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December 21, 1990

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Dear Jim:

On December 19, 1990, I met with Ed Morris at the New York Stock Exchange concerning developments in arbitration which might be of interest to the Sub-Committee on administrative process. The most important development is a possible rule on what class actions will be accepted for arbitration and what such an arbitration will cover. While the New York Stock Exchange and other industry arbitrators would prefer not to handle class actions at all, it appears that they will develop a rule whereby class actions certified by a court will be accepted, and the arbitrators will then hear and decide only issues relating to the merits of the dispute, and the court which refers the case and will handle all procedural aspects of the class action.

This new rule will be discussed at the SICA Conference in San Diego on January 9, 1991. Ed will contact me afterward and provide me with a copy of whatever proposed rule SICA comes up with. It might then be appropriate for our Sub-Committee to comment on the rule prior to its submission to the New York Stock Exchange Board.

Another related emerging issue is how to handle large and complex cases. The Exchange is formulating a procedure for such cases and could perhaps use our input on how to define a large and complex case and what procedures to use in such cases.

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A more amorphous problem is how to control abuses in the discovery process.

The Exchange could use names of potential public arbitrators in certain new cities where arbitration will now be handled. These are San Diego, Hartford and Albuquerque. We could solicit suggestions from the entire Committee. A public arbitrator is one not employed by the securities industry or, in the case of an outside attorney or accountant, someone who has received less than 20% of his or her income from representing the securities industry during the past two years. Some members of our committee who are in-house at industrial corporations might be excellent potential arbitrators.

Finally, a possible project for the future is to review the materials the Exchange gives to new arbitrators.

Perhaps we could talk about these matters after the SICA conference, when I receive a copy of whatever proposed rules come out of that meeting.

Sincerely,



Roberta S. Karmel

RSK:bas/2451m