Kay, Richards & Company
Pittsburgh, Pennsylvania

March 13, 1968

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

Re: Proposed Rule 10b-10 and the New York Stock Exchange Proposals

In reply to the request of the Commission for comments on the proposed rule 10b-10 under the Securities Exchange Act of 1934 (Release No. 34-8239) we wish, to say that we are opposed to its adoption because we believe that properly supervised use of the give-up practice of the industry is helpful to the entire business community. Adoption of your proposed rule would have very unfavorable effects on all but the largest firms in this country.

Kay, Richards & Co. is a reasonably large regional firm and a member of the New York, American and Pittsburgh Stock Exchanges. The greater part of our business is transacted on these exchanges. We also provide a full line of investment services to our customers which number approximately 25,000 and are primarily individuals.

We believe that firms which provide sales to the mutual fund industry should participate in the commission business which must be done to invest their funds. If your proposal is made effective the inevitable result must be to concentrate the mutual fund commission business in a relatively few large brokerage concerns who can execute blocks of securities without fragmenting orders. This will be particularly true if a volume discount is adopted.

The "lead broker" concept of handling large block transactions in securities is undoubtedly the most effective and efficient way to secure satisfactory executions. In this connection your proposed rule as we see it would eliminate a long standing theory of agency which has been used in our business with excellent results. Orders are given to our correspondent on our behalf as our agent. Your proposed rule would prevent this and thereby deprive us and all other regional firms of a share of business which results in part from our efforts on behalf of the mutual funds. In contrast, the selling agents of the so-called "no load" funds receive all the commission business.

The income from such transactions has been for us and for many others a major factor in the profitability of the firms. In lean years it has permitted us to "break even". In good years it has provided a source of capital to permit greater facilities, training of personnel and expansion of services. We believe the regional firms create many jobs that will not exist if they are legislated out of business or forced to merge by the profit squeeze inherent in this legislation. This is not to say that all regional firms depend on this source of income for existence, but the opportunity for growth and development and the ability to compete with the large national houses would be drastically curtailed by the deprivation of this source of income.

We do not believe any economic study of the possible harmful effects of proposed rule 10b-10 have been or could be made to justify the adoption of this provision.

We are very much in favor of the approach to the problem contained in the five proposals made by the New York Stock Exchange. These are put forth as a package and provide a desirable alternative to your proposal for the following reasons:

(1) We recognize that a properly conceived volume discount properly administered has economic justification but fear that, unless it is accompanied by the other suggestions of the package, it will also result in harmful discrimination against the smaller members of the New York Stock Exchange or other exchanges by virtue of the potential adverse effect on the ability of such firms to compete.

(2) The second proposal to permit the continuation of properly regulated give-ups has been discussed above.

(3) Prohibiting the reciprocal practices which result in rebates of New York Stock Exchange commissions through specious arrangements for executions in other markets would, in our opinion, strengthen the central auction market. Its effect on the regional exchanges should be considered in any rules to be made, but the improved market should be given great consideration.

(4) Splitting of commissions with non-member broker-dealers should have a tendency to further strengthen the central auction market of the New York Stock Exchange. This could also shift the emphasis of such broker-dealers from some over-the-counter securities of doubtful quality, thereby strengthening the entire investment community.

(5) Limiting memberships on the New York Stock Exchange and other registered Exchanges to a bona-fide broker-dealer should have a beneficial effect by eliminating the organizations that service investors with, in many cases, inadequate facilities and training.

We are truly interested in promoting the legitimate investment markets of the registered exchanges by making them the instruments of the professional people of our industry and thereby increasing the quality of service to the investing public. For these reasons we respectfully urge you to reconsider your proposal to change section 10b-10 in order that properly supervised give-ups may continue in our industry.

Very sincerely yours,

N. K. Parker
Managing Partner,
Kay, Richards & Co.