July 16, 1993

The Honorable Donald W. Riegle, Jr.
Chairman
Committee on Banking, Housing and
Urban Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I am pleased to reply to your letters of July 14th and 15th that requested that I respond to written questions in connection with my confirmation that had been submitted by you, other members of the Banking Committee and Senator Bumpers.

I have enclosed the responses to those questions, and I have also included responses to questions that had been posed to me during the hearing on July 13th by you, Senator Bennett and Senator Moseley-Braun.

Thank you very much for your consideration.

Respectfully submitted,

Arthur Levitt, Jr.

Enclosure

QUESTIONS FROM CHAIRMAN DONALD W. RIEGLE, JR.

Q.1 Last year, the SEC staff issued Protecting Investors: A Half Century of Investment Company Regulation, a major study of the regulation of mutual funds. With well over $1 trillion in assets, mutual funds are an increasingly important investment vehicle for American families.

Q.1.A What changes if any, do you think should be made in the area of regulation of mutual funds?

A.1.A The *Protecting Investors* report contains a number of recommendations of the Commission's Division of Investment Management that are intended to update and improve investment company regulation. The Commission already has implemented several recommendations through rulemaking. With one exception, the Commission has yet to consider the Division's legislative recommendations. The one recommendation already approved by the Commission and forwarded to Congress is designed to increase capital participation in "private" investment companies, consistent with investor protection. *See* S. 479, 103d Cong., 1st Sess. (Mar. 2, 1993); *The Small Business Incentive Act of 1993: Hearings Before the Subcomm. on Securities of the Senate Comm. on Banking, Housing, and Urban Affairs*, 103d Cong., 1st Sess. (Mar. 4, 1993).

The Division's legislative initiatives span the gamut of issues affecting the investment company industry. For example, to strengthen the independence of investment company boards, the Division has suggested that the percentage of required independent directors should be changed from forty percent to a majority. To enable investors to appreciate more readily the costs associated with fund investments, the Division has recommended the creation of a new type of fund -- the unified fee investment company or "UFIC" -- that would have a single or unified fee covering all fund services and most expenses. Other recommendations by the Division seek to facilitate bilateral investment company access to United States and foreign markets and to require increased disclosure to participants of qualified employee benefit plans who select their own investments.

I understand that reaction to these initiatives has been as varied as the proposals themselves, with some recommendations enjoying widespread support, while others have been met with varying degrees of opposition. In evaluating these recommendations, I intend to consider carefully comments from the industry, investors, and other interested parties.

QUESTIONS FROM CHAIRMAN DONALD W. RIEGLE, JR.

Q.1.B Banks are increasingly selling mutual funds to their customers. Are bank customers receiving the information they need to distinguish insured deposits from uninsured securities products?

A.1.B The federal securities laws require that a written prospectus precede or accompany any sale of mutual fund shares, including fund shares sold by or through banks. The Commission's staff requires any mutual fund sold by or through a bank to disclose prominently on the cover page of its prospectus that shares in the fund are not deposits or obligations of, or guaranteed or endorsed by, the bank, and that the shares are not federally insured by the Federal Deposit Insurance Corporation, the Federal Reserve Board, or any other agency. This disclosure is intended to alert bank customers to the fact that shares in a mutual fund are not federally insured.

I would like to stress, however, that the Commission does not generally have oversight or inspection authority over banks that sell mutual fund shares because banks are expressly excluded from the broker-dealer provisions of the Securities Exchange Act of 1934. Moreover, because of this exclusion, the sales practices rules and regulations of the self-regulatory organizations do not apply to bank sales of mutual fund shares. The self-regulatory organizations have taken steps to ensure that broker-dealers selling mutual fund shares to customers using the proceeds from maturing certificates of deposit inform those customers of the uninsured status of mutual funds. While the Commission requires that a written prospectus with the described disclosure be delivered to purchasers of fund shares, the Commission is not in a position to know whether bank salespersons are adequately informing customers of the differences between mutual funds and insured deposits.

Q.2.A Last year, in an October 13, 1992 response to Cracker Barrel Old Country Store Inc., the SEC abruptly changed its policy regarding shareholder proposals. The SEC said corporations can exclude from proxy ballots all shareholder proposals that deal with corporate employment practices, no matter what issues are raised. Was this a proper limitation for the SEC to place on shareholders' ability to communicate with management?

A.2.A Since the Commission is in litigation with respect to the Cracker Barrel letter, I believe it advisable that I not comment on the specific Commission action.

