

EXECUTIVE OFFICE OF THE PRESIDENT  
BUREAU OF THE BUDGET  
WASHINGTON 25, D.C.

MEMORANDUM FOR MR. FELDMAN

Subject: Administration position on SEC legislation

This supplements my memorandum of May 17, 1963.

Upon the basis of consultations with industry representatives, SEC has decided to limit the legislative package submitted for enactment this session to two bills, including:

1. Qualifications for entry into the securities business and control over broker-dealers;
2. Extensions of reporting, proxy, and insider trading requirements to certain over-the-counter securities ("Frear-Fulbright"); and minor amendments broadening requirements for filing material contracts and extending the period for broker-dealer delivery of prospectuses in the case of first issues.

In Chairman Cary's opinion, these proposals are among the most significant that will be resulting from the entire study and are the two which the Commission will be ready to support for enactment this session. With the changes made as a result of industry suggestions (e.g., a higher cut-off level of 500 stockholders and \$1 million in assets for over-the-counter securities) they will involve minimum controversy.

Coverage of banks in "Frear-Fulbright" type legislation

Since the problems raised by Justice have been resolved, the major issue remaining is the coverage of bank stocks in the "Frear-Fulbright" legislation.

Treasury (basically the Comptroller of the Currency) would exempt banks completely on the basis that their inclusion is not necessary for protection of investors and would duplicate existing authority. The other Federal bank supervisory agencies have no objection to bank coverage but strongly prefer that SEC administer it.

The Commission would submit the legislation with authority vested in the "appropriate Federal banking regulatory agencies" on the assumption that this would eliminate any argument by the Comptroller or others that the SEC is "reaching" for authority.

In extensive discussions with Mr. Cary, we have stressed the importance from the standpoint of organization and precedent of vesting the authority in the SEC, and believe that the legislation should be transmitted on this basis. In an effort to meet his problems, we have proposed, as a compromise, that the authority be vested in the Commission, with authority to delegate it in the case of any group of banks examined and supervised by a Federal agency, at the request of that agency. If the Congress should ultimately decide to place authority in the banking agencies, we would have no objection to SEC acquiescing, although this would entail the usual three-way division of responsibility among the Federal supervisory agencies.

Mr. Cary was not too favorable to our compromise proposal and thought that the Commission would recommend that the bill either completely exempt bank stocks, or reaffirm the original proposal to assign the function to the appropriate banking agencies. We would strongly oppose including an exemption for banks in the Administration bill submitted to the Congress, because insurance companies would, as in the past, press for similar exemptions. We believe banking agency supervision should be included in the bill only as a last resort.

#### Recommendation

In our May 17 memorandum, we indicated a preference for advising the Commission that enactment "would be consistent with Administration objectives." However, SEC Chairman Cary has now been assured of strong support from the investment banking industry for the first time on the so-called Frear-Fulbright proposals, and NASD is behind the strengthening of qualifications for entry. In view of these new developments and the high priority of the specific items proposed, we now believe it appropriate, assuming that banks are covered in the over-the-counter legislation, that the legislation be declared "in accord with the President's program." Conceivably, the President might wish to transmit the bill.

The Harris Committee and the Commission are very anxious to get the legislation up to the Hill as promptly as possible.

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Legislative Reference