

February 18, 1938

MEMORANDUM

To: The President

From: Chairman William O. Douglas

RE: Federal Licensing Act for Corporations

We feel here at the Commission that it would be desirable to have a Federal licensing or incorporation act for corporations.

Our idea is that such Act should be applicable to all corporations engaged in interstate commerce whose securities are so widely held and whose assets are sufficiently large as to make them subjects of national concern.

It would also be our idea to require such corporations to file with the government at regular intervals, periodical reports on their financial condition and to keep such information current. In that connection, it is also our feeling that the government should be empowered to establish accounting standards applicable to such corporations.

The reasons we feel such a simple statute would be desirable are the following: The Securities Act of 1933 and the Securities Exchange Act of 1934 are directed, in large measure, towards securing the public dissemination of financial information concerning corporations whose securities are bought and sold by the investing public. Marked progress towards this end has been made under the Securities Exchange Act with respect to securities listed on national securities exchanges. Adequate information regarding the great mass of securities publicly held but traded only on the over the counter markets is at present largely lacking. Such information is required only of companies which voluntarily subject themselves to the requirements of the Securities Act by offering new securities to the public. Even information thus made available is required to be kept current only in the case of a limited class of large corporations which have registered an issue of securities under the Securities Act since August 25, 1936.

This disparity between the treatment to listed and that accorded to unlisted securities works an unjust discrimination against the national securities exchanges and against the issuers of listed securities. It also deprives the investor in the over the counter markets of a much needed protection. It has been conservatively estimated that financial and other pertinent information with respect to some 57,000 security issues traded in the over the counter markets is not now required to be filed with this Commission. Furthermore, the inability of

this Commission to secure adequate information regarding securities traded only over the counter greatly hampers the Commission in its task of ensuring to the investing public a free and fair over the counter market.

A corporation licensing law of the character I have mentioned would serve to correct the inequity presently existing between the exchange and the over the counter markets. It would also go far towards restoring investor confidence in the capital markets -- a matter of major concern, in my view. Furthermore, it would provide a repository of information useful for determining the precise extent to which the business and financial practices of large corporations are proper subjects of further Federal regulation.

As you know, Senator O'Mahoney has sponsored for sometime a bill for Federal incorporation. Our interest is at present restricted to the few phases I have mentioned above. What else might be included in such a bill we do not purport to say. But would it be agreeable to you if the Commission or myself officially sponsors such a measure, limited as above?