Overall, I believe that shareholder proposals can provide an effective means by which shareholders communicate with management and the board of directors, as well as each other, on important company policy issues.

This process, however, must be balanced with the basic precept that the executive officers and board of directors are responsible for managing the company. Shareholder proposals should not be a mechanism by which shareholders attempt to micromanage the company.

QUESTIONS FROM CHAIRMAN DONALD W. RIEGLE, JR.

Q.2.B Last year, in an October 13, 1992 response to Cracker Barrel Old Country Store Inc., the SEC abruptly changed its policy regarding shareholder proposals. The SEC said corporations can exclude from proxy ballots all shareholder proposals that deal with corporate employment practices, no matter what issues are raised. Would it be better to allow more dialogue between corporate owners and managers, rather than just encouraging shareholders to "vote with their feet?"

A.2.B I believe the shareholder proposal process is an appropriate means for shareholders to communicate with management and the board of directors, as well as each other, on important company policy issues.

Care must be taken, however, that the process operate in a manner that does not result in inordinately lengthy, incomprehensible, confusing proxy statements that defeat the disclosure goals of informed shareholder voting intended by the Commission's proxy rules.

Q.3.A With the elimination of controls on the flow of capital and the development of technology, the world may soon be one large financial market. Already more than 500 foreign stocks are traded on U.S. exchanges, while U.S. stocks are also traded off-shore. How do we strike the balance between regulation that protects investors and regulation that drives activities offshore?

A.3.A Under my leadership, the Commission will remain committed to seeking ways to increase the efficiency and lower the costs of raising capital, for both U.S. and foreign issuers. As reflected in the $955 billion of securities offerings in the U.S. capital market in 1992 the U.S. capital market is the preeminent market around the globe. To maintain that competitive position, we must analyze our regulatory requirements to determine which regulations, and the concomitant costs, are unnecessary to protect investors and the integrity and stability of our markets. At the same time, however, we must assure that we do not jeopardize the foundation of our market's enduring strength and resilience -- the confidence of the investing public in the integrity and fairness of the market.

QUESTIONS FROM CHAIRMAN DONALD W. RIEGLE, JR.

Q.3.B How do we prevent a weakening of securities regulation by competition in laxity between exchanges in different countries?

A.3.B As I testified in my confirmation hearing, openness, integrity, fair dealing and full disclosure are the bedrocks of the continuing vitality and strength of the U.S. market. The best way to prevent a race to laxity among markets is for the United States to maintain that tradition, as it continues to seek ways to further enhance the competitiveness of its financial markets. The preeminence of our markets will enable us to lead by example and through cooperation with other nations.

Q.3.C Is there enough cooperation among securities and futures regulators around the world?

A.3.C There is good cooperation among securities and futures regulators on a global basis, and the level of this cooperation continues to improve. In the multilateral context, the International Organization of Securities Commissions ("IOSCO") now has over 100 members, including both securities and futures regulators. The Technical Committee of IOSCO has studied and approved a variety of recommendations, including a set of principles for the negotiations and implementation of Memoranda of Understanding ("MOUs") for the sharing of information. On a bilateral basis, the SEC has entered into MOUs and less formal agreements with 15 countries, and our foreign counter-parts have also entered into MOUs with each other. The CFTC has subsequently entered into similar agreements with many of these countries. The increasing use of these agreements has enhanced regulators' confidence that domestic market integrity can be preserved as internationalization continues, and it facilitates regulators ability to administer applicable laws and regulation in a flexible manner in response to issues raised by internationalization, such as listing standards. As Chairman of the SEC, I will work to continue to facilitate cooperation among all regulators of financial markets.

QUESTION FROM CHAIRMAN DONALD W. RIEGLE, JR.

Q.4 The United States gives foreign banks and securities firms the same competitive opportunities in our financial markets as domestic firms enjoy. Some countries, however, do not always provide such "national treatment." For example, the Japanese Government recently proposed regulations on derivatives activities that appear designed to handicap market advances being made by U.S. firms in Japan. At his own confirmation hearing Secretary of the Treasury Bentsen voiced concerns about certain foreign countries that take advantage of our open financial markets, yet do not give us a fair opportunity to compete on theirs. He stated

"...the touchstone of our trade policy, including international negotiations on financial services, is that we must demand reciprocity."

Q.4.A Do you agree with Secretary Bentsen on this point?

