which the Com-
17 mission determines are reasonable and consistent with
18 the purposes of this title and with the public interest;
19 and

20 “(4) condition membership on the member’s meet-
21 ing competency requirements which are additional to
22 those imposed by rules or regulations adopted pursuant
23 to section 15(b)(8) and which the Commission de-
24 termines are reasonable and consistent with the purposes
25 of this title and with the public interest.

1 An exchange may limit the number of its members per-
2 mitted to effect transactions on the exchange without the
3 services of another person acting as broker to the extent
4 that such limitations are found by the Commission to be
5 justified by reason of limitations in the physical capacity
6 of the exchange.

7 “(n) This section shall not require any securities ex-
8 change which was registered on the date of enactment of the
9 Securities Exchange Act Amendments of 1973 to re-register
10 with the Commission. Six months after the effective date of
11 such Act, the Commission shall, after notice and opportunity
12 for hearing, suspend the registration of any such exchange
13 if it finds the rules of the exchange do not conform to
14 the requirements of this section, and any such suspension
15 shall remain in effect until the Commission issues an order
16 determining that such rules have been modified to conform
17 with such requirements.”

18 SEC. 203. The Securities Exchange Act of 1934 (15
19 U.S.C. 78a et seq.) is amended to add after section 6 the
20 following new section:

21 “AUTHORITY TO AMEND EXCHANGE RULES

22 “SEC. 6A. (a) The Commission, by rule or regulation,
23 may amend the rules of any registered exchange (the term
24 ‘amend,’ when used with respect to any rule of a registered
25 exchange, means to abrogate, or compel the adoption of an

1 alteration of, or supplement to, such rule, or to adopt a new
2 rule) in the following manner:

3 “(1) The Commission shall publish in the Federal
4 Register its proposed rule or regulation, which shall con-
5 tain the text of the proposed amendment in the rules of
6 the registered exchange; a full statement of the bases
7 for the Commission’s determination to require the
8 amendment; any facts upon which the Commission’s de-
9 termination is founded; and an evaluation by the Com-
10 mission of the effect of the proposed amendment to the
11 rules of such exchange,

12 “(2) Rules or regulations which have been pro-
13 posed under paragraph (1) shall be promulgated pur-
14 suant to section 553 of title 5, United States Code,
15 except that the Commission shall give interested persons
16 an opportunity for the oral presentation of data, views,
17 or arguments, in addition to an opportunity to make
18 written submissions. A transcript shall be kept of any
19 oral presentation. The Commission may make written
20 submissions or oral presentations respecting any matter
21 on which it intends to rely under paragraph (3) in
22 promulgating the rule or regulation. Any such submis-
23 sion or presentation by the Commission shall be included
24 in the record of the proceeding.

25 “(3) Whenever the Commission promulgates a rule

1 or regulation to which this subsection applies, it shall
2 publish with such rule or regulation a statement describ-
3 ing the bases for the Commission’s determination to re-
4 quire the amendment, and containing any facts upon
5 which the Commission’s determination is founded, and
6 an evaluation by the Commission of the effect of the
7 proposed amendment and an evaluation of the principal
8 arguments made in any oral presentation under para-
9 graph (2) or in any written comment submitted under
10 such paragraph.

11 “(b) (1) Within one hundred twenty days from the pro-
12 mulgation of such rule or regulation any person adversely
13 affected by a rule or regulation prescribed under subsection
14 (a) may file a petition with the United States Court of Ap-
15 peals for the District of Columbia or for the circuit in which
16 such person resides or has his principal place of business for
17 judicial review of such regulation. Copies of the petition shall
18 be forthwith transmitted by the clerk of the court to the Com-
19 mission or other officer designated by it for that purpose. The
20 Commission shall file in the court the record of the proceed-
21 ings on which the Commission based its rule or regulation.
22 For purposes of this subsection, the term ‘record’ means the
23 regulation, and the statement published therewith; the tran-
24 script required by subsection (a) (2) of any oral presen-
25 tations by the Commission and by interested persons; and any

1 written submission by interested persons or by the Commis-
 2 sion in a proceeding under such subsection and any additional
 3 views, data, or arguments adduced pursuant to paragraph
 4 (2) of this subsection.

5 “(2) If the petitioner applies to the court for leave to
 6 adduce additional data, views, or arguments and shows to
 7 the satisfaction of the court that such additional data, views,
 8 or arguments are material and that there were reasonable
 9 grounds for the petitioner’s failure to adduce such data,
 10 views, or arguments in the proceeding before the Commission,
 11 the court may order the Commission to provide additional
 12 opportunity for the oral presentation of data, views, or
 13 arguments and for written submissions. The Commission may
 14 modify its findings, or make new findings by reason of the
 15 additional data, views, or arguments so taken and shall file
 16 such modified or new findings, and its recommendations, if
 17 any, for the modification or setting aside of its original rule
 18 or regulation, with the return of such additional data, views,
 19 or arguments.

20 “(3) Upon the filing of the petition under paragraph
 21 (1) of this subsection the court shall have jurisdiction to
 22 review the regulation in accordance with chapter 7 of title
 23 5, United States Code, and to grant appropriate relief, in-
 24 cluding interim relief, as provided in such chapter; except
 25 that the regulation shall not be affirmed unless the Commis-

1 sion shows that, on the basis of the record taken as a whole,
 2 (A) its action in prescribing the rule or regulation is not
 3 arbitrary, capricious, an abuse of discretion, or otherwise not
 4 in accordance with law; and (B) that its action is not (i)
 5 contrary to constitutional right, power, privilege, or im-
 6 munity; (ii) in excess of statutory jurisdiction, authority, or
 7 limitation, or short of statutory right; or (iii) without ob-
 8 servance of procedure required by law.

9 “(4) The judgment of the court affirming or setting
 10 aside, in whole or in part, any rule or regulation under sub-
 11 section (b) shall be final, subject to review by the Supreme
 12 Court of the United States upon certiorari or certification, as
 13 provided in section 1254 of title 28 of the United States
 14 Code.

15 “(5) The remedies provided for in this subsection shall
 16 be in addition to and not in lieu of any other remedies pro-
 17 vided by law.”

18 SEC. 204. Section 11 (a) of the Securities Exchange Act
 19 of 1934 (15 U.S.C. 78h (a)) is amended to read as follows:

20 “(a) (1) The Commission shall prescribe such rules and
 21 regulations as it deems necessary or appropriate in the public
 22 interest or for the protection of investors, (A) to regulate
 23 or prevent floor trading by members of national securities
 24 exchanges, directly or indirectly for their own account or for
 25 discretionary accounts, and (B) to regulate or prevent trad-

1 ing on the exchange but off the floor by members, directly or
 2 indirectly for their own account, or for the account of any
 3 affiliated person as defined in section 11A of this title. Rules
 4 under this section shall, as a minimum, (i) require that
 5 transactions on the floor by members, directly or indirectly
 6 for their own account or for discretionary accounts, and
 7 transactions on the exchange but off the floor by members,
 8 directly or indirectly for their own account or for the account
 9 of any such affiliated person, shall yield priority, parity, and
 10 precedence to orders of nonaffiliated persons and (ii) pre-
 11 vent those transactions which do not contribute to the mainte-
 12 nance of a fair and orderly market.

13 “(2) It shall be unlawful for a member to effect any
 14 transaction in a security in contravention of rules and regu-
 15 lations under paragraph (1), but such rules and regulations
 16 may make such exemptions for arbitrage, block positioning or
 17 market maker transactions, for transactions in exempted
 18 securities, for transactions by odd-lot dealers and specialists
 19 (within the limitations of subsection (b) of this section), and
 20 for such other transactions as the Commission may deem nec-
 21 essary or appropriate in the public interest or for the protec-
 22 tion of investors. Rules under this subsection may limit the
 23 aggregate amount of such transactions in relation to the total
 24 transactions effected by such member on a national securities
 25 exchange.”

1 SEC. 205. The Securities Exchange Act of 1934 is
 2 amended by inserting after section 11 (15 U.S.C. 78h)
 3 the following new section:

4 “TRANSACTIONS WITH AFFILIATED PERSONS

5 “SEC. 11A. (a) (1) On or after February 1, 1974, it
 6 shall be unlawful for any member of a registered national
 7 securities exchange to effect, whether as broker or dealer, any
 8 transaction on an exchange for himself or with or for any af-
 9 filiated person. For purposes of this section an ‘affiliated
 10 person’ shall include—

11 “(A) any person directly or indirectly controlling,
 12 controlled by or under common control with such mem-
 13 ber, whether by contractual arrangement or otherwise;

14 “(B) any officer, director, partner or employee of
 15 such member or any person or account in which such
 16 member or officer, director, partner or employee of such
 17 member has a direct or indirect interest or any person
 18 or account of such person directly or indirectly control-
 19 ling, controlled by, or under common control with an
 20 officer, director, partner or employee of such member;
 21 and

22 “(C) any person (including any investment com-
 23 pany, insurance company, bank, trust company, pension-
 24 benefit or profit sharing or similar plan, foundation, or
 25 educational or charitable endowment), for which such

1 member or any person controlled by, controlling or under
 2 common control with such member, or any partner,
 3 officer, director or employee of such member: (i) is
 4 empowered to determine what securities or other prop-
 5 erty shall be purchased or sold or is otherwise authorized
 6 to select the securities bought or sold or (ii) regularly
 7 furnishes advice with respect to the desirability of invest-
 8 ing in, purchasing or selling securities or other property.
 9 For the purposes of this section a member or an affiliate of
 10 such member shall not be considered to be regularly fur-
 11 nishing advice with respect to the desirability of investing
 12 in, purchasing or selling securities or other property if
 13 such member or its affiliate furnishes only statistical or
 14 other factual information, advice regarding economic
 15 factors and trends, or advice as to occasional transactions
 16 in specific securities or if such member's or affiliate's
 17 advice is furnished solely through uniform publications
 18 distributed to subscribers thereto.

19 For purposes of this section a person controls another person
 20 if such person has a right to participate to the extent of 10
 21 per centum or more in the profits of such other person or
 22 owns beneficially, directly or indirectly, 10 per centum or
 23 more of the outstanding voting securities of such person, or
 24 if such person accounts for 10 per centum or more of the

1 value of exchange transactions effected by such member in
 2 any six-month period, whether as broker or dealer.

3 “(2) The provisions of paragraph (1) of this sub-
 4 section shall not apply to—

5 “(A) any transaction by a registered specialist, act-
 6 ing in such capacity, in a security in which he is so
 7 registered;

8 “(B) any transaction for the account of an odd-lot
 9 dealer in a security in which he is so registered;

10 “(C) any transaction determined by an exchange
 11 in accordance with criteria acceptable to the Commission
 12 to be a transaction by a block positioner acting as such,
 13 except where an affiliated person is a party to the
 14 transaction;

15 “(D) any stabilizing transaction effected in com-
 16 pliance with rules under section 10(b) of this title to
 17 facilitate a distribution of a security in which the member
 18 effecting such transaction is participating;

19 “(E) any bona fide arbitrage transaction, including
 20 hedging between an equity security and a security en-
 21 titling the holder to acquire such equity security, or any
 22 risk arbitrage transaction in connection with a merger,
 23 acquisition, tender, offer, or similar transaction involving
 24 a recapitalization;

1 “(F) any transaction for the account of an individ-
2 ual for which a member or an affiliated person exercises
3 investment discretion if such individual is not otherwise
4 an affiliated person of such member;

5 “(G) any transaction for a member who is an in-
6 dividual, or for an account of an affiliated person who
7 is an individual, made in compliance with rules pro-
8 mulgated by the Commission under section 11 (a) of this
9 title; and

10 “(H) any transaction to offset a transaction made
11 in error.

12 “(b) Any member of an exchange who does not comply
13 with the requirements of this section, and who acquired
14 membership on such exchange prior to February 1, 1973,
15 shall be given a period not to exceed one year following
16 the effective date of this subsection to bring itself into com-
17 pliance if within thirty days after the effective date of this
18 subsection such member shall furnish a written commitment
19 to the exchange of which it is a member to make good faith
20 efforts to comply with the requirements of this subsection,
21 accompanied by a written plan setting forth in detail those
22 steps such member intends to take to comply with such
23 requirements. No plan filed pursuant to this subsection shall
24 be deemed to satisfy the requirements of this subsection unless
25 the plan has been declared effective by the exchange with

1 which it is filed after the exchange has first reviewed the plan
2 and determined that it is reasonably calculated to enable
3 such member to comply with the requirements of this sub-
4 section within one year from the effective date of this
5 subsection.

6 “(c) The failure of an exchange diligently and effec-
7 tively to enforce any provision of this subsection, or to re-
8 quire diligent compliance by any of its members with the
9 terms of an effective plan filed by such member with that
10 exchange pursuant to subsection (b) of this subsection, shall
11 constitute a violation of this title.

12 “(d) After appropriate notice and opportunity for hear-
13 ing, the Commission may in addition to any disciplinary
14 action taken by the exchange order any member to forfeit
15 and pay over to the Treasury of the United States any
16 commission or other charge made in connection with trans-
17 actions not in compliance with the provisions of this section.”

