

To Our Clients

December 2, 1974

Proposed Securities Acts Amendments of 1974

Since the passage by the Senate of the Williams Bill, S 370, the House counterpart, HR 5050, has been the focus of attention. With the possibility that HR 5050 may not be dead and may be reported to the floor this week, it seems desirable to focus on some of the significant provisions. There can be little doubt that enactment of HR 5050 in its present form will be the deathknell for the securities business as we know it.

Negotiated Rates. Fully negotiated rates are mandated to commence May 1, 1975. The SEC is given the power to continue fixed rates until October 1, 1976 if it finds that the public interest so requires. After October 1, 1976 the SEC is given the power to further continue fixed rates after a full hearing and determination that they are necessary to fulfill the purpose of the Securities Exchange Act and to assure the maintenance of fair and orderly markets.

Institutional Membership. All exchanges must permit any qualified person registered as a broker-dealer with the SEC to transact business without the requirement of the purchase of a seat. The effective date of this provision is delayed until January 1, 1978 with the SEC directed to report to Congress by June 30, 1977 whether some form of compensation for existing seat holders is feasible.

Affiliated Trading. The 80-20 rule is rejected. No trading for affiliated accounts -- broadly defined to include insurance companies, banks, foundations, mutual funds, pension funds, separate accounts -- will be permitted. Specialist,

market making, block positioning, arbitrage and similar transactions are excepted. Also excepted are the typical discretionary accounts for natural persons. For arrangements in effect on January 16, 1974 the effective date is three years from the date of enactment of the Bill.

Central Market System. The Bill encourages a national market system to evolve in light of the other provisions of the Bill, but contains no specific definition or mandated structure. The Committee Report leaves no doubt that the Committee believes that the Bill will result in the demise of the Floor and the development of a black-box system. The SEC is given broad rule-making power to implement a central market system.

Research. The Bill does sanction fund managers and registered investment advisers paying up for research. The Committee rejected sanctioning investment managers and advisers using negotiated commissions to pay for research used for accounts other than the one paying the commission. The Bill merely sanctions, unless prohibited by a specific state or federal statute, paying up for research for the specific account in question. Accordingly, the Bill does not solve the bank, fund-complex and other multiple-account-fiduciary problems and probably will result in a shift to hard-dollar research.

Rule 394. NYSE Rule 394 is abolished effective July 1, 1975 unless the SEC, after a full hearing, approves Rule 394 or a substitute as being consistent with the Securities Exchange Act -- a most unlikely determination.

Clearing. The SEC is directed to take steps to eliminate use of stock certificates. Clearing agencies and depositories are required to register with the SEC and will be subject to SEC rules as to their operations. Bank transfer agents are required to register with the Comptroller of the Currency, Federal Reserve Board or FDIC.

Regulation. The SEC is given broad rulemaking powers over the exchanges, the NASD and broker-dealers. Self regulation is paid lip service, but it will survive only in form, not in substance.

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