A.4.A I believe that the U.S. government should continue to develop approaches to ensure that U.S. financial service providers can obtain access to foreign markets. To this end, the SEC recently participated with the U.S. Treasury Department in negotiations in Tokyo with the Japanese Ministry of Finance to discuss regulation of derivatives. Those talks were successful and lead to the development of a framework to ensure, among other things, that regulation of equity derivatives markets in Japan be applied on a non-discriminatory basis. We plan to continue to provide technical assistance to the U.S. Treasury Department and the U.S. Trade Representative in this and other contexts, such as the General Agreement on Tariffs and Trade and the North American Free Trade Agreement, to increase opportunities for U.S. financial service providers abroad.

Q.4.B Do you think our negotiating position on behalf of U.S. firms would be improved if we enacted the Fair Trade in Financial Services Act, a bill passed by the Senate several times, under which U.S. authorities could deny applications from firms whose home countries discriminate against U.S. firms?

A.4.B I am committed to using every device available to resolve issues involving fair trade in financial services. I believe that we can successfully negotiate agreements with our foreign counter-parts to open foreign securities markets to U.S. financial service providers. On the other hand, if sanctions were available, we would of course have to consider the risk that there could be retaliation against U.S. firms, many of whom have extensive business overseas. This is a very difficult issue to balance, and I am not currently in a position to determine whether such sanctions would effectively contribute to our negotiation strategy.

QUESTIONS FROM CHAIRMAN DONALD W. RIEGLE, JR.

Q.5 Last year, the SEC took steps to reduce the cost of securities law compliance for smaller companies, including increasing the amount of stock that can be offered without registration and creating simpler forms. Is there more that can be done in this area?

A.5 Yes. An important contribution to enhancing this effort would be the enactment of the Small Business Incentive Act which you co-sponsor. If enacted, this legislation, among other things, would raise from $5 to $10 million the Commission's authority to exempt small offerings from registration.

Last year, the Commission as part of its Small Business Initiative, increased the size of small offerings exempt under Regulation A from $1.5 million to $5 million (the maximum amount that could be exempted under current Commission authority) and streamlined the disclosure and procedures required for such offerings. Since adoption of these revisions to Regulation A last August, the dollar amount of securities filed for offerings pursuant to the Regulation has quintupled from $35.9 million to $186.7 million in the comparable period. The increased exemptive authority provided by the Small Business Incentive Act would permit the Commission to expand the utility of Regulation A for small businesses.

Small businesses using the simplified registration forms adopted as part of the Commission's Small Business Initiative have filed registration statements for offerings of $2 billion as compared with $808 million in the same period.

Just this spring, the Commission further simplified the registration and reporting requirements for small businesses transitioning into the public markets.

As I testified before the Committee, I am committed to further streamlining the capital raising process and reducing compliance costs for small entrepreneurial businesses consistent with the protection of investors. These emerging businesses have proved to be the engine of economic growth.

QUESTIONS FROM CHAIRMAN DONALD W. RIEGLE, JR.

Q.6 According to press reports, the SEC is conducting an inquiry of industry practices in the municipal bond underwriting area. Municipal securities are currently less regulated than corporate stocks and bonds.

Q.6.A Is more regulation of the municipal securities market needed?

A.6.A Presently, the Commission's Division of Enforcement is reviewing the practices of a number of brokers and dealers with respect to political contributions. The Division of Enforcement has asked a number of municipal broker-dealers that engage in significant municipal securities underwriting activities voluntarily to provide information on their political contributions. Until the ongoing inquiry establishes the nature and extent of these practices, I do not think I should draw any conclusions concerning whether municipal underwriters are engaged in practices that violate the securities laws, or whether there is a need to regulate further underwriter political contributions and other potential influence-seeking activities implicated by such activities.

Q.6.B Should investors in municipal securities receive additional disclosure?

A.6.B I believe that issuer disclosure regarding securities is essential to the efficient operation of the securities markets and the informed investment choices of investors.

The Commission has long been concerned with improving disclosure in the municipal securities markets, and has periodically reviewed the status of the regulation of municipal securities under the federal securities laws in light of innovations in the municipal securities markets, and the changing needs of investors. As part of its responses to an inquiry by Representatives John Dingell and Edward Markey, the Commission is presently reviewing many aspects of the federal regulatory scheme for municipal securities, including disclosure in both the primary and secondary markets.