18 SEC. 206. Section 15A of the Securities Exchange Act
19 of 1934 (15 U.S.C. 78o-3) is amended to read as follows:

20 “NATIONAL SECURITIES ASSOCIATIONS

21 “SEC. 15A. (a) Any association of brokers or dealers
22 may register with the Commission as a national securities
23 association pursuant to subsection (b) under the terms and
24 conditions provided in this section, by filing with the Com-
25 mission a registration statement in such form as the Com-

1 mission may prescribe, setting forth the following information
2 and accompanied by the following documents:

3 “(1) copies of its constitution, articles of incorporation,
4 bylaws, or rules or instruments corresponding to the fore-
5 going, and its stated policies and practices relating to its orga-
6 nization, membership, and procedures, hereinafter collectively
7 referred to in this title as the ‘rules of the association.’

8 “(2) Such other information as the Commission may,
9 by rule, require.

10 “(b) An applicant shall not be registered as a national
11 securities association unless it appears to the Commission
12 that—

13 “(1) such association will be able to comply with
14 the provisions of this title, and the rules and regulations
15 thereunder, and to enforce compliance by its members
16 with this title and the rules and regulations thereunder,
17 and with the rules of the association and to carry out the
18 purposes of this section.

19 “(2) the rules of the association provide that
20 any broker or dealer who makes use of the mails or any
21 means or instrumentality of interstate commerce to effect
22 any transaction in, or to induce the purchase or sale of,
23 any security otherwise than on a national securities
24 exchange, may become a member of such association,
25 except such as are excluded pursuant to paragraph (3)

1 of this subsection, or a rule of the association permitted
2 under this paragraph. The rules of the association may
3 condition membership (i) on the member’s meeting
4 financial responsibility requirements which are addi-
5 tional to those imposed under section 15 of this title and
6 which the Commission determines are reasonable and
7 consistent with the purposes of this title and with the
8 public interest; or (ii) on the member’s meeting com-
9 petency requirements which are additional to those im-
10 posed under section 15 (b) (8) and which the Commis-
11 sion determines are reasonable and consistent with the
12 purposes of this title and with the public interest. Rules
13 adopted by the association may provide that the associ-
14 ation may, unless the Commission directs otherwise in
15 cases in which the Commission finds it appropriate in the
16 public interest so to direct, deny admission to or refuse
17 to continue in such association any broker or dealer if—

18 “(A) such broker or dealer, whether prior or
19 subsequent to becoming such, or

20 “(B) any person associated with such broker or
21 dealer, whether prior or subsequent to becoming so
22 associated,

23 has been and is suspended or expelled from a national
24 securities exchange registered under section 6 of this
25 title or an association registered under this section, or has

1 been and is barred or suspended from being associated
2 with all members of such exchange or such association,
3 for violation of any rule of such exchange or association.

4 “(3) the rules of the association provide that, ex-
5 cept with the approval or at the direction of the Com-
6 mission in cases in which the Commission finds it appro-
7 priate in the public interest so to approve or direct, no
8 broker or dealer shall be admitted to or continued in
9 membership in such association, if such broker or
10 dealer—

11 “(A) has been and is suspended or expelled
12 from a registered securities association or from a
13 national securities exchange or has been and is
14 barred or suspended from being associated with
15 all members of such association or from being asso-
16 ciated with all brokers or dealers which are members
17 of such exchange, for violation of any rule of such
18 association or exchange which prohibits any act or
19 transaction constituting conduct inconsistent with
20 just and equitable principles of trade, or requires
21 any act the omission of which constitutes conduct
22 inconsistent with just and equitable principles of
23 trade.

24 “(B) is subject to an order of the Commission
25 denying, suspending for a period not exceeding

1 twelve months, or revoking his registration pursuant
2 to section 15 of this title, or expelling or suspending
3 him from membership in a registered securities asso-
4 ciation or a national securities exchange, or barring
5 or suspending him from being associated with a
6 broker or dealer.

7 “(C) whether prior or subsequent to becoming
8 a broker or dealer, by his conduct while associated
9 with a broker or dealer, was a cause of any suspen-
10 sion, expulsion, or order of the character described
11 in clause (A) or (B) which is in effect with respect
12 to such broker or dealer, and in entering such a
13 suspension, expulsion, or order, the Commission or
14 any such exchange or association shall have juris-
15 diction to determine whether or not any person was
16 a cause thereof.

17 “(D) has associated with him any person who
18 is known, or in the exercise of reasonable care
19 should be known, to him to be a person who, if
20 such person were a broker or dealer, would be
21 ineligible for admission to or continuance in mem-
22 bership under clause (A), (B), or (C) of this
23 paragraph.

24 “(4) the rules of the association assure a fair
25 representation of its members, investors, issuers and the

1 public in the adoption of any rule of the association
 2 or amendment thereto, the selection of its officers and
 3 directors, and in all other phases of the administration
 4 of its affairs, including as a minimum, that the rules
 5 require that—

6 “(A) at least half of the governing body of the
 7 association, whether called a Board of Governors,
 8 Board of Directors, or some other name, consist of
 9 individuals who are not brokers, dealers, members,
 10 persons associated with a broker or dealer or persons
 11 associated with a member, and who are representa-
 12 tive of all segments of the investing public (here-
 13 inafter referred to as the ‘public representatives’);

14 “(B) the public representatives elect their own
 15 successors to the governing body of the association;

16 “(C) on voting for members of the governing
 17 body of the association who are not public repre-
 18 sentatives, the association members have cumulative
 19 voting rights;

20 “(D) the governing body of the association has
 21 the power to amend the rules of the association;

22 “(E) the association will appropriate for the use
 23 of the public representatives such sums as are neces-
 24 sary to permit the public representatives to employ
 25 such staff or retain such attorneys, consultants, or

1 other experts as they may reasonably require, inde-
 2 pendent of the association’s staff;

3 “(F) the voting power of members of the asso-
 4 ciation is distributed on a fair and equitable basis;
 5 and

6 “(G) there are reasonable limits on the amount
 7 of time and the number of terms members of the
 8 governing body may serve;

9 “(5) the rules of the association provide for the
 10 equitable allocation of dues, fees, and other charges
 11 among its members,

12 “(6) the rules of the association are designed to
 13 prevent fraudulent and manipulative acts and prac-
 14 tices, to promote just and equitable principles of trade,
 15 to provide safeguards against unreasonable profits or
 16 unreasonable rates of commissions or other charges,

17 and, in general, to protect investors and the public in-
 18 terest, and to remove impediments to and perfect the
 19 mechanism of a free and open market; and are not de-
 20 signed to permit unfair discrimination between custom-
 21 ers or issuers, or brokers, or dealers, to fix minimum
 22 profits, to impose any schedule of prices, or to impose
 23 any schedule or fix minimum rates of commissions,
 24 allowances, discounts, or other charges.

25 “(7) the rules of the association provide that its

1 members and persons associated with its members shall
 2 be appropriately disciplined, by expulsion, suspension,
 3 fine, censure, or being suspended or barred from being
 4 associated with all members, or any other fitting penalty,
 5 for any violation of its rules.

6 “(8) the rules of the association provide a fair
 7 and orderly procedure with respect to the disciplining of
 8 members and persons associated with members and the
 9 denial of membership to any broker or dealer seeking
 10 membership therein or the barring of any person from
 11 being associated with a member. In any proceeding to
 12 determine whether any member or other person shall be
 13 disciplined, such rules shall require that specific charges
 14 be brought; that such member or person shall be notified
 15 of, and be given an opportunity to defend against, such
 16 charges; that a record shall be kept; and that the deter-
 17 mination shall include—

18 “(A) a statement setting forth any act or prac-
 19 tice in which such member or other person may be
 20 found to have engaged, or which such member or
 21 other person may be found to have omitted.

22 “(B) a statement setting forth the specific rule
 23 or rules of the association of which any such act or
 24 practice, or omission to act, is deemed to be in
 25 violation.

1 “(C) a statement whether the acts or practices
 2 prohibited by such rule or rules, or the omission of
 3 any act required thereby, are deemed to constitute
 4 conduct inconsistent with just and equitable prin-
 5 ciples of trade.

6 “(D) a statement setting forth the penalty
 7 imposed and the reasons for the penalty.

8 The statement containing the information called for
 9 in (A) through (D) above shall be publicly noticed in
 10 accordance with such procedures as the Commission shall,
 11 by rule, specify, which rule shall, as a minimum, require
 12 that such statement be sent to all members of the associa-
 13 tion and be published in a manner reasonably designed
 14 to provide investors with notice of such disciplinary
 15 action. In any proceeding to determine whether a broker
 16 or dealer shall be denied membership or whether any per-
 17 son shall be barred from being associated with a member,
 18 such rules shall provide that the broker or dealer or
 19 person shall be notified of, and be given an opportunity
 20 to be heard upon, the specific grounds for denial or bar
 21 which are under consideration; that a record shall be
 22 kept; and that the determination shall set forth the
 23 specific grounds upon which the denial or bar is based.

24 “(9) the rules of the association include provisions
 25 governing the form and content of quotations relating

1 to securities sold otherwise than on a national securities
 2 exchange which may be disseminated by any member or
 3 any person associated with a member, and the persons to
 4 whom such quotations may be supplied. Such rules re-
 5 lating to quotations shall be designed to produce fair and
 6 informative quotations, both at the wholesale and retail
 7 level, to prevent fictitious or misleading quotations, and
 8 to promote orderly procedures for collecting and publish-
 9 ing quotations.

10 “(10) the rules of the association are sufficient and
 11 reasonably necessary to permit the association to dis-
 12 charge its regulatory responsibilities under this title.

13 “(c) The Commission shall, upon the filing of an ap-
 14 plication for registration pursuant to subsection (b), publish
 15 notice of the filing and afford interested persons a reasonable
 16 opportunity for comment. Within sixty days of the filing of
 17 an application for registration pursuant to subsection (b)
 18 the Commission shall—

19 “(1) by order grant such registration if the require-
 20 ments of this section are satisfied, or

21 “(2) institute appropriate administrative action to
 22 determine whether the application should be denied. If,
 23 after appropriate notice and opportunity for hearing, it
 24 appears to the Commission that any requirement of
 25 this section is not satisfied, the Commission shall by

1 order deny such registration. The Commission shall con-
 2 clude administrative action and issue an order granting
 3 or denying an application within one hundred and
 4 twenty days of the filing of the application, unless the
 5 Commission finds good cause for extending the period, in
 6 which case the Commission may extend such period for
 7 an additional ninety days.

8 “(d) A registered securities association may, upon such
 9 terms and conditions as the Commission may deem necessary
 10 in the public interest or for the protection of investors, with-
 11 draw from registration by filing with the Commission a
 12 written notice of withdrawal in such form as the Commission
 13 may prescribe.

14 “(e) If any registered securities association takes any
 15 disciplinary action against or concludes disciplinary proceed-
 16 ings with respect to any member thereof or any person as-
 17 sociated with such a member or denies admission to any
 18 broker or dealer seeking membership therein, or bars any
 19 person from being associated with a member, the association
 20 shall promptly notify the Commission. Such action or pro-
 21 ceedings shall be subject to review by the Commission, on
 22 its own motion, or upon application by any person aggrieved
 23 thereby filed within thirty days after notice of such action
 24 has been received by the Commission, or within such longer
 25 period as the Commission may determine. Application to the

1 Commission for review, or the institution of review by the
 2 Commission on its own motion, shall operate as a stay
 3 of such action until an order is issued upon such review pur-
 4 suant to subsection (h), unless the Commission otherwise
 5 orders after notice and opportunity for hearing on the ques-
 6 tion of a stay (which hearing may consist solely of affidavits
 7 and oral arguments).

8 “(f) (1) In a proceeding to review disciplinary pro-
 9 ceedings of a registered securities association with respect
 10 to a member thereof or a person associated with a member,
 11 if the Commission, after appropriate notice and opportunity
 12 for hearing,

13 “(A) finds that such member or person has engaged
 14 in such acts or practices, or has omitted such act, as the
 15 association has charged or has found him to have en-
 16 gaged in or omitted, and

17 “(B) finds that such acts or practices, or omission
 18 to act, are in violation of such rules of the association
 19 as have been designated in the charges or the determina-
 20 tion of the association,

21 the Commission shall by order so declare and, if appropriate,
 22 dismiss the review proceeding, unless it appears to the Com-
 23 mission that such action should be modified in accordance
 24 with paragraph (2) of this subsection. The Commission shall
 25 likewise determine whether the acts or practices prohibited,

1 or the omission of any act required, by any such rule consti-
 2 tute conduct inconsistent with just and equitable principles
 3 of trade, and shall so declare. If the Commission finds that
 4 the evidence does not warrant the finding required in clause
 5 (A), or if the Commission finds that such acts or practices
 6 are not prohibited by the designated rule or rules of the asso-
 7 ciation, or that such act as is alleged or found to have been
 8 omitted is not required by such designated rule or rules, the
 9 Commission shall by order so declare and, if appropriate, set
 10 aside the action of the association.

