

20 Wall Street
New York

March 30, 1935

Securities and Exchange Commission,
Washington, D. C.

Attention: Trading and Exchange Division,
David Saperstein, Esc., Director

137-6

Dear Sirs:

Your letter dated March 18, 1935, addressed to Mr. George Whitney enclosing a draft of the suggestions for regulation of over-the-counter markets, together with a possible form of registration for brokers and dealers transacting business on such markets, has been referred to me in Mr. Whitney's absence and I would like to give you one or two thoughts which I have with respect to it.

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Under existing circumstances and conditions, I thoroughly believe in the theory of some form of registration of brokers and dealers transacting business on the over-the-counter markets. Nevertheless, I am fully aware of the difficulties inherent in controlling effectively the activities of certain of such brokers and dealers particularly as no public record of such transactions is made. This difficulty is enhanced in the smaller towns and cities when such security activities are not infrequently carried on in conjunction with other forms of activities such as real estate, life insurance etcetera. Compulsory registration by as early a date as June 1, 1935, would I fear unintentionally work a hardship upon certain of the smaller dealers and brokers who may wish to reorganize their business or segregate certain non-allied activities in some way as a result of the regulations. This would

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be particularly true if the registration statement must be filed not later than May 1, 1935, which I interpret to be the rule if there is to be no intervening gap after June 1, 1935, when the dealer or broker would not be able to carry on his regular business.

As you know, the registration form under the Investment Bankers Code provides in certain respects for information to be furnished in substantially the same form as your suggestions. Further the rules established by the Code for the regulation of transactions in the over-the-counter markets were formulated as a means to eliminate the improper practices in the business as are the regulations proposed by the Securities and Exchange Commission. In order to establish a practical organization to enforce economically and effectively the final regulations of the Commission there undoubtedly could be found some way whereby the present Code Committee through its Regional Code Committees could collaborate with the Securities and Exchange Commission to the end that the regulation of the over-the-counter markets may be accomplished primarily by self-regulation in conjunction with the Federal Courts. I am confident that such self-regulation will be more effective in compelling adherence to the regulations of the Commission than any other form of enforcement organization that can be devised.

The following are specific comments as to the regulations in their proposed form:

Rule M.A. 1 - I see no reason why the regulations should not apply equally to dealers and brokers in all classes of securities on the over-the-counter markets. Municipal bonds are dealt in primarily only in the over-the-counter markets and frequently are

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subject to wide spreads between bid and asked prices particularly, in the obligations of the smaller southern and western municipalities and in my opinion all transactions in this type of security should be governed by the regulations. As I interpret the regulations brokers or dealers specializing in exempted securities who deal only infrequently in non-exempt obligations are governed by **the regulations while those few organizations which deal exclusively in exempted securities would not be required to abide by the regulations.** This does not appear quite right to me and as I stated above in my opinion all brokers and dealers without exception should be governed by the regulations in their over-the-counter transactions. I am not qualified to comment on the regulation of brokers or dealers transacting business only in commercial paper, bankers acceptances or commercial bills and therefore my comments given above do not relate to such brokers or dealers.

Rule M.A. 5, Section A - Sub-division 4 will be difficult of interpretation and judgment and therefore is bound to be troublesome. However, I see no other effective way through which the fly-by-night broker or dealer engaged in bad business practices may be brought to task and eventually eliminated.

Section B - Should not a registered dealer or broker first have an opportunity to present his side of the case in a hearing before being even temporarily prohibited from carrying on his business which if interrupted by such suspension would undoubtedly cause unnecessary hardship if the charge proved unwarranted.

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Rule M.A. 10 - It may be technically difficult for active brokers and dealers in the over-the-counter markets to live up to the exact letter of this rule. In my opinion it would be unwise to make rules which may be lived up to in spirit but may be unintentionally but technically violated. The Investment Bankers Code provides that brokers acting in the capacity of agent for both buyer and seller in any specific transaction must obtain the consent of his principals to the transaction but is not required to obtain written confirmation from them. In my opinion the Securities and Exchange Commission regulations should require that either the verbal or written consent of the principals be obtained at or before the completion of the transaction and if only verbal consent has been obtained both principals should be notified in writing in the manner as provided in Rule M.A. 11.

I trust that the above comments may be of interest to you. On the whole I think the proposed regulations are fair and not unduly burdensome and will be conscientiously observed by the reputable brokers and dealers. An effective method of enforcement will be of great value to the investor particularly if such effective enforcement results in eliminating from the investment business the dishonest firms which today are exacting a toll from investors in the over-the-counter markets.

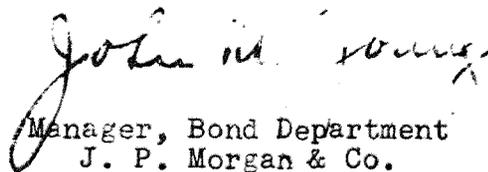
The comments I have given above are made only in the light of our experience in executing orders solely as an agent for our clients. In view of the limited character of our activities in

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this field we have no intimate or detailed knowledge of the problems of or of the business done by dealers acting as principals in over-the-counter transactions and therefor no comments have been made from this standpoint.

Yours very truly,


Manager, Bond Department
J. P. Morgan & Co.
New York, New York.