While I believe in the importance of disclosure in the municipal markets, I also recognize the unique nature of this market and the critical role played by municipal issuers in financing much of the nation's infrastructure. Therefore I believe the question of whether and how municipal disclosure should be enhanced deserves careful consideration, and I would like the benefit of the Commission's study in reaching a conclusion on this issue.

QUESTIONS FROM CHAIRMAN DONALD W. RIEGLE, JR.

Q.7 The SEC is charged with administering the Public Utility Holding Company Act, which is designed to protect utility holding company investors and consumers.

Q.7.A Has the SEC been devoting sufficient resources to enforcement of the Public Utility Holding Company Act?

A.7.A The Act directs the Commission to administer the statute to protect the interests of consumers and investors, as well as the general public interest in a sound electric and gas utility industry. I believe the Commission has lived up to its mandate under PUHCA and will make every effort to continue to do so.

Fundamental changes are occurring in the electric and gas utility industry. The Energy Policy Act of 1992, for example, greatly increased the extent to which holding companies may engage in activities that were severely restricted under prior law. The statute also gave the Commission primary responsibility to protect the consumers of registered systems against any adverse effects of the new ventures. I am advised that the Commission, as a consequence, is seeking additional appropriations to expand its audit capabilities and to ensure effective administration of the Act. I understand that in its 1995 and 1996 budget request, the Commission is seeking additional staff of 8 and 10 persons, respectively, for the Office of Public Utility Regulation, to help it fulfill its investor and consumer protection responsibilities.

QUESTIONS FROM CHAIRMAN DONALD W. RIEGLE, JR.

Q.7.B Last year, the District of Columbia Circuit ruled in Ohio Power v. FERC that the Federal Energy Regulatory Commission may not disallow costs that have been approved by the SEC.

Does this decision raise a possibility that utility consumers may bear unfair costs?

A.7.B I am aware of concern that the decision will entail higher rates for retail customers. The immediate impact of the case in Ohio is to allow Ohio Power to continue to pass on certain coal costs to consumers. I understand, however, that the municipal wholesale electric customers of Ohio Power have asked the Commission to investigate, among other things, the pricing of the coal that Ohio Power purchases from its subsidiary. The staff of the Commission is currently reviewing the municipalities' allegations.

With respect to the broader implications of Ohio Power on utility consumers, I believe the Commission can accomplish the sometimes difficult task of protecting the interests of both consumers and investors. PUHCA is intended, among other things, to promote effective local regulation. Recent developments in the industry and the law have led the Commission to intensify its efforts to work in consultation with state and local regulators. I understand that the Commission has stated that it will do everything within its power to minimize the impact of the Ohio Power decisions on ratemaking, and I fully support that position.

Q.7.C Is a legislative response appropriate? If so, what form should it take?

A.7.C I understand that the Commission has suggested that the Ohio Power decision may have limited precedential significance. The matter arose in special circumstances which are unlikely to recur. Before I take a position on the need for a legislative response, I will consult with my fellow Commissioners, the staff of the Commission and the Federal Energy Regulatory Commission.

QUESTIONS FROM CHAIRMAN DONALD W. RIEGLE, JR.

Q.8.A On June 17, SEC Director of Enforcement William McLucas testified that "private actions under 10(b) of the Securities Exchange Act of 1934 serve as the primary vehicle for compensating defrauded investors. Private actions also provide additional deterrence against securities law violations."

Do you agree with this statement?

A.8.A I agree with both observations made by Mr. McLucas. Although the Commission routinely seeks orders of disgorgement in its enforcement actions, these orders are limited to the amount of profits made by the wrongdoer. The amount of investor losses stemming from the same conduct may be far greater, however, depending on the type of fraud or the transactions involved. For that reason, private suits that successfully prove fraud are the principal means through which investors receive compensation for their losses.

It is also true that, given the limitations on its resources, the Commission is not able to investigate every potential violation of the securities laws. Private actions augment the Commission's own efforts and thereby provide additional deterrence against violations.

As I stated at my confirmation hearing, however, I am deeply mindful of the costs imposed by private securities litigation and its impact on capital formation, particularly for small businesses. In fact, I have experienced the pain and cost of strike suits and frivolous litigation. I believe that current institutions may already have the tools to address part of this problem. For instance, judges, perhaps, could play a greater role in dismissing spurious litigation.

I intend to closely examine this issue and would be pleased to work with you and your colleagues in the Senate.

Q.8.B Mr. McLucas further testified that changes to joint and several liability and standards for aiding and abetting liability "could make it impossible for defrauded investors who prevail at trial to recover full compensation for their losses."