11 “(2) If the Commission, having due regard for the pub-
 12 lic interest, finds that the disposition of the proceedings before
 13 the association with respect to sanctions or penalties against
 14 a member or person associated with a member is inappropriate,
 15 the Commission may by order cancel, reduce, require the
 16 remission, increase, broaden the scope or otherwise require
 17 the modification of such sanction or penalty or require the
 18 imposition of different sanction or penalty.

19 “(3) In any proceeding to review the denial of mem-
 20 bership in a registered securities association or the barring
 21 of any person from being associated with a member, if the
 22 Commission, after appropriate notice and opportunity for
 23 hearing, finds that the specific grounds on which such denial
 24 or bar is based exist in fact and are valid under this sec-
 25 tion, the Commission shall by order dismiss the proceeding;

1 otherwise, the Commission shall by order set aside the
2 action of the association and require it to admit the applicant
3 broker or dealer to membership therein, or to permit such
4 person to be associated with a member.

5 “(g) (1) The rules of a registered securities associa-
6 tion may provide that no member thereof shall deal with
7 any nonmember broker or dealer (as defined in paragraph
8 (2) of this subsection) except at the same prices, for the
9 same commissions or fees, and on the same terms and con-
10 ditions as are by such member accorded to the general public.

11 (2) For the purposes of this subsection, the term ‘non-
12 member broker or dealer’ shall include any broker or dealer
13 who makes use of the mails or of any means or instrumental-
14 ity of interstate commerce to effect any transaction in, or to
15 induce the purchase or sale of, any security otherwise than
16 on a national securities exchange, who is not a member of
17 any registered securities association, except a broker or
18 dealer who deals exclusively in commercial paper, bankers’
19 acceptances, or commercial bills.

20 “(3) Nothing in this subsection shall be so construed or
21 applied as to prevent any member of a registered securities
22 association from granting to any other member of any reg-
23 istered securities association any dealer’s discount, allowance,
24 commission, or special terms.

25 “(h) (1) Every registered securities association shall

1 file with the Commission, in accordance with such rules and
2 regulations as the Commission may prescribe as necessary
3 or appropriate in the public interest or for the protection of
4 investors, copies of any proposed changes in, additions to,
5 deletions from, or amendments to the rules of the association,
6 accompanied by a summary statement of the basis and pur-
7 pose of such proposed change, addition, deletion, or amend-
8 ment, and such other information and documents as the
9 Commission may require to keep current or to supplement
10 the registration statement and documents filed pursuant to
11 subsection (a). No such proposed change, addition, dele-
12 tion, or amendment shall take effect except in accordance
13 with the provisions of this subsection.

14 “(2) The Commission shall, upon the filing of a pro-
15 posed change, addition, deletion, or amendment, publish
16 notice of such proposal together with the association’s state-
17 ment of basis and purpose, and shall afford interested persons
18 a reasonable opportunity for comment on the proposed
19 change, addition, deletion, or amendment. Such proposed
20 changes, additions, deletions, or amendments shall take effect
21 sixty days after publication of such notice by the Commission,
22 unless the Commission, by order, disapproves such proposed
23 change, addition, deletion, or amendment as inconsistent with
24 the purposes of this title or otherwise inconsistent with the
25 public interest, but the Commission may extend this time up

1 to an additional ninety days by providing interested persons
 2 an opportunity for oral presentation of views, data, or argu-
 3 ments concerning the proposed change, addition, deletion, or
 4 amendment.

5 “(i) This section shall not require a national securities
 6 association which was registered with the Commission on the
 7 date of enactment of the Securities Exchange Act Amend-
 8 ments of 1973 to re-register with the Commission. Six
 9 months after the effective date of such Act, the Commission
 10 shall, after notice and opportunity for hearing, suspend the
 11 registration of any such association if it finds that the rules
 12 thereof do not conform to the requirements of this section, as
 13 amended by section 206 of the Securities Exchange Act
 14 Amendments of 1973 and any such suspension shall remain
 15 in effect until the Commission issues an order determining
 16 that such rules have been modified to conform with such
 17 requirements.

18 “(j) The Commission is authorized, if such action ap-
 19 pears to it to be necessary or appropriate in the public
 20 interest or for the protection of investors or to carry out
 21 the purposes of this section—

22 “(1) after appropriate notice and opportunity for
 23 hearing, by order to suspend for a period not exceeding
 24 twelve months or to revoke the registration of a regis-

1 tered securities association, if the Commission finds that
 2 such association has violated any provision of this title
 3 or any rule or regulation thereunder, or has failed to
 4 enforce compliance with such rules or with its own rules,
 5 or has engaged in any other activity tending to defeat
 6 the purposes of this section.

7 “(2) after appropriate notice and opportunity for
 8 hearing, by order to suspend for a period not exceeding
 9 twelve months or to expel from a registered securities
 10 association any member thereof, or to suspend for a
 11 period not exceeding twelve months or to bar any per-
 12 son from being associated with a member thereof, if the
 13 Commission finds that such member or person has will-
 14 fully violated any provision of the Securities Act of
 15 1933, the Investment Advisers Act of 1940, the Invest-
 16 ment Company Act of 1940, or of this title or a rule
 17 or regulation under any of such statutes, or has vio-
 18 lated a rule of such association or of any national secu-
 19 rities exchange of which such person was a member,
 20 or has effected any transaction for any other person who,
 21 he had reason to believe, was violating with respect to
 22 such transaction any provision of any of such statutes
 23 or any rule or regulation thereunder or any rule of
 24 such association or of any national securities exchange
 25 of which such person was a member.

1 “(3) after appropriate notice and opportunity for
2 hearing, by order to remove from office any officer, di-
3 rector, or employee of a registered securities association
4 who, the Commission finds, has willfully failed to en-
5 force the rules of the association, or has willfully abused
6 his authority.

7 “(k) Nothing in this section shall be construed to apply
8 with respect to any transaction by a broker or dealer in any
9 exempted security.”

10 SEC. 207. The Securities Exchange Act of 1934 is
11 amended by adding after section 15A (15 U.S.C. 78o-3)
12 the following new section:

13 “AUTHORITY TO AMEND ASSOCIATION RULES

14 “SEC. 15B. (a) The Commission, by rule or regulation,
15 may amend the rules of any registered association (the term
16 ‘amend’ when used with respect to any rule of a registered
17 association means to abrogate, or compel the adoption of an
18 alteration of, or supplement to, such rule, or to adopt a new
19 rule) in the following manner:

20 “(1) The Commission shall publish in the Federal
21 Register a proposed rule or regulation, which shall con-
22 tain the text of the proposed amendment to the rules of
23 the registered association; a full statement of the bases
24 for the Commission’s determination to require the
25 amendment; any facts upon which the Commission’s de-

1 termination is founded; and an evaluation by the Com-
2 mission of the effect of the proposed amendment to the
3 rules of such association.

4 “(2) Rules or regulations which have been pro-
5 posed under paragraph (1) shall be promulgated pur-
6 suant to section 553 of title 5, United States Code,
7 except that the Commission shall give interested persons
8 an opportunity for the oral presentation of data, views,
9 or arguments, in addition to an opportunity to make
10 written submissions. A transcript shall be kept of any
11 oral presentation. The Commission may make written
12 submissions or oral presentations respecting any matter
13 on which it intends to rely under paragraph (3) in pro-
14 mulgating the rule or regulation. Any such submission
15 or presentation by the Commission shall be included in
16 the record of the proceeding.

17 “(3) Whenever the Commission promulgates a rule
18 or regulation to which this subsection applies, it shall
19 publish with such rule or regulation a statement describ-
20 ing the bases for the Commission’s determination to re-
21 quire the amendment; and containing any facts upon
22 which the Commission’s determination is founded, and
23 an evaluation by the Commission of the effect of the
24 proposed amendment, and an evaluation of the principal
25 arguments made in any oral presentation under para-

1 graph (2) or in any written comment submitted under
2 such paragraph.

3 “(b) (1) Within one hundred and twenty days from the
4 promulgation of such rule or regulation any person adversely
5 affected by a rule or regulation prescribed under subsection
6 (a) may file a petition with the United States Court of Ap-
7 peals for the District of Columbia or for the circuit in which
8 such person resides or has his principal place of business for
9 judicial review of such regulation. Copies of the petition shall
10 be forthwith transmitted by the clerk of the court to the
11 Commission or other officer designated by it for that pur-
12 pose. The Commission shall file in the court the record of the
13 proceedings on which the Commission based its rule or reg-
14 ulation. For purposes of this subsection, the term ‘record’
15 means the regulation, and the statement published therewith;
16 the transcript required by subsection (b) (2) of any oral
17 presentations by the Commission and by interested persons;
18 and any written submission by interested persons or by the
19 Commission in a proceeding under such subsection and any
20 additional views, data, or arguments adduced pursuant to
21 paragraph (2) of this subsection.

22 “(2) If the petitioner applies to the court for leave to
23 adduce additional data, views, or arguments and shows to
24 the satisfaction of the court that such additional data, views,
25 or arguments are material and that there were reasonable

1 grounds for the petitioner’s failure to adduce such data,
2 views, or arguments in the proceeding before the Commission,
3 the court may order the Commission to provide additional
4 opportunity for the oral presentation of data, views, or
5 arguments and for written submissions. The Commission may
6 modify its findings, or make new findings by reason of the
7 additional data, views, or arguments so taken and shall file
8 such modified or new findings, and its recommendation, if
9 any, for the modification or setting aside of its original regu-
10 lation, with the return of such additional data, views, or
11 arguments.

12 “(3) Upon the filing of the petition under paragraph
13 (1) of the subsection the court shall have jurisdiction to
14 review the regulation in accordance with chapter 7 of title
15 5, United States Code, and to grant appropriate relief, in-
16 cluding interim relief, as provided in such chapter; except
17 that the regulation shall not be affirmed unless the Commis-
18 sion shows that, on the basis of the record taken as a whole,
19 (A) its action in prescribing the regulation is not arbitrary,
20 capricious, an abuse of discretion, or otherwise not in accord-
21 ance with law; and (B) that its action is not (i) contrary
22 to constitutional right, power, privilege, or immunity; (ii)
23 in excess of statutory jurisdiction, authority, or limitation, or
24 short of statutory right; or (iii) without observance of pro-
25 cedure required by law.

1 “(4) The judgment of the court affirming or setting
2 aside, in whole or in part, any regulation under subsection
3 (b) shall be final, subject to review by the Supreme Court of
4 the United States upon certiorari or certification, as provided
5 in section 1254 of title 28 of the United States Code.

6 “(5) The remedies provided for in this section shall be
7 in addition to and not in lieu of any other remedies provided
8 by law.”

9 SEC. 208. Section 19 of the Securities Exchange Act of
10 1934 (15 U.S.C. 78s) is amended to read as follows:

11 “POWERS WITH RESPECT TO EXCHANGES AND SECURITIES

12 “SEC. 19. (a) The Commission is authorized, if in its
13 opinion such action is necessary or appropriate for the pro-
14 tection of investors—

15 “(1) After appropriate notice and opportunity for
16 hearing, by order to suspend for a period not exceed-
17 ing twelve months or to revoke the registration of a na-
18 tional securities exchange if the Commission finds that
19 such exchange has violated any provision of this title
20 or any rules or regulations thereunder or has failed to
21 enforce compliance with such rules or with its own rules
22 by a member or by an issuer of a security registered
23 thereon.

24 “(2) After appropriate notice and opportunity for
25 hearing, by order to deny, to suspend the effective date

1 of, to suspend for a period not exceeding twelve months,
2 or to withdraw, the registration of a security if the Com-
3 mission finds that the issuer of such security has failed
4 to comply with any provision of this title or the rules
5 and regulations thereunder, or any rule of a registered
6 national securities exchange upon which such security
7 is listed for trading.

8 “(3) After appropriate notice and opportunity for
9 hearing, by order to suspend for a period not exceeding
10 twelve months or to expel from a national securities
11 exchange any member thereof, or to suspend for a
12 period not exceeding twelve months or to bar any person
13 from being associated with a member thereof, whom the
14 Commission finds has violated any provision of the Secu-
15 rities Act of 1933, the Investment Advisers Act of 1940,
16 the Investment Company Act of 1940, or of this title, or
17 a rule or regulation under any of such statutes, or has
18 violated a rule of such exchange or of any registered secu-
19 rities association of which such person was a member or
20 has affected any transaction for any other person who, he
21 had reason to believe, was violating in respect to such
22 transaction any provision of any of such statutes, or a
23 rule or regulation thereunder, or a rule of such exchange
24 or of any registered securities association of which such
25 person was a member.

1 “(4) After appropriate notice and opportunity for
2 hearing, by order to remove from office any officer,
3 director, or employee of a registered national securities
4 exchange who, the Commission finds, has willfully failed
5 to enforce the rules of the exchange, or has willfully
6 abused his authority.

7 “(5) And if in its opinion the public interest so
8 requires, summarily to suspend trading in any registered
9 security on any national securities exchange for a period
10 not exceeding ten days, or, with the approval of the
11 President, summarily to suspend all trading on any
12 national securities exchange for a period not exceeding
13 ninety days.

