

Dean Whitter & Co.  
San Francisco, California

March 29, 1968

Mr. Orval L. DuBois, Secretary  
Securities and Exchange Commission  
Washington, D.C. 20549

Dear Sir:

With reference to SEC release No. 8239 of 26 January 1968 inviting comment on proposed Rule 10b-10, I wish to express strong opposition to this rule prohibiting so-called "give-ups" or division of prescribed minimum brokerage commissions for stock exchange transactions among a group of brokerage firms.

It is impractical for managers of large accounts (whether they be mutual funds, pension trusts, insurance companies or trust departments of banks) to scatter their business for the execution of a block of stock among several brokers or they would be competing with themselves and disturbing an otherwise orderly market.

The practice of a lead broker has been in effect on the New York Stock Exchange for years and has provided efficient handling of orders for institutions.

It is perfectly natural to favor friends with business, other things being equal and where there is no disadvantage to the customer. Lead brokers handling large orders eliminates any disadvantage, and they should not be prohibited from sharing the commissions with other designated friends of fund managers. There is nothing fraudulent and certainly no breach of fiduciary duty in this practice which rewards smaller brokers for other services rendered.

To the contrary, such a restrictive rule would tend to concentrate institutional business in the hands of a few large brokers to the detriment of the whole investment industry and the economy of the country.

Such a restrictive rule would be detrimental to regional stock exchanges and to the provincial firms that are so essential in financing small regional corporations and in maintaining markets in securities of such small local companies. If broader markets in depth are to be maintained, it is essential to sustain the smaller firms even to the extent of subsidizing them if that is what you consider "give-ups" to do.

In my opinion, the violation, if any, stems from allowing affiliated companies or subsidiaries of mutual fund management organizations to be members of regional stock exchanges in order to share in the commission business which is generated and in most cases accrues to the benefit of the management company rather than to the mutual fund shareholders. The problem could be resolved by restricting membership on all regional exchanges to the New York Stock Exchange requirements of firms primarily serving the public rather than being self serving. This self-serving is what, in my opinion, raises the question of fiduciary responsibility.

This concept of fiduciary duty as a reason for proposed Rule 10b-10 does not apply generally to the area of "give-ups" which 10b-10 would prohibit. In my opinion, this rule based on the theory "cheaper is best" is like burning the barn down to get a few rats. I would urge that proposed Rule 10b-10 not be adopted for the above reasons.

Respectfully submitted,

Wendell W. Whitter

cc:

Mr. Manuel F. Cohen

Mr. Hamer H. Budge

Mr. Hugh F. Owens

Mr. Francis M. Wheat

Investment Bankers Association of America