Do you share this concern?

A.8.B I share the concern that some of the suggested changes could make it impossible for defrauded investors to obtain full recovery of their losses. Under the current system, each culpable defendant in a fraud action is responsible for the entire amount of damages if other defendants are unable to pay their share. If joint and several liability were abandoned in favor of proportionate liability, investors (as opposed to other defendants) would bear the risk that one or more parties to the fraud would become bankrupt by the time the case is decided.

QUESTIONS FROM CHAIRMAN DONALD W. RIEGLE, JR. (A.8.B Continued)0

With respect to aiding and abetting liability, I understand that certain proposals would limit such liability to parties who act with deliberate intent to defraud for their own personal benefit, excluding ordinary compensation for services provided. If so, such a rule would essentially limit aiding and abetting liability to those circumstances where a defendant receives a bribe. I expect that few cases involving professional advisors would meet this test.

Q.8.C On several occasions the SEC has stated that the current statute of limitations for private securities fraud actions is too short, and has urged Congress to enact a statute of limitations allowing cases to be brought within two years after a discovery of the violation, up to five years after the violation occurred.

Do you agree that the statute of limitations for private securities fraud actions should be lengthened?

A.8.C I agree that a two-year / five-year statute of limitations would give defrauded investors a more reasonable time to seek compensation for their losses, and that it would not necessarily encourage the litigation of stale claims. The current statute of limitations prevents meritorious cases from being filed after three years. Securities fraud is inherently complex, and a carefully concealed fraud may not be discovered for a number of years. I understand that the Commission itself has noted that a significant number of its own fraud cases, including the case against Drexel Burnham Lambert, were brought more than three years after the violations occurred. It is even more difficult for private investors, who do not have the resources available to the Commission to uncover securities fraud, to meet a three-year standard.

Q.9. Regulation of securities is shared between the SEC at the Federal level and the various state securities regulators.

Would greater coordination between the SEC and the state securities regulators promote efficient regulation?

Do you have any plans to promote such coordination?

A.9. I believe that coordination between the SEC and the state securities regulators is important to improve the effectiveness of the federal/state regulatory system, and to reduce the burden of multiple registration requirements on broker-dealers and investment advisers. The Commission is working closely with the NASD and the states to improve uniformity in registration requirements, promote the use of uniform forms, and to enhance the Central Registration Depository operated by the National Association of Securities Dealers, Inc., ("NASD") to increase its effectiveness.

The Commission staff has worked very closely over the last year with the North American Securities Administrators Association ("NASAA"), the NASD and the New York Stock Exchange with regard to planning a coordinated federal, state and SRO examination sweep to test for broker-dealer compliance with the new

QUESTIONS FROM CHAIRMAN DONALD W. RIEGLE, JR. (A.9 Continued)

Penny Stock Rules. This examination sweep, which began on Monday, July 12, 1993, is the largest coordinated regulatory project ever undertaken by the Commission. In this regard, 40 state securities commissions, 12 NASD District Offices, the Commission's nine Regional Offices and the New York Stock Exchange all will be conducting broker-dealer examinations as part of this project.

I believe that the cooperation between the SEC, states and SROs on this and other regulatory projects, such as the 1990 examination sweep with the State of Florida and the NASD to test for broker-dealer compliance with Exchange Act Rule 15c2-6 (the "Cold-Call" Rule) is an excellent example of how well coordination with state securities officials can work.

These joint SEC-State regulatory projects also improve communication and understanding between the SEC and the states and maximize the use of limited regulatory resources.

QUESTION FROM CHAIRMAN DONALD W. RIEGLE, JR. (SIPC)

Q.10 What is the current condition of the Securities Investor Protection Corporation? Please describe how it is funded and how it is structured.

A.10 The Securities Investor Protection Corporation ("SIPC") is funded by assessments on its members and the interest earned on the investment of that assessment revenue in United States government securities. Based on the latest available information, the SIPC fund appears to be well capitalized in comparison with any reasonably foreseeable broker-dealer failures. As of June 30, 1993, the SIPC fund totalled approximately $754.2 million in cash and U.S. government securities. This is the highest level since SIPC's inception in 1970. Further, in late 1991, SIPC, with Commission approval, adopted a bylaw that will enable the SIPC fund to reach $1 billion in early 1997. In addition, SIPC has access to a $1 billion line of credit established by SIPC with a consortium of banks. This line of credit has never been drawn upon. Furthermore, SIPC has the statutory authority to borrow up to $1 billion from the United States Treasury Department through the Commission. No borrowing has ever been made from the Treasury under this authority. A 1990 study, commissioned by SIPC, concludes that SIPC has sufficient resources and liquidity to handle multiple broker-dealer failures, including the hopefully unlikely event of a large broker-dealer failure.