14 “(b) The Commission, having due regard for the public
15 interest, the protection of investors and the need to assure fair
16 dealing in securities, and to preserve and foster competition
17 among exchanges and between exchange markets and markets
18 occurring otherwise than on an exchange, shall, on or before
19 February 1, 1975, take such steps as are within its power
20 to establish a national market system for transactions in
21 securities. The Commission shall, commencing in 1973 and
22 ending in 1975, report annually to the Congress (1) the
23 steps it has taken and its evaluation of the progress made
24 toward the creation of a national market system, and (2) its

1 recommendations, if any, for further legislative authority
2 to create such a system.”

3 SEC. 209. The Securities Exchange Act of 1934 is
4 amended by adding after section 20 (15 U.S.C. 78t)
5 the following new section:

6 “SEC. 20A. (a) No national securities exchange regis-
7 tered under section 6 shall by rule or otherwise prohibit any
8 of its members, when acting on behalf of a customer, from
9 transacting business on any other exchange, or otherwise
10 than on an exchange, and no national securities associa-
11 tion registered under section 15A shall by rule or otherwise
12 prohibit any of its members, when acting on behalf of a
13 customer, from transacting business on a national securities
14 exchange.

15 “(b) The Commission shall adopt rules which assure
16 that any transaction by any registered broker or dealer or
17 member of an exchange is executed at a net price to such
18 member's customer which is better than or equivalent to the
19 net price which would have been obtainable if such trans-
20 action were to have been executed (in any unit of trading)
21 on any other exchange or otherwise than on an exchange.

22 “(c) No national securities exchange registered under
23 section 6 and no national securities association registered
24 under section 15A shall by rule or otherwise prohibit any
25 of its members from participating in any clearing agency or

1 securities depository registered under section 17A."

2 SEC. 210. Section 21 of the Securities Exchange Act
3 of 1934 (15 U.S.C. 78u) is amended to read as follows:

4 "INVESTIGATIONS, INJUNCTIONS, AND PROSECUTION OF
5 OFFENSES

6 "SEC. 21. (a) The Commission may, in its discretion,
7 make such investigations as it deems necessary to determine
8 whether any person has violated or is about to violate any
9 provision of this title or any rule or regulation thereunder,
10 or any rule of a registered securities association or national
11 securities exchange of which such person is a member, and
12 may require or permit any person to file with it a statement
13 in writing, under oath or otherwise as the Commission shall
14 determine, as to all the facts and circumstances concerning
15 the matter to be investigated. The Commission is authorized,
16 in its discretion, to publish information concerning any such
17 violations, and to investigate any facts, conditions, practices,
18 or matters which it may deem necessary or proper to aid in
19 the enforcement of the provisions of this title, in the prescrib-
20 ing of rules and regulations thereunder, or in securing in-
21 formation to serve as a basis for recommending further legis-
22 lation concerning the matters to which this title relates.

23 "(b) For the purpose of any such investigation, or any
24 other proceeding under this title, any member of the Com-
25 mission or any officer designated by it is empowered to ad-

1 minister oaths and affirmations, subpoena witnesses, compel
2 their attendance, take evidence, and require the production
3 of any books, papers, correspondence, memoranda, or other
4 records which the Commission deems relevant or material to
5 the inquiry. Such attendance of witnesses and the production
6 of any such records may be required from any place in the
7 United States or any State at any designated place of
8 hearing.

9 "(c) In case of contumacy by, or refusal to obey a
10 subpoena issued to, any person, the Commission may invoke
11 the aid of any court of the United States within the juris-
12 diction of which such investigation or proceeding is carried
13 on, or where such person resides or carries on business, in
14 requiring the attendance and testimony of witnesses and the
15 production of books, papers, correspondence, memoranda,
16 and other records. And such court may issue an order requir-
17 ing such person to appear before the Commission or mem-
18 ber or officer designated by the Commission, there to produce
19 records, if so ordered, or to give testimony touching the
20 matter under investigation or in question; and any failure
21 to obey such order of the court may be punished by such
22 court as a contempt thereof. All process in any such case
23 may be served in the judicial district whereof such person is
24 an inhabitant or wherever he may be found. Any person
25 who shall, without just cause, fail or refuse to attend and

1 testify or to answer any lawful inquiry or to produce books,
 2 papers, correspondence, memoranda, and other records, if
 3 in his power so to do, in obedience to the subpoena of the
 4 Commission, shall be guilty of a misdemeanor and, upon
 5 conviction, shall be subject to a fine of not more than \$1,000
 6 or to imprisonment for a term of not more than one year,
 7 or both.

8 “(d) Wherever it shall appear to the Commission that
 9 any person is engaged or about to engage in any acts or
 10 practices which constitute or will constitute a violation of the
 11 provisions of this title, or any rule or regulation thereunder,
 12 or any rule of a registered securities association or na-
 13 tional securities exchange of which such person is a member,
 14 it may in its discretion bring an action in the proper district
 15 court of the United States, the United States District Court
 16 for the District of Columbia or the United States courts of
 17 any territory or other place subject to the jurisdiction of the
 18 United States, to enjoin such acts or practices, and upon a
 19 proper showing a permanent or temporary injunction or re-
 20 straining order shall be granted without bond. The Commis-
 21 sion may transmit such evidence as may be available concern-
 22 ing such acts or practices to the Attorney General, who may,
 23 in his discretion, institute the necessary criminal proceedings
 24 under this title.

25 “(e) Upon application of the Commission the district

1 courts of the United States, the United States District Court
 2 for the District of Columbia, and the United States courts of
 3 any territory or other place subject to the jurisdiction of
 4 the United States shall also have jurisdiction to issue writs or
 5 mandamus commanding any person to comply with the pro-
 6 visions of this title or any order of the Commission made in
 7 pursuance thereof, or any rule of a registered securities
 8 association or national securities exchange of which such
 9 person is a member, or with any undertaking contained in
 10 a registration statement as provided in subsection (d) of
 11 section 15 of this title or to compel a registered national
 12 securities exchange or association to enforce compliance with
 13 the rules of such exchange or association.”

14 TITLE III—FINANCIAL RESPONSIBILITY; REGU-
 15 LATION OF BROKERS, DEALERS, AND MEM-
 16 BERS; REPORTS AND EXAMINATIONS

17 SEC. 301. Section 8 of the Securities Exchange Act of
 18 1934 (15 U.S.C. 78h) is amended to read as follows:

19 “RESTRICTIONS ON BORROWING BY MEMBERS, BROKERS,
 20 AND DEALERS

21 “SEC. 8. It shall be unlawful for any registered broker
 22 or dealer or member of a registered national securities ex-
 23 change or any broker or dealer who transacts a business in
 24 securities through the medium of any such member, directly
 25 or indirectly—

1 “(a) To borrow in the ordinary course of business as a
2 broker or dealer on any security (other than an exempted
3 security) registered on a national securities exchange except
4 (1) from or through a member bank of the Federal Reserve
5 System, (2) from any nonmember bank which shall have
6 filed with the Board of Governors of the Federal Reserve
7 System an agreement, which is still in force and which is in
8 the form prescribed by the Board, undertaking to comply
9 with all provisions of this Act, the Federal Reserve Act as
10 amended, and the Banking Act of 1933, which are appli-
11 cable to member banks and which relate to the use of credit
12 to finance transactions in securities, and with such rules and
13 regulations as may be prescribed pursuant to such provisions
14 of law or for the purpose of preventing evasions thereof, or
15 (3) in accordance with such rules and regulations as the
16 Board of Governors of the Federal Reserve System may pre-
17 scribe to permit loans between such members and/or brokers
18 and/or dealers, or to permit loans to meet emergency needs.
19 Any such agreement filed with the Board of Governors of
20 the Federal Reserve System shall be subject to termination
21 at any time by order of the Board after appropriate notice
22 and opportunity for hearing because of any failure by such
23 bank to comply with the provisions thereof or with such
24 provisions of law or rules or regulation; and, for any willful
25 violation of such agreement, such bank shall be subject to

1 the penalties provided for violations of rules and regulations
2 prescribed under this title. The provisions of sections 21 and
3 25 of this title shall apply in the case of any such proceeding
4 or order of the Board of Governors of the Federal Reserve
5 System in the same manner as such provisions apply in the
6 case of proceedings and orders of the Commission.

7 “(b) In contravention of such rules and regulations as
8 the Commission shall prescribe for the protection of inves-
9 tors to hypothecate or lend or arrange for hypothecation
10 or lending of any securities carried for the account of any
11 customer under circumstances (1) that will permit the
12 commingling of his securities without his written consent
13 with the securities of any other customer, (2) that will per-
14 mit such securities to be commingled with the securities of
15 any person other than a bona fide customer, or (3) that will
16 permit such securities to be loaned or hypothecated, or
17 subjected to any lien or claim of the pledgee for a sum in
18 excess of the aggregate indebtedness of such customers in
19 respect of such securities.

20 “(c) To lend or arrange for the lending of any securities
21 carried for the account of any customer without the written
22 consent of such customer.”

23 SEC. 302. Section 15 (a) of the Securities Exchange Act
24 of 1934 (15 U.S.C. 78o(a)), is amended to read as
25 follows:

1 “SEC. 15. (a) (1) No broker or dealer (other than
2 one whose business is exclusively intrastate) shall make use
3 of the mails or of any means or instrumentality of interstate
4 commerce, and no member of an exchange shall make use
5 of an exchange facility, to effect any transaction, in or to
6 induce the purchase or sale of, any security (other than an
7 exempted security or commercial paper, bankers' accept-
8 ances, or commercial bills) unless such broker or dealer
9 or member is registered in accordance with subsection (b)
10 of this section.

11 “(2) The Commission may by such rules and regula-
12 tions or orders as it deems necessary or appropriate in the
13 public interest or for the protection of investors, either un-
14 conditionally or upon specified terms and conditions or for
15 specified periods, exempt from paragraph (1) of this sub-
16 section any broker or dealer or member of class of brokers
17 or dealers or members specified in such rules, regulations, or
18 orders.”

19 SEC. 303. (a) Section 15 (b) of the Securities Exchange
20 Act of 1934 (15 U.S.C. 78o (b)) is amended to read as
21 follows:

22 “(b) (1) A broker or dealer or member of an exchange
23 may be registered for the purpose of this section by filing
24 with the Commission an application for registration, which
25 shall contain financial statements certified by an independ-

1 ent public or certified accountant and such other informa-
2 tion in such detail as to such broker or dealer or member
3 and any persons associated with such broker or dealer or
4 member as the Commission may by rules and regulations
5 require as necessary or appropriate in the public interest
6 or for the protection of investors. Within forty-five days of
7 the filing of such application or any amendment to such
8 application the Commission shall—

9 “(A) by order grant such registration if the Com-
10 mission finds that the requirements of this section are
11 satisfied, or

12 “(B) institute appropriate administrative action to
13 determine whether the application should be denied. If,
14 after appropriate notice and opportunity for hearing, the
15 Commission finds that any requirement of this section is
16 not satisfied, the Commission shall by order deny such
17 registration. The Commission shall conclude administra-
18 tive action and issue an order granting or denying the
19 application within one hundred and twenty days of the
20 filing of such application, unless the Commission finds
21 good cause for extending the period, in which case the
22 Commission may extend such period for an additional
23 ninety days.

24 “(2) An application for registration of a broker or
25 dealer to be formed or organized may be made by a broker

1 or dealer to which the broker or dealer to be formed or
 2 organized is to be the successor. Such application shall con-
 3 tain financial statements certified by an independent or
 4 certified public accountant and such other information in
 5 such detail as to the applicant and as to the successor and
 6 any person associated with the applicant or the successor,
 7 as the Commission may by rules and regulations require
 8 as necessary or appropriate in the public interest or for the
 9 protection of investors. The effectiveness of such application
 10 shall be governed by the same procedures as set forth in sub-
 11 section (b) (1). Should the Commission grant such applica-
 12 tion for registration, the registration shall terminate on the
 13 forty-fifth day after the effective date thereof, unless prior
 14 thereto the successor shall, in accordance with such rules and
 15 regulations as the Commission may prescribe, adopt such
 16 application as its own.

17 “(3) Within six months of the granting of an applica-
 18 tion for registration the Commission, or such registered
 19 national securities association or registered national secu-
 20 rities exchange of which such broker or dealer is a member
 21 as the Commission may, by rule, designate, shall conduct
 22 an inspection of the broker or dealer or member so registered,
 23 to determine whether such broker or dealer or member is
 24 operating in conformity with the provisions of this title, and
 25 the rules and regulations adopted thereunder.

1 “(4) Any provision of this title (other than section
 2 5 and subsection (a) of this section) which prohibits any
 3 act, practice, or course of business if the mails or any
 4 means or instrumentality of interstate commerce are used
 5 in connection therewith shall also prohibit any such act,
 6 practice, or course of business by any broker or dealer or
 7 member registered pursuant to this subsection or any person
 8 acting on behalf of such a broker or dealer, irrespective of
 9 any use of the mails or any means or instrumentality of
 10 interstate commerce in connection therewith.

11 “(5) The Commission shall, after appropriate notice
 12 and opportunity for hearing, by order censure, deny registra-
 13 tion to, suspend for a period not exceeding twelve months,
 14 or revoke the registration of, any broker or dealer or member
 15 if it finds that such censure, denial, suspension, or revocation
 16 is in the public interest and that such broker or dealer or
 17 member, whether prior or subsequent to becoming such, or
 18 any person associated with such broker or dealer or member,
 19 whether prior or subsequent to becoming so associated—

20 “(A) has willfully made or caused to be made in
 21 any application for registration or report required to
 22 be filed with the Commission under this title, or in
 23 any proceeding before the Commission with respect
 24 to registration, any statement which was at the time
 25 and in the light of the circumstances under which it

1 was made false or misleading with respect to any ma-
 2 terial fact, or has omitted to state in any such appli-
 3 cation or report any material fact which is required
 4 to be stated therein.

5 “(B) has been convicted within ten years preced-
 6 ing the filing of the application or at any time thereafter
 7 of the crime of armed robbery or grand larceny or of
 8 any felony or misdemeanor which the Commission finds—

9 “(i) involves the purchase or sale of any
 10 security.

11 “(ii) arises out of the conduct of the business
 12 of a broker, dealer, or investment adviser.

13 “(iii) involves embezzlement, fraudulent con-
 14 version, or misappropriation of funds or securities.

15 “(iv) involves the violation of section 1341,
 16 1342, or 1343 of title 18, United States Code.

17 “(C) is permanently or temporarily enjoined by
 18 order, judgment, or decree of any court of competent
 19 jurisdiction from acting as an investment adviser, under-
 20 writer, broker, or dealer, or as an affiliated person or
 21 employee of any investment company, bank, or insur-
 22 ance company, or firm engaging in or continuing any
 23 conduct or practice in connection with any such activity,
 24 or in connection with the purchase or sale of any
 25 security.

1 “(D) has willfully violated any provision of the
 2 Securities Act of 1933, or of the Investment Advisers
 3 Act of 1940, or of the Investment Company Act of
 4 1940, or of this title, or any rule or regulation under
 5 any of such statutes, or any rule or regulation of a
 6 registered national securities exchange or registered
 7 national securities association of which such person was
 8 a member.

9 “(E) has willfully aided, abetted, counseled, com-
 10 manded, induced, or procured the violation by any other
 11 person of the Securities Act of 1933, or the Investment
 12 Advisers Act of 1940, or the Investment Company Act
 13 of 1940, or of this title, or any rule or regulation under
 14 any of such statutes, or any rule or regulation of a reg-
 15 istered national securities exchange or registered na-
 16 tional securities association of which such person was
 17 a member, or has failed reasonably to supervise, with a
 18 view to preventing violations of such statutes, rules, and
 19 regulations, another person who commits such a violation,
 20 if such other person is subject to his supervision. For
 21 the purposes of this clause (E) no person shall be
 22 deemed to have failed reasonably to supervise any person,
 23 if—

24 “(i) there have been established procedures,
 25 and a system for applying such procedures, which

1 would reasonably be expected to prevent and detect,
 2 insofar as practicable, any such violation by such
 3 other person, and

4 “(ii) such person has reasonably discharged the
 5 duties and obligations incumbent upon him by rea-
 6 son of such procedures and system without reason-
 7 able cause to believe that such procedures and sys-
 8 tem were not being complied with.

9 “(F) is subject to an order of the Commission en-
 10 tered pursuant to paragraph (7) of this subsection (b)
 11 barring or suspending the right of such person to be asso-
 12 ciated with a broker or dealer, which order is in effect
 13 with respect to such person.

14 (6) Pending final determination whether any registra-
 15 tion under this subsection shall be revoked, the Commission
 16 shall by order suspend such registration, if after appropri-
 17 ate notice and opportunity for hearing, such suspension
 18 shall appear to the Commission to be necessary or appro-
 19 priate in the public interest or for the protection of inves-
 20 tors. Any registered broker or dealer or member may, upon
 21 such terms and conditions as the Commission may deem
 22 necessary in the public interest or for the protection of in-
 23 vestors, withdraw from registration by filing a written
 24 notice of withdrawal with the Commission. If the Commis-
 25 sion finds that any registered broker or dealer or member is

1 no longer in existence or has ceased to do business as a broker
 2 or dealer or member, the Commission shall, after appropriate
 3 notice and opportunity for hearing, by order cancel the reg-
 4 istration or application of such broker or dealer or member.

5 “(7) The Commission may, after appropriate notice and
 6 opportunity for hearing, by order censure any person, or
 7 bar or suspend for a period not exceeding twelve months
 8 any person from being associated with a broker or dealer
 9 or member, if the Commission finds that such censure, bar-
 10 ring, or suspension is in the public interest and that such
 11 person has committed or omitted any act or omission enu-
 12 merated in clause (A), (D), or (E) of paragraph (5)
 13 of this subsection or has been convicted of any offense speci-
 14 fied in clause (B) of said paragraph (5) within ten years
 15 of the commencement of the proceedings under this para-
 16 graph or is enjoined from any action, conduct, or practice
 17 specified in clause (C) of said paragraph (5). It shall
 18 be unlawful for any person as to whom such an order bar-
 19 ring or suspending him from being associated with a broker
 20 or dealer is in effect, willfully to become, or to be, associated
 21 with a broker or dealer or member, without the consent
 22 of the Commission, and it shall be unlawful for any broker
 23 or dealer or member to permit such a person to become, or
 24 remain, a person associated with him, without the consent
 25 of the Commission, if such broker or dealer or member knew,

1 or in the exercise of reasonable care, should have known,
2 of such order.

3 “(8) No broker or dealer or member registered under
4 section 15 of this title shall, effect any transaction in, or in-
5 duce the purchase or sale of, any security unless such broker
6 or dealer or member and all natural persons associated with
7 such broker or dealer or member meet such specified and ap-
8 propriate standards with respect to training, experience and
9 age, and such other qualifications as the Commission finds
10 necessary or desirable. The Commission shall establish such
11 standards by rules and regulations, which may—

12 “(A) appropriately classify brokers and dealers and
13 members and persons associated with brokers and dealers
14 and members (taking into account relevant matters, in-
15 cluding types of business done and nature of securities
16 sold).

17 “(B) specify that all or any portion of such stand-
18 ards shall be applicable to any such class.

19 “(C) require persons in any such class to pass ex-
20 aminations prescribed in accordance with such rules and
21 regulations, which examination shall, with respect to
22 partners, officers, and supervisory employees (which
23 latter term may be defined by the Commission’s rules
24 and regulations and as so defined shall include branch
25 managers of brokers or dealers or members), include

1 questions relating to bookkeeping, accounting, internal
2 control over cash and securities, proper supervision of
3 employees, proper maintenance of records, and other
4 similar matters.

5 “(D) provide that persons in any such class other
6 than a broker or a dealer and partners, officers, and
7 supervisory employees of brokers or dealers, may be
8 qualified solely on the basis of compliance with such
9 specified standards of training and such other qualifi-
10 cations as the Commission finds appropriate.

11 The Commission may prescribe by rules and regulations
12 reasonable fees and charges to defray its costs in carrying
13 out this paragraph, including, but not limited to, fees for
14 any examination administered by it or under its direction.
15 The Commission may cooperate with securities associations
16 registered under section 15A of this title and with national
17 securities exchanges registered under section 6 of this title
18 in devising and administering examinations and may re-
19 quire brokers and dealers and members registered under this
20 section and persons associated with such brokers and dealers
21 and members to pass examinations administered by or on
22 behalf of any such association or exchange and to pay such
23 association or exchange reasonable fees or charges to defray
24 the costs incurred by such association or exchange in adminis-
25 tering such examinations.

1 “(9) In addition to the fees and charges authorized by
2 paragraph (8) each broker or dealer registered under
3 section 15 of this title not a member of a securities association
4 registered pursuant to section 15A of this title shall pay to
5 the Commission such reasonable fees and charges as may be
6 necessary to defray the costs of additional regulatory duties
7 required to be performed by the Commission because such
8 broker or dealer is not a member of such a securities associa-
9 tion. The Commission shall establish such fees and charges
10 by rules and regulations.

11 “(10) No broker or dealer subject to paragraph (9)
12 of this subsection shall effect any transaction in, or induce
13 the purchase or sale of, any security (otherwise than on a
14 national securities exchange) in contravention of such rules
15 and regulations as the Commission may prescribe designed
16 to promote just and equitable principles of trade, to provide
17 safeguards against unreasonable profits or unreasonable rates
18 of commissions or other charges, and in general to protect
19 investors and the public interest, and to remove impediments
20 to and perfect the mechanism of a free and open market.”

21 (b) The amendments and repeals made by this section
22 shall not require the re-registration of any person registered
23 pursuant to subsection 15(b) on the date on which the
24 Securities Exchange Amendments Act of 1973 takes effect.

25 SEC. 304. Section 15(c)(3) of the Securities Ex-

1 change Act of 1934 (15 U.S.C. 78o(c)(3)) is amended
2 to read as follows:

3 “(3) (A) No broker or dealer shall make use of the
4 mails or of any means or instrumentality of interstate com-
5 merce and no member of an exchange shall make use of an
6 exchange facility, to effect any transaction in, or to induce
7 or attempt to induce the purchase or sale of, any security
8 (other than an exempted security or commercial paper, bank-
9 ers’ acceptances, or commercial bills) in contravention of
10 such rules and regulations as the Commission shall prescribe
11 as necessary or appropriate in the public interest or for the
12 protection of investors to provide safeguards with respect to
13 the financial responsibility and related practices of such
14 brokers, dealers, and members including, but not limited
15 to, the acceptance of custody and use of customers’ securities,
16 and the carrying and use of customers’ deposits or credit bal-
17 ances. Such rules and regulations shall (i) require the mainte-
18 nance of reserves with respect to customers’ deposits or
19 credit balances, and (ii) by no later than January 1, 1974,
20 establish minimum capital requirements providing for ample,
21 liquid, and permanent capital of such brokers, dealers, and
22 members;

23 “(B) The Commission shall have authority, after ap-
24 propriate notice and opportunity for hearing, to order any
25 broker or dealer or member or class thereof to restrict any

1 of its activities if the Commission finds that such restrictions
2 are reasonably necessary to assure continued compliance with
3 rules under this section.

4 “(C) For the purposes of this paragraph, the Commis-
5 sion is authorized to classify brokers, dealers, and members of
6 national securities exchanges on appropriate bases including
7 the type of business in which they are engaged and risks at-
8 tendant thereto.

9 “(D) The Commission is not authorized to exempt any
10 broker, dealer, or member of a national securities exchange,
11 or any class thereof, from any rule promulgated under this
12 paragraph.”

13 SEC. 305. Section 17 of the Securities Exchange Act of
14 1934 (15 U.S.C. 78q) is amended to read as follows:

15 “ACCOUNTS AND RECORDS, REPORTS, EXAMINATIONS OF
16 EXCHANGES, MEMBERS, AND OTHERS

17 “SEC. 17. (a) Every national securities exchange,
18 every member thereof registered under section 15 of this
19 title, every broker or dealer who transacts a business in
20 securities through the medium of any such member, every
21 registered securities association; and every broker or dealer
22 registered pursuant to section 15 of this title; shall make,
23 keep, and preserve for such periods, such accounts, corre-
24 spondence, memoranda, papers, books, and other records,
25 and furnish such copies thereof, and make such reports, as

1 the Commission by its rules and regulations may prescribe
2 as necessary or appropriate in the public interest or for the
3 protection of investors.

4 “(b) Such accounts, correspondence, memoranda, pa-
5 pers, books, and other records shall be subject at any time
6 or from time to time to such reasonable periodic, special, or
7 other examinations by examiners or other representatives
8 of the Commission as the Commission may deem necessary
9 or appropriate in the public interest or for the protection
10 of investors.

11 “(c) Every broker or dealer or member registered under
12 this title shall file with the Commission, and send to its cus-
13 tomers, such information concerning its financial condition
14 as the Commission shall, by rule, require. Such information
15 shall include certified balance sheets and certified income
16 statements prepared on a calendar or fiscal year basis for
17 the current year and, as a minimum, the preceding year.

18 “(d) Rules under subsection (a) of this section may
19 include rules (1) regulating the reporting of transactions
20 executed on an exchange, or otherwise than on an exchange;
21 (2) regulating the reporting of bids and offers for securities
22 traded on an exchange or otherwise than on an exchange;
23 and (3) prescribing uniformity in accounting procedures
24 and systems of brokers and dealers and members registered
25 under this title.

1 “(e) Any broker, dealer, member or other person ex-
 2 tending credit who is subject to the rules and regulations
 3 prescribed by the Board of Governors of the Federal Reserve
 4 System pursuant to this title shall make such reports to the
 5 Board as it may require as necessary or appropriate to en-
 6 able it to perform the functions conferred upon it by this
 7 title. If any such broker, dealer, member or other person
 8 shall fail to make any such report or fail to furnish full
 9 information therein, or, if in the judgment of the Board it
 10 is otherwise necessary, such broker, dealer, member or other
 11 person shall permit such inspections to be made by the
 12 Board with respect to the business operations of such broker,
 13 dealer, member or other person as the Board may deem nec-
 14 essary to enable it to obtain the required information.”