The adequacy of the SIPC fund is directly related to the regulatory environment of the securities industry. A recently completed report of the United States General Accounting Office ("GAO"), entitled, Securities Investor Protection Corporation: The Regulatory Framework Has Minimized SIPC's Losses, states that "[t]he regulatory framework has successfully limited the number and size of SIPC liquidations." 1/ The operation of the Commission's net capital and customer protection rules, the examination and oversight mechanism of the Commission and self-regulatory organizations, and annual auditing by independent public accountants have permitted the Commission and the self-regulatory organizations successfully to wind down broker-dealers, including large firms such as Drexel Burnham Lambert Inc. and Thomson McKinnon Securities, Inc. without the need for SIPC intervention. No taxpayer funds have ever been used to support the SIPC program.

In conclusion, because of the strong regulatory regime applicable to broker-dealers, the strong capital position of broker-dealers, SIPC's historical experience in liquidating broker-dealers, and the Commission's experience in winding down large broker-dealers without the need for SIPC intervention, it appears that the current resources of SIPC are adequate to handle any reasonably foreseeable brokerage failures. At the same time, however, I, of course, believe that the adequacy of these safeguards requires vigorous ongoing oversight by the Commission.

1/ That report also states that "GAO believes that SIPC officials have acted responsibly in adopting a financial plan that would increase fund reserves to $1 billion by 1997" and that the SIPC "board's strategy represents a responsible approach to anticipating funding demands that may be placed on SIPC in the future."

QUESTIONS FROM SENATOR ALFONSE M. D'AMATO

Q.1.A Section 28(e) of the Securities Exchange Act of 1934 permits investment managers to pay a higher than average rate of commission for brokerage and research services if the manager determines in good faith that the commission is "reasonable."

Do you think this provision creates a conflict of interest between the investment manager and the client?

A.1.A Section 28(e) permits an investment manager to cause a client to pay higher brokerage commissions than it might otherwise pay in order to obtain research services (even if that research may not benefit that particular client), if the investment manager determines in good faith that the commissions are reasonable in relation to the value of the brokerage and research services provided. Even if the research services benefit the client, the money manager would be relieved of the obligation to produce the research itself or purchase it with its own money. Thus, there is a potential conflict between the client's interest in obtaining the lowest possible brokerage costs and best possible execution, and the manager's interest in obtaining research paid for by the client's commission dollars.

Q.1.B Should the Commission require that these "payments" be disclosed to the client?

A.1.B The Commission currently requires non-quantitative disclosure by registered investment advisers about advisers' brokerage practices and the conflicts that arise from soft dollar payments. These disclosures are required to be in the adviser's brochure which must be delivered to prospective clients. I am aware that there are proposals to require investment advisers to report periodically to their clients the actual amount of brokerage commissions allocated for research and the value of the research obtained. While I have not fully analyzed this issue, I believe additional disclosure of this type should be carefully considered.

QUESTIONS FROM SENATOR ALFONSE M. D'AMATO

Q.1.C It is not uncommon for institutional investors, such as pension funds, to hire a consultant to recommend investment managers. Further, the consultants often have some type of compensation arrangement with certain investment managers for directing clients to the managers.

Do you think this practice also creates a conflict of interest between the consultant and the client?

A.1.C This practice creates a potential conflict of interest because there is an incentive for the consultant to make recommendations based upon the compensation received from the investment managers rather than the interests of his or her client, the institutional investor.

Q.1.D Should the Commission require that this practice and the "payments" be disclosed to the client?

A.1.D Although consultants registered under the Investment Advisers Act of 1940 are currently required to disclose all conflicts of interest with their clients, including any payments from investment managers, I believe that, given the growing importance of pension funds as investors in the market, the activities of pension fund consultants deserve additional review to see if further disclosure or other regulation is warranted.

QUESTIONS FROM SENATOR ALFONSE M. D'AMATO

Q.2 In recent testimony before the Subcommittee on Telecommunications and Finance, the General Accounting Office recommended that the SEC monitor the effects of market fragmentation on investors and U.S. securities markets. The GAO also recommended that the SEC consider whether an order exposure rule is needed. What is your opinion of these recommendations by GAO? Do you expect to follow any of these recommendations? If so, how? If not, please explain why not.

A.2 I understand that the Commission is preparing a response letter to the GAO testimony. In addition, the Division of Market Regulation's ("Division") Market 2000 Study is considering market fragmentation and related issues such as order exposure. I will make sure that the Division carefully considers these issues in the context of the Market 2000 Study.

I have been informed by the Commission staff that, in connection with their study, they have been collecting information on the extent and impact of market fragmentation. In addition, I understand that the Division receives a constant stream of information that, taken as a whole, enables it to assess the effects of fragmentation on the equity markets. While empirical data on trading prices and the spread between bid and ask prices would be useful, it only would add one more piece of information to the process without necessarily becoming the determining factor. Moreover, even with empirical data, the effects of market fragmentation are not easily quantifiable, and the issues arising in connection with it cannot be solved solely on an empirical basis. Nevertheless, the recommendation has merit, and I will ask the Division to consider how best to incorporate it into its program.

The GAO noted in its testimony that the Commission twice proposed an order exposure rule in 1982. When the Commission issued these proposals, it did not reach any conclusions regarding the advisability of an order exposure rule. In response to the initial proposal, the commentators were divided on whether such a rule was needed.

Several commentators have suggested, in response to some of the issues raised in the Market 2000 Study, that the Commission reconsider proposing an order exposure rule. GAO has recommended that the Commission consider whether such a rule is needed. I will make sure that the Division considers the need for an order exposure rule as part of the Market 2000 study. Because such a rule should be considered in conjunction with other potential regulatory initiatives to be discussed in the Market 2000 study, it would be premature for me to express an opinion with respect to the advisability of such a rule at this juncture.

QUESTIONS FROM SENATOR ALFONSE M. D'AMATO

Q.3 Apparently some dealers pay brokers for directing customer orders to that dealer. What is your opinion of this practice? Do you think this practice results in a higher cost of the transaction to the customer? If so, should this practice be permitted to continue? Should the Commission require that this practice be disclosed to the customer?

A.3 I think it is appropriate for the Commission to address payment for order flow practices. The practice of payment for order flow raises many concerns that are currently being reviewed by the Commission. The various critics of this practice suggest diverse remedies, including enhancing disclosure of the practice, requiring brokers and dealers receiving payments for order flow to pass those payments through to their customers and banning the practice outright. Those with a more favorable view of the practice, suggest that payment is one of many types of inducements for order flow, and cannot be evaluated independently of those practices.

Proponents of payment for order flow suggest that the competition facilitated by payment for order flow ultimately yields the best execution for the customer. They argue that these practices allow wholesale dealers to compete with exchanges and vertically integrated firms and that this competition has resulted in a reduction of execution costs in all markets and the use of more efficient order routing and trade execution systems. Opponents of payment for order flow, however, contend that the practice may reduce market maker quote competition for orders. They argue that to the extent that a market maker receives order flow regardless of the competitiveness of its quote, the market maker has less need to seek order flow through competitive quotes. The theoretical result could well be a widening of spreads, thus reducing the pricing efficiency of the market and raising costs of trades for those securities.

The Division of Market Regulation is currently addressing the practice of payment for order flow in its Market 2000 Report. After careful review of the many issues raised by the various commentators, the Division will recommend a course of action to the Commission. I will ensure that this issue is fully considered by the Commission. At the very least, however, I believe a strong case can be made for providing enhanced disclosure of these practices. In addition, I recognize that some believe disclosure alone is an adequate response; I will consider these issues in the context of the Market 2000 study.

QUESTIONS FROM SENATOR ALFONSE M. D'AMATO

Q.4.A There has been much discussion about the SEC permitting world class foreign issuers to list on U.S. exchanges with different disclosure standards than U.S. companies. What is your opinion of the proposal of the New York Stock Exchange to modify disclosure requirements for world class foreign securities traded on U.S. exchanges?

A.4.A The preeminence of the U.S. securities market and financial services industry is a national asset that annually provides hundreds of billions of dollars to finance businesses, both domestic and foreign. As I testified before the Committee, I believe the enduring strength and vitality of the U.S. public capital market is based on the principles of openness, integrity, fair dealing and full disclosure that have governed the American capital market for the last 60 years. As a result, the U.S. capital market is the deepest, most liquid and most efficient market in the world, with by far the greatest level of individual investor participation.