15 TITLE IV—SECURITIES PROCESSING

16 SEC. 401. Section 2 of the Securities Exchange Act of
 17 1934 (15 U.S.C. 78b) is amended by striking the word
 18 “and” immediately before the phrase “to impose require-
 19 ments necessary to make such regulations and control rea-
 20 sonably complete and effective,” and by adding the following
 21 immediately after that phrase: “and to provide for the devel-
 22 opment of an integrated national system for the prompt and
 23 accurate processing and settlement of securities transactions,”.

1 SEC. 402. Section 3 (a) of the Securities Exchange Act
 2 of 1934 (15 U.S.C. 78c (a)) is further amended by adding
 3 at the end thereof the following new paragraphs:

4 “(22) (A) The term ‘clearing agency’ means any per-
 5 son who acts as an intermediary in making payments or
 6 deliveries (or both) in connection with transactions in secu-
 7 rities or who provides facilities (i) for comparison of data
 8 respecting the terms of settlement of securities transactions,
 9 (ii) to reduce the number of settlements of securities trans-
 10 actions, or (iii) for the allocation of securities settlement
 11 responsibilities.

12 “(B) The term ‘securities depository’ means any person
 13 who acts as a custodian of securities in connection with a
 14 system which permits securities so held to be transferred,
 15 loaned, or pledged without physical delivery of securities
 16 certificates, or which otherwise permits or facilitates the
 17 settlement of securities transactions or the hypothecation or
 18 lending of securities without physical delivery of securities
 19 certificates.

20 “(C) The terms ‘clearing agency’ and ‘securities de-
 21 pository’ shall not include (i) Federal Reserve Banks, Fed-
 22 eral Home Loan Banks, Federal Land Banks and (ii) banks,
 23 brokers, building and loan, savings and loan, and homestead

1 associations and cooperative banks by reason of lending, fidu-
 2 ciary, correspondent, or safekeeping functions commonly per-
 3 formed by them on the date of enactment of this paragraph.

4 “(D) The terms ‘clearing agency’ and ‘securities deposi-
 5 tory’ shall not include (i) life insurance companies, or their
 6 registered separate accounts, by reason of functions commonly
 7 performed by such entities in connection with variable an-
 8 nuity contracts issued by insurance companies; or, (ii) regis-
 9 tered open-end investment companies or unit investment
 10 trusts by reason of functions commonly performed by such
 11 entities in connection with shares in registered open-end
 12 investment companies or unit investment trusts.

13 “(23) The term ‘participant’, when used with respect
 14 to a clearing agency or securities depository, means any
 15 person who uses a clearing agency or securities depository for
 16 the purpose of settling or comparing transactions in securities
 17 or making or receiving payment for or delivery, lending, or
 18 hypothecation of securities; but does not include a person
 19 whose only use of a clearing agency or securities depository is
 20 through another person.

21 “(24) The term ‘person associated with a participant’
 22 when used with respect to a registered clearing agency or
 23 securities depository means any partner, officer, director, or
 24 any person directly or indirectly controlling or controlled by
 25 such participant, including any employee of such participant.

1 The Commission may by rules and regulations classify per-
 2 sons, including employees controlled by a participant.

3 “(25) The term ‘transfer agent’ means any person who
 4 engages, on behalf of an issuer, or on behalf of itself as an
 5 issuer, of securities in: (A) countersigning such securities
 6 upon issuance; (B) monitoring the issuance of such securities
 7 with a view to preventing unauthorized issuance, a function
 8 commonly performed by a person called a registrar; (C)
 9 registering the transfer of such securities; or (D) exchang-
 10 ing or converting such securities. The term ‘transfer agent’
 11 shall not include any person who performs such functions
 12 solely with respect to variable annuity contracts issued by
 13 insurance companies.

14 “(26) The term ‘bank regulatory agency’, when used
 15 with respect to a bank acting as a clearing agency, securities
 16 depository, or transfer agent required to be registered under
 17 this title means:

18 “(A) the Comptroller of the Currency, in the case
 19 of a national bank or a bank operating under the Code
 20 of Law for the District of Columbia, or a subsidiary of
 21 any such bank;

22 “(B) the Board of Governors of the Federal
 23 Reserve System, in the case of a State member bank of
 24 the Federal Reserve System or subsidiary thereof; and

25 “(C) the Federal Deposit Insurance Corporation

1 in the case of a bank insured by the Federal Deposit
2 Insurance Corporation (other than a member of the
3 Federal Reserve System) or a subsidiary thereof.

4 “(27) The terms ‘rules of a clearing agency’ or ‘rules of
5 a securities depository’ mean the clearing agency’s or securi-
6 ties depository’s constitution, articles of incorporation, by-
7 laws, or rules or instruments corresponding to the foregoing,
8 and its stated policies and practices relating to its organiza-
9 tion, participation, rules of procedures, financial condition,
10 methods of safekeeping, transferring, hypothecating, lending
11 and accounting for funds and securities, and similar matters.”

12 SEC. 403. Section 15 (c) of the Securities Exchange Act
13 of 1934 (15 U.S.C. 78o (c)) is further amended by adding
14 the following new paragraph at the end thereof:

15 “(6) No broker or dealer shall make use of the mails
16 or of any means or instrumentality of interstate commerce
17 and no member of a national securities exchange shall make
18 use of an exchange facility to effect any transaction in, or
19 to induce or attempt to induce the purchase or sale of,
20 any security (other than an exempted security or commer-
21 cial paper, bankers’ acceptances, or commercial bills) in
22 contravention of such rules and regulations as the Com-
23 mission shall prescribe as necessary or appropriate in the
24 public interest or for the protection of investors to regulate
25 the time and method of making settlements, payments, and

1 deliveries and of opening, maintaining, and closing accounts.
2 Nothing in this paragraph shall be construed (i) to affect
3 the authority of the Board of Governors of the Federal
4 Reserve System, pursuant to section 7 of this title, to pre-
5 scribe rules and regulations for the purpose of preventing
6 the excessive use of credit for the purchase or carrying of
7 securities, or (ii) to authorize the Commission to prescribe
8 such rules or regulations for such purpose.”

9 SEC. 404. The Securities Exchange Act of 1934 is
10 amended by inserting after section 17 (15 U.S.C. 78q)
11 the following new section:

12 “PROCESSING OF SECURITIES TRANSACTIONS

13 “SEC. 17A. (a) (1) One hundred and eighty days after
14 the effective date of the Securities Exchange Act Amend-
15 ments of 1973 and except as otherwise provided in this sub-
16 section, it shall be unlawful for any person, directly or in-
17 directly, to make use of the mails or any means or instru-
18 mentality of interstate commerce to perform the function of
19 a clearing agency, securities depository or transfer agent
20 with respect to any security unless such person is registered
21 under this section. The Commission, by rules and regula-
22 tions or by order, upon its own motion, or upon application,
23 may conditionally or unconditionally exempt any person,
24 security, transaction, clearing agency, securities depository,
25 transfer agent, or any class or classes of persons, securities,

1 transactions, clearing agencies, securities depositories or
 2 transfer agents from any provision or provisions of this sec-
 3 tion or of any rule or regulation prescribed under this section
 4 if the Commission finds that the application of such provision
 5 or provisions to such person, security, transaction, clearing
 6 agency, securities depository, transfer agent, or class or
 7 classes of persons, securities, transactions, clearing agencies,
 8 securities depositories or transfer agents is not practical or
 9 not necessary or appropriate in the public interest or for the
 10 prompt and accurate processing and settlement of securities
 11 transactions.

12 “(2) The Commission shall include in its annual reports
 13 to Congress required by section 23 (b) of this title informa-
 14 tion concerning the number of requests for exemptions re-
 15 ceived, the number granted, and the basis or bases upon
 16 which the exemptions were granted.

17 “(3) The provisions of this section shall apply only to
 18 securities and to persons performing the function of transfer
 19 agent with respect to securities which are registered under
 20 section 12 of this title or which would be required to be so
 21 registered except for the exemption from registration pro-
 22 vided in subsection (g) (2) (B) or (g) (2) (G) of that
 23 section. The provisions of this section shall not apply to
 24 variable annuity contracts issued by insurance companies.

25 “(b) Any transfer agent may be registered for the

1 purposes of this title by filing with the Commission a regis-
 2 tration statement which shall state the address of its principal
 3 office or offices for transfer agent activities, the identity of
 4 the issuers and issues of securities for which it is then acting
 5 as transfer agent, and such other information in such detail
 6 as the Commission may by rule require as necessary or
 7 appropriate in the public interest, for the protection of
 8 investors or to assure the prompt and accurate processing
 9 and settlement of securities transactions.

10 “(c) Any clearing agency or securities depository may
 11 be registered for the purposes of this section by filing with the
 12 Commission a registration statement in such form as the
 13 Commission may prescribe setting forth the following infor-
 14 mation and accompanied by the following documents:

15 “(1) The rules of the clearing agency or securities
 16 depository.

17 “(2) Such other information as the Commission may,
 18 by rule, require.

19 “(d) An applicant shall not be registered as a clearing
 20 agency or a securities depository unless the Commission finds
 21 that—

22 “(1) such clearing agency or securities depository
 23 is organized so as to facilitate the prompt and orderly
 24 settlement of securities transactions, to safeguard funds
 25 and securities held for the accounts of participants, and

1 to comply with the provisions of this title and the rules
2 and regulations thereunder, and to carry out the pur-
3 poses of this section;

4 “(2) the rules of the clearing agency or securities
5 depository provide that (A) all registered brokers or
6 dealers or members of a national securities exchange,
7 (B) other registered clearing agencies or securities de-
8 positories, (C) registered investment companies, (D)
9 banks (as defined in section 2 (a) (5) of the Investment
10 Company Act of 1940), and (E) such other persons or
11 classes of persons as the Commission may from time to
12 time designate by rule as appropriate to the development
13 of an integrated national system for the prompt and
14 accurate processing and settlement of securities trans-
15 actions are eligible to become participants in such clear-
16 ing agency or securities depository, subject only to such
17 other rules of the clearing agency or securities depository
18 as are expressly permitted under this paragraph. The
19 rules of the clearing agency or securities depository may
20 restrict or condition participation upon the deposit or the
21 posting of a bond with the clearing agency or securities
22 depository in an amount which bears a reasonable rela-
23 tionship to the risks attendant to such participants’ use of
24 such clearing agency or securities depository, and may
25 deny participation to persons who have been expelled

1 or suspended by a registered clearing agency or secu-
2 rities depository during the period of such expulsion or
3 suspension. With respect to persons not included in
4 clauses (A) through (D) above, the rules of the clear-
5 ing agency or securities depository may also restrict or
6 condition participation on the basis of the ability of the
7 participants to meet reasonable requirements as to fi-
8 nancial condition or operations capability and may pro-
9 vide for the exclusion of persons not included in clauses
10 (A) through (D) who have been convicted within ten
11 years preceding the filing of the application for participa-
12 tion of the crimes of armed robbery or grand larceny
13 or of any felony or misdemeanor which the clearing
14 agency or securities depository finds—

15 “(i) involves the purchase or sale of any
16 security,

17 “(ii) involves embezzlement, fraudulent conver-
18 sion, or misappropriation of funds or securities, or

19 “(iii) involves the violation of section 1341,
20 1342, or 1343 of title 18, United States Code;

21 “(3) the rules of the clearing agency or securities
22 depository assure a fair representation of its shareholders
23 (or members) and participants in the adoption of rules
24 of the clearing agency or securities depository and any
25 amendment thereto, the selection of its officers and direc-

tors, and in all other phases of the administration of its affairs;

“(4) the rules of the clearing agency or securities depository provide for the equitable allocation of dues, fees, and other charges among its participants;

“(5) the rules of the clearing agency or securities depository do not impose any schedule of prices, or fix minimum rates or charges, for services rendered by its participants;

“(6) the rules of the clearing agency or securities depository are designed to promote the prompt and orderly processing and settlement of securities transactions, to provide safeguards for securities and funds which are in its custody, to foster cooperation and coordination with national securities exchanges, national securities associations, other clearing agencies or securities depositories, brokers, dealers, banks, registered investment companies, and with other persons engaged in the settlement and processing of securities transactions, and to protect investors and the public interest; and do not have the effect of unfairly discriminating in the admission of participants in the use of such clearing agency or security depository;

“(7) the rules of the clearing agency or securities depository provide that its participants and persons

associated with participants shall be appropriately disciplined for any violation of its rules by expulsion, suspension, fine, or censure, or in the case of a person associated with a participant, by being suspended or barred from being associated with participants; and

“(8) the rules of the clearing agency or securities depository provide a fair and orderly procedure with respect to the disciplining of participants and persons associated with participants and the denial of participation to any person seeking participation therein. In any proceeding to determine whether a participant or person associated with a participant should be disciplined, such rules shall require that specific charges of any rule violation be brought; that such participant or person associated with such participant shall be notified of and be given an opportunity to defend against such charges; that a record shall be kept; and that a determination to take disciplinary action shall be supported by a statement setting forth—

“(A) any act or practice in which such participant or person associated with such participant may be found to have engaged, or any required act or practice which such participant or person associated with such participant may be found to have omitted;

“(B) the specific rule or rules of the clearing

1 agency or securities depository which any such act or
2 practice, or omission to act, is deemed to violate; and

3 “(C) the penalty imposed and the reason
4 therefor.

5 In any proceeding to determine whether a person shall be
6 denied participation, such rules shall provide that the pro-
7 spective participant shall be notified of, and be given an
8 opportunity to be heard upon, the specific grounds for de-
9 nial which are under consideration; that a record shall be
10 kept and that the determination to deny participation shall be
11 supported by a statement setting forth the specific grounds
12 on which the denial is based. Notwithstanding any other pro-
13 vision of this section, the rules of the clearing agency or secu-
14 rities depository may provide for the temporary suspension
15 of a participant, the prohibition of such participants, use of
16 the clearing agency or securities depository and the closing
17 of its accounts pending determination on the merits of any
18 disciplinary proceeding if, in the opinion of the clearing
19 agency or securities depository, such suspension or prohibition
20 on use and closing of accounts are necessary for the protection
21 of the clearing agency or securities depository or its partici-
22 pants or for the protection of investors or to facilitate the
23 orderly and continuous performance of the clearing agency's
24 or securities depository's services. The rules shall afford the

1 participant an expedited hearing on the merits in the case of
2 any temporary suspension.

3 “(e) The Commission shall, upon the filing of an appli-
4 cation for registration pursuant to subsection (c), publish
5 notice of the filing and afford interested persons a reasonable
6 opportunity for comment. Within sixty days of the filing of
7 an application for registration pursuant to subsections (b)
8 and (c) the Commission shall:

9 “(1) by order grant such registration if the Com-
10 mission finds that the requirements of this section are
11 satisfied, or

12 “(2) institute appropriate administrative action to
13 determine whether the application should be denied.
14 After appropriate notice and opportunity for hearing,
15 the Commission shall by order grant such registration
16 unless it finds that any requirement of this section is
17 not satisfied, or, in the case of an applicant who is a
18 transfer agent, that the applicant does not have pro-
19 cedures or the means to be able to comply with the pro-
20 visions of this section and the rules and regulations
21 promulgated under those provisions, in which case the
22 Commission shall by order deny such registration. The
23 Commission shall conclude administrative action and
24 issue an order granting or denying an application within

1 one hundred and eighty days of the filing of the ap-
 2 plication unless the Commission finds good cause to
 3 extend such period and publishes its reasons therefor.

4 “(f) A clearing agency, securities depository, or trans-
 5 fer agent, registered under this section may, upon such terms
 6 and conditions as the Commission may deem necessary in
 7 the public interest, for the protection of investors, or to assure
 8 the prompt and accurate processing and settlement of se-
 9 curities transactions, withdraw from registration by filing a
 10 written notice of withdrawal from the Commission. If the
 11 Commission finds that any such registrant or such other per-
 12 son for whom an application of registration is pending is no
 13 longer in existence or has ceased to do business in the ca-
 14 pacity specified in the registration statement, the Commission
 15 shall by order cancel or deny the registration.

16 “(g) No clearing agency, securities depository, or trans-
 17 fer agent registered under this section shall, directly or in-
 18 directly, engage in any activity as clearing agency, securities
 19 depository, or transfer agent with respect to any security in
 20 contravention of such rules and regulations as the Com-
 21 mission shall prescribe as necessary or appropriate in the
 22 public interest or for the protection of investors.

23 “(h) If any registered clearing agency or securities
 24 depository takes any disciplinary action against any partici-
 25 pant therein, or any person associated with a participant, or

1 denies admission to any person seeking participation therein,
 2 such action shall be subject to review by the Commission, on
 3 its own motion, or upon application by any person aggrieved
 4 thereby filed within thirty days after such action has been
 5 taken or within such longer period as the Commission may
 6 determine. Application to the Commission for review, or the
 7 institution of review by the Commission on its own motion,
 8 shall not operate as a stay of such action, unless the Com-
 9 mission otherwise orders, after notice and opportunity for
 10 hearing on the question of a stay (which hearing may con-
 11 sist solely of affidavits and oral arguments).

12 “(i) (1) In a proceeding to review disciplinary ac-
 13 tion taken by a registered clearing agency or a securities
 14 depository against a participant or a person associated with
 15 a participant, after notice and opportunity for hearing

16 “(A) if the Commission finds that such participant
 17 or person associated with such participant has engaged
 18 in such acts or practices, or has omitted such acts, as the
 19 clearing agency or securities depository has found him to
 20 have engaged in or to have omitted, and that such acts
 21 or practices, or omission to act, are in violation of such
 22 rules of the clearing agency or securities depository as
 23 have been designated in the determination of the clearing
 24 agency or securities depository, it shall by order so de-
 25 clare and affirm the action taken by the clearing agency

1 or securities association or, if appropriate modify the
 2 sanctions or penalties in accordance with paragraph (2)
 3 of this subsection or,

4 “(B) if the Commission finds that the evidence does
 5 not warrant the finding required in clause (A), or if
 6 the Commission determines that such acts or practices as
 7 are found to have been engaged in are not prohibited by
 8 the designated rule or rules of the clearing agency or
 9 securities depository or that such act as is found to have
 10 been omitted is not required by such designated rule or
 11 rules, the Commission shall by order set aside the action
 12 of the clearing agency or securities depository.

13 “(2) With respect to any penalty imposed by a clearing
 14 agency or a securities depository upon a participant or
 15 a person associated with a participant the Commission may,
 16 having due regard to the public interest, if it finds that such
 17 penalty is inappropriate, cancel, reduce, increase, require the
 18 remission, broaden the scope or otherwise require modifica-
 19 tion of such sanction or penalty.

20 “(j) In any proceeding to review the denial of par-
 21 ticipation in a registered clearing agency or a securities de-
 22 pository, if the Commission, after appropriate notice and
 23 opportunity for hearing, determines that the specific grounds
 24 on which such denial or bar is based exist in fact and are
 25 valid under this section, it shall by order dismiss the pro-

1 ceeding; otherwise, the Commission shall by order set aside
 2 the action of the clearing agency or securities depository and
 3 require it to admit the applicant to participation therein.

4 “(k) (1) Each registered clearing agency or securities
 5 depository shall file with the Commission, in accordance with
 6 such rules as the Commission may prescribe, copies of any
 7 proposed changes in, additions to, or amendments to the rules
 8 of the clearing agency or securities depository to be accom-
 9 panied by a summary statement of the basis and purpose for
 10 such proposed change, addition or amendment, and each reg-
 11 istered clearing agency, securities depository and transfer
 12 agent shall file with the Commission, in accordance with such
 13 rules as the Commission may prescribe, such other informa-
 14 tion and documents, as the Commission may require to keep
 15 current or to supplement the registration statement and docu-
 16 ments filed pursuant to subsection (b) or (c). No such pro-
 17 posed change, addition, or amendment shall become effective
 18 except in accordance with the provisions of this subsection.

19 “(2) The Commission shall, upon the filing of a pro-
 20 posed change in, addition, or amendment to the rules of clear-
 21 ing agency or securities depository, publish notice of such
 22 proposal together with the clearing agencies or securities
 23 depository's statement of basis and purpose, and shall afford
 24 interested persons a reasonable opportunity for comment on
 25 the proposed change, addition, or amendment. Such change,

1 addition, or amendment shall take effect sixty days after
 2 publication of such notice by the Commission, unless the
 3 Commission disapproves such change, addition, or amend-
 4 ment as inconsistent with the purposes of this section or
 5 otherwise inconsistent with the public interest: *Provided*,
 6 That the Commission may extend this period for an addi-
 7 tional ninety days by instituting public administrative pro-
 8 ceedings concerning such proposed change, addition, or
 9 amendment.

10 “(l) The Commission may, after appropriate notice
 11 and opportunity for hearing, by order, censure, bar, sus-
 12 pend for a period not exceeding twelve months, or place
 13 limitations upon any transfer agent, or any partner, officer,
 14 director, or employee of any such transfer agent, or revoke
 15 the registration of any transfer agent, if the Commission finds
 16 that such censure, barring, suspension, placing of limitations,
 17 or revocation is in the public interest or necessary for the pro-
 18 tection of investors and that such transfer agent or any part-
 19 ner, officer, director, or employee thereof has willfully vio-
 20 lated or is unable to comply with any provision of this section
 21 or any rule or regulation promulgated thereunder.

22 “(m) The Commission is authorized, if it finds such
 23 action to be necessary or appropriate in the public interest
 24 or for the protection of investors or to carry out the purposes
 25 of this section—

1 “(1) after appropriate notice and opportunity for
 2 hearings, by order to suspend for a period not exceeding
 3 twelve months or revoke the registration of a registered
 4 clearing agency or a securities depository or impose
 5 limitations upon the activities, functions, or operations of
 6 such clearing agency or securities depository, if the Com-
 7 mission finds that such clearing agency or securities de-
 8 pository has violated any provision of this title, or any
 9 rule or regulation thereunder, or has failed to enforce
 10 compliance with its own rules, or has engaged in any
 11 other activity tending to defeat the purposes of this
 12 section;

13 “(2) after appropriate notice and opportunity for
 14 hearing, by order to suspend for a period not exceeding
 15 twelve months or expel from a registered clearing agency
 16 or securities depository any participant therein, or sus-
 17 pend for a period not exceeding twelve months or bar
 18 any person associated with the participant, if the Com-
 19 mission finds that such person has violated any provision
 20 of this title or any rule or regulation thereunder or any
 21 rule of the clearing agency or securities depository; and

22 “(3) after appropriate notice and opportunity for
 23 hearings, by order to remove from office any officer or
 24 director of a registered clearing agency or a securities
 25 depository who, the Commission finds, has willfully

1 failed to enforce the rules of the clearing agency or
 2 securities depository, or has willfully abused his
 3 authority.

4 “(n) If a proceeding under subsection (m) (1) of this
 5 section results in the suspension or revocation of the regis-
 6 tration of a clearing agency or a securities depository, the
 7 Commission may, upon notice to such clearing agency or
 8 securities depository, apply to any court of competent juris-
 9 diction specified in section 21 (e) or 27 of this title for the
 10 appointment of a trustee. In such event, the court may, to
 11 the extent it deems necessary or appropriate, take exclusive
 12 jurisdiction of the clearing agency or securities depository
 13 involved, and the books, records, and assets thereof, wherever
 14 located; and the court shall appoint the Commission or a
 15 person designated by the Commission as the trustee with the
 16 power to take possession and to continue to operate or to
 17 terminate the facilities of such clearing agency or securities
 18 depository in an orderly manner, for the protection of par-
 19 ticipants and public investors, subject to such terms and con-
 20 ditions as the court may prescribe.

21 “(o) Each registered clearing agency, securities deposi-
 22 tory, and transfer agent shall make, keep, and preserve for
 23 such periods such accounts, correspondence, memorandums,
 24 papers, books, and other records, and furnish such copies
 25 thereof and make such reports, as the Commission by its rules

1 and regulations may prescribe as necessary or appropriate
 2 in the public interest, or to facilitate cooperation among clear-
 3 ing agencies and securities depositories and the prompt and
 4 orderly settlement of securities transactions, to safeguard
 5 funds and securities held for the accounts of participants, or
 6 for the protection of investors. Such accounts, correspondence,
 7 memorandums, papers, books, and other records shall be
 8 subject at any time to such reasonable periodic, special, or
 9 other examinations by examiners or other representatives of
 10 the Commission as the Commission may deem necessary or
 11 appropriate in the public interest or for the protection of
 12 investors.

13 “(p) (1) The Commission shall make a full and detailed
 14 report of all examinations conducted by it of any bank which
 15 is a registered clearing agency, securities depository, or
 16 transfer agent and shall, upon request, furnish a copy of
 17 such report to the appropriate bank regulatory agency.

18 “(2) The Commission shall, in the conduct of its respon-
 19 sibilities under this title with respect to banks registered as
 20 clearing agencies, securities depositories, or transfer agents,
 21 consult and cooperate with the appropriate bank regulatory
 22 agencies toward the end that their mutual regulatory needs
 23 and responsibilities be fulfilled to the maximum extent
 24 practicable.

25 “(q) The provisions of this section 17A or of any rule

1 or regulation thereunder shall not apply to any person acting
 2 as transfer agent with respect to securities transactions which
 3 occur without the jurisdiction of the United States, unless
 4 such person acts in contravention of such rules and regula-
 5 tions as the Commission may prescribe as necessary or ap-
 6 propriate to prevent the evasion of this title.

7 “(r) The Commission shall, on or before December 31,
 8 1976, take such steps as are within its power to bring
 9 about elimination of the stock certificate as a means of settle-
 10 ment among brokers or dealers of transactions consummated
 11 on national securities exchanges or by means of the mails or
 12 other means or instrumentalities of interstate commerce.
 13 Commencing in 1973 and ending in 1976, the Commission
 14 shall report annually to the Congress (1) the steps it has
 15 taken and progress it has made toward elimination of the
 16 stock certificate as a means of settlement, and (2) its recom-
 17 mendations, if any, for further legislation to eliminate the
 18 stock certificate.”

19 SEC. 405. Section 24 of the Securities Exchange Act of
 20 1934 (15 U.S.C. 78x) is amended to read as follows:

21 “INFORMATION FILED WITH THE COMMISSION

22 “SEC. 24. (a) Any person filing information contained
 23 in a registration statement, document, report, contract, cor-
 24 respondence or other paper filed with the Commission pur-
 25 suant to this title may make written objection to the public

1 disclosure of such information stating the grounds for such
 2 objection. The Commission is authorized to hear objections
 3 in any such case where it deems it advisable. The Com-
 4 mission shall grant confidential treatment to such information
 5 for which application has been made if it finds (1) that
 6 disclosure is not in the public interest, and (2) that dis-
 7 closure would (A) jeopardize the safety of funds or se-
 8 curities, (B) require the revealing of trade secrets or proc-
 9 esses, or (C) impair the value of a contract.

10 “(b) The Commission is authorized to treat such in-
 11 formation as confidential pending the findings required by
 12 subsection (a), but if the Commission does not make such a
 13 finding within thirty days from the date the information
 14 is received by the Commission, then the information shall
 15 cease to be afforded confidential treatment.

16 “(c) Nothing in this section shall prohibit the Com-
 17 mission from disclosing any information in any administra-
 18 tive or judicial proceeding.

19 “(d) Nothing in this section shall authorize the Com-
 20 mission to withhold information from the duly authorized
 21 committees of the Congress.

22 “(e) It shall be unlawful for any member, officer, or
 23 employee of the Commission to disclose to any person other
 24 than a member, officer, or employee of the Commission, or
 25 to use for personal benefit any information contained in

1 any registration statement, document, report, contract, cor-
 2 respondence, or other paper filed with the Commission which
 3 is not made available to the public pursuant to subsection
 4 (a) of this section: *Provided*, That the Commission may
 5 make available to an appropriate regulatory agency any
 6 information requested by such agency for the purpose of
 7 enabling it to perform its duties under this title.”

8 SEC. 406. Section 12 of the Securities Exchange Act of
 9 1934 (15 U.S.C. 78l) is amended by inserting after sub-
 10 section (i) the following new subsections:

11 “(j) It shall be unlawful for an issuer, any class of
 12 whose securities is registered under this section or which
 13 would be required to be so registered except for the exemp-
 14 tion from registration provided by paragraph (2) (B) or
 15 (2) (G) of subsection (g), by the use of any means or in-
 16 strumentality of interstate commerce, or of the mails, to
 17 issue, either originally or upon transfer, such securities whose
 18 form or format contravenes such rules and regulations as the
 19 Commission may prescribe as necessary or appropriate for
 20 the prompt and accurate processing of transactions in
 21 securities.

22 “(k) Every issuer whose securities are registered on a
 23 national securities exchange shall consolidate in a single
 24 person the functions of transfer agent and registrar and other-
 25 wise comply with such rules and regulations as the Com-

1 mission shall promulgate as necessary to assure the prompt
 2 and accurate processing and settlement of securities trans-
 3 actions.”

4 SEC. 407. Section 19 of the Securities Exchange Act of
 5 1934 (15 U.S.C. 78s) is further amended by inserting at
 6 the end thereof the following new subsection:

7 “(c) The Commission is authorized and directed to
 8 make a study and investigation of the practice of registration
 9 of securities other than in the name of the beneficial owner
 10 and to determine (1) whether such registration is consistent
 11 with the policies and purposes of this title, with particular
 12 reference to section 14, and (2) if consistent, whether steps
 13 can be taken to facilitate communications between corpora-
 14 tions and their shareholders while at the same time retaining
 15 the benefits of such registration. The Commission shall report
 16 to the Congress its preliminary findings within six months
 17 after the date of enactment of this subsection, and its final
 18 results and recommendations within one year of such date.”

19 SEC. 408. Section 28 of the Securities Exchange Act of
 20 1934 (15 U.S.C. 78bb) is amended by inserting after sub-
 21 section (b) the following new subsection:

22 “(c) No State or political subdivision thereof shall im-
 23 pose any tax on any change in beneficial or record ownership
 24 of securities effected through the facilities of a registered
 25 clearing agency or securities depository or any nominee there-

1 of or custodian therefor or upon the delivery or transfer of
 2 securities to or through or receipt from such agency or de-
 3 pository or any nominee thereof or custodian therefor, unless
 4 such transfer or delivery or receipt would otherwise be tax-
 5 able by such State or political subdivision if the facilities of
 6 such registered clearing agency or securities depository or
 7 any nominee thereof or custodian therefor were not physically
 8 located in the taxing State or political subdivision. No State
 9 or political subdivision thereof shall impose any tax on securi-
 10 ties which are deposited in or retained by a registered clear-
 11 ing agency or securities depository or any nominee thereof or
 12 custodian therefor, unless such securities would otherwise be
 13 taxable by such State or political subdivision if the facilities
 14 of such registered clearing agency or securities depository or
 15 any nominee thereof or custodian therefor were not physically
 16 located in the taxing State or political subdivision."

17 SEC. 409. The Securities Exchange Act of 1934 is
 18 amended by inserting after section 19 (15 U.S.C. 78s)
 19 the following new section:

20 "LOST AND STOLEN SECURITIES; FINGERPRINTING

21 SEC. 19A. (a) Every registered national securities ex-
 22 change, national securities association, broker, dealer, mem-
 23 ber of an exchange, clearing agency, and securities deposi-
 24 tory, registered pursuant to this title, shall—

25 "(1) report such information about missing, lost, or

1 stolen securities in such form and within such time as
 2 the Commission determines by rule is necessary or appro-
 3 priate in the public interest or for the protection of
 4 investors to the Commission or to such other person as
 5 the Commission may by rule designate, and such infor-
 6 mation shall be made available, for a reasonable fee,
 7 to any such exchange, association, broker, dealer, mem-
 8 ber, clearing agency, or securities depository who shall
 9 request it; and

10 "(2) in the case of a clearing agency, securities de-
 11 pository, broker, dealer, or member, require that each of
 12 its partners, directors, officers, and employees be finger-
 13 printed and shall submit such fingerprints, or cause the
 14 same to be submitted, to the Attorney General of the
 15 United States for identification and appropriate process-
 16 ing. The Commission may by rule exempt from the pro-
 17 visions of this subsection (2), upon such terms and con-
 18 ditions and for such period as it deems necessary or
 19 appropriate, any one or more classifications of partners,
 20 directors, officers, or employees of any one or more of
 21 such clearing agencies, securities depositories, brokers,
 22 dealers, or members if the Commission finds that such
 23 action is not inconsistent with the public interest or the
 24 protection of investors."

1 TITLE V—MISCELLANEOUS

2 SEC. 501. Section 23 (b) of the Securities Exchange Act
3 of 1934 (15 U.S.C. 78w(b)) is amended to read as
4 follows:

5 “(b) The Commission and the Board of Governors of
6 the Federal Reserve System, respectively, shall include in
7 their annual reports to Congress such information, data, and
8 recommendation for further legislation as they may deem ad-
9 visable with regard to matters within their respective juris-
10 dictions under this title. The Commission shall also include
11 in its annual report each year information detailing its ad-
12 ministration of the Freedom of Information Act (5 U.S.C.
13 552). Such information shall include a detailed description
14 of its processes for handling requests under the Act, including
15 the names of persons assigned to carry out those processes;
16 and also include data on schedules of fees (if any), and on
17 the number of written requests for records under the Act,
18 the number of denials, the section relied upon in each denial,
19 the number of administrative appeals, the elapsed time in
20 responding to initial requests and the handling of appeals,
21 the number of suits filed within the year, and any regulatory
22 changes made during the year.”

23 SEC. 502. Section 31 of the Securities Exchange Act
24 of 1934 (15 U.S.C. 78ee) is amended to read as follows:

1 “REGISTRATION FEES

2 “SEC. 31. Every national securities exchange shall pay
3 to the Commission on or before March 15 of each calendar
4 year a registration fee for the privilege of doing business as
5 a national securities exchange during the preceding calendar
6 year or any part thereof. Such fee shall be in an amount
7 equal to one one-hundredth of 1 per centum of the aggregate
8 dollar amount of the sales of securities (other than securities
9 which are direct obligations of or obligations guaranteed as
10 to principal or interest by the United States or such securities
11 issued or guaranteed by corporations in which the United
12 States has a direct or an indirect interest as shall be des-
13 ignated for exemption from the provisions of this section by
14 the Secretary of the Treasury) transacted on such national
15 securities exchange during the preceding calendar year and
16 subsequent to its registration as a national securities
17 exchange.”

18 SEC. 503. (a) Section 24 of the Securities Act of 1933
19 (15 U.S.C. 77x) is amended by changing the figure
20 “\$5,000” to “\$10,000”.

21 (b) Section 32 (a) of the Securities Exchange Act of
22 1934 (15 U.S.C. 78ff(a)) is amended by changing the
23 phrase “or imprisoned not more than two years” to read
24 “or imprisoned not more than five years”.

1 (c) Section 29 of the Public Utility Holding Company
2 Act of 1935 (15 U.S.C. 79z-3) is amended by changing
3 the phrase "or imprisoned not more than two years" to read
4 "or imprisoned not more than five years".

5 (d) Section 325 of the Trust Indenture Act of 1939
6 (15 U.S.C. 77yyy) is amended by changing the figure
7 "\$5,000" to "\$10,000".

8 (e) Section 49 of the Investment Company Act of 1940
9 (15 U.S.C. 80a-48) is amended by changing the phrase "or
10 imprisoned not more than two years" to read "or imprisoned
11 not more than five years".

12 (f) Section 217 of the Investment Advisers Act of 1940
13 (15 U.S.C. 80b-17) is amended by changing the phrase
14 "imprisoned for not more than two years" to read "im-
15 prisoned for not more than five years".

16 SEC. 504. Section 203 (c) of the Investment Advisers
17 Act of 1940 (15 U.S.C. 80b-3) is amended to read as
18 follows:

19 "(c) Any investment adviser, or any person who pres-
20 ently contemplates becoming an investment adviser, may
21 register under this section by filing with the Commission an
22 application for registration. Such application shall contain
23 such of the following information, in such form and detail,
24 as the Commission may by rules and regulations prescribe as

1 necessary or appropriate in the public interest or for the
2 protection of investors:

3 "(1) information in respect of—

4 "(A) the name and form of organization under
5 which the investment adviser engages or intends to
6 engage in business; the name of the State or other
7 sovereign power under which such investment ad-
8 viser is organized; the location of his or its principal
9 business office and branch offices, if any; the names
10 and addresses of his or its partners, officers, direc-
11 tors, and persons performing similar functions or, if
12 such an investment adviser be an individual, of such
13 individual; and the number of his or its employees;

14 "(B) the education, the business affiliations for
15 the past ten years, and the present business affilia-
16 tions of such investment adviser and of his or its
17 partners, officers, directors, and persons perform-
18 ing similar functions and of any controlling person
19 thereof;

20 "(C) the nature of the business of such in-
21 vestment adviser, including the manner of giving
22 advice and rendering analyses or reports;

23 "(D) the nature and scope of the authority
24 of such investment adviser with respect to clients'
25 funds and accounts;

1 “(E) the basis or bases upon which such invest-
2 ment adviser is compensated; and

3 “(F) whether such investment adviser, or any
4 person associated with such investment adviser, is
5 subject to any disqualification which would be a
6 basis for denial, suspension, or revocation of regis-
7 tration of such investment adviser under the provi-
8 sions of subsection (e), and

9 “(2) a statement as to whether the principal busi-
10 ness of such investment adviser consists or is to consist of
11 acting as investment adviser and a statement as to
12 whether a substantial part of the business of such invest-
13 ment adviser consists or is to consist of rendering invest-
14 ment supervisory services.

15 “(3) Within forty-five days of the filing of such
16 application or any amendment to such application the
17 Commission shall—

18 “(A) by order grant such registration if the
19 Commission finds that the requirements of this sec-
20 tion are satisfied, or

21 “(B) institute appropriate administrative ac-
22 tion to determine whether the application should be
23 denied. If, after appropriate notice and opportunity
24 for hearing, it appears to the Commission that any
25 requirement of this section is not satisfied, the Com-

1 mission shall by order deny such registration. The
2 Commission shall conclude administrative action and
3 issue an order granting or denying the application
4 within one hundred and twenty days of the filing of
5 such application, unless the Commission finds good
6 cause for extending the period, in which case the
7 Commission may extend such period for an addi-
8 tional ninety days.”

93^d CONGRESS
1ST SESSION

H. R. 5050

A BILL

To amend the Securities Exchange Act of 1934,
and for other purposes.

By Mr. MOSS, Mr. BROYHILL of North Carolina,
Mr. STUCKEY, Mr. WARE, Mr. ECKHARDT,
Mr. MCCOLLISTER, Mr. HELSTOSKI, Mr.
YOUNG of Illinois, and Mr. BRECKINRIDGE

MARCH 1, 1973

Referred to the Committee on Interstate and Foreign
Commerce