The strength of the U.S. market is recognized around the world. In the last two and half years, 220 foreign companies from 28 countries have registered $79.9 billion of public offerings with the Commission. Indeed, while other major public markets have shown little growth, and in a number of cases decline, in foreign listings over the last two years, 174 foreign companies from 27 countries have entered the U.S. public market for the first time, bringing the current number of foreign companies reporting to the SEC to 551.

I agree that we must not only maintain, but enhance, the competitiveness of the U.S. financial markets. I am committed to doing so by enhancing the efficiency and lowering the costs of capital raising for all issuers, American as well as foreign, consistent with investor protection.

I have reservations about a proposal to waive basic disclosure and financial statement requirements for certain foreign companies and accept instead home country disclosures or financial statements without regard to the adequacy of the information that would be provided to American investors. American investors would be prejudiced where such a waiver resulted in the non-disclosure of material information. Of equal concern is the prejudice to American companies seeking to raise capital in their home market if foreign issuers were excused from the substantially greater disclosure, accounting and auditing requirements applicable to domestic companies.

QUESTIONS FROM SENATOR ALFONSE M. D'AMATO

Q.4.B Proponents of the NYSE's proposal argue that U.S. investors can trade foreign securities now in the "pink sheet" market and that investors would be better served by having these foreign securities traded in a more regulated, more transparent markets. Would U.S. investors in foreign securities be better protected if the SEC adopted the NYSE proposal? Does the NYSE proposal result in less disclosure to investors or just different disclosure?

A.4.B As noted in the answer to the foregoing question, I believe a broad waiver of disclosure requirements for a class of foreign issuers without regard to the disclosure, accounting and auditing standards otherwise applicable, raises substantial investor protection concerns including dangers of non-disclosure of material information.

As you note, foreign issuers like domestic issuers, can choose to stay out of the U.S. public markets (the national exchanges and NASDAQ) while their securities are traded in the pink sheet market, without having to register their securities with the SEC and file reports with the Commission. I believe that the balance struck by Congress and the SEC in the federal securities laws is the right one. Access to the national securities markets - through listing on the exchanges or NASDAQ, or through a public offering - is open to any issuer, domestic or foreign, large or small, that is willing to assume the responsibility of full disclosure mandated by the federal securities laws. Investors in the U.S. public markets are assured that those issuers will be required to provide full disclosure subject to Commission oversight. Companies that do not wish to take on the responsibility of full disclosure forego the benefits of full access to the breadth and liquidity of the U.S. public capital market.

QUESTIONS FROM SENATOR ALFONSE M. D'AMATO

Q.5 There has been growing concern about market risk associated with derivative products trading and whether there is a need for additional regulation. One suggestion has been to eliminate risk through a "netting" arrangement such as a collateralized swaps clearing house. Do you think there is adequate regulation of derivatives product trading? If not, what more should be done? Do you think a clearing house for swaps would be an effective means of minimizing market risk? Is it a practical approach to minimizing risk in derivatives trading? What would you recommend?

A.5 The over-the-counter derivatives market has grown to a significant size (estimated at close to $5 trillion in notional amount). The participants in this market insist that the actual risks in the market are far smaller than the total notional amount, and that they have developed effective credit controls to manage these risks. Nevertheless, the market has grown dramatically and perhaps is not fully understood by the top management of many of the institutions using the products.

There are several studies on derivatives underway by government agencies, the General Accounting Office, and Group of Thirty that will be issued in the next few months. I will be very interested in the results of these studies and their analysis of whether a different regulatory approach is needed. In addition, the Commission recently issued a concept release on the net capital treatment of derivatives, and the responses to the release should be helpful in structuring the Commission's program for these products.

It has been argued that a clearing house, subject to appropriate regulatory oversight, could promote efficiency and reduce systemic risk to the benefit of all market participants if it is structured with appropriate legal, credit and operational controls. At the same time, however, others have argued that a clearing house is unnecessary at this time because individual firms have the best incentive to monitor the credit worthiness of their counter parties. In balancing these issues, I look forward to the various forthcoming studies to help assess these arguments.

In addition, recent amendments to the Bankruptcy Code and revisions to the Federal Deposit Insurance Corporation Improvement Act of 1991 ("FDICIA") have helped to validate netting contracts among financial institutions and provide certainty that netting contracts will be enforced in the event of the insolvency of one of the parties to the contract. In addition, the Federal Reserve Board has recently proposed rules that would expand the category of entities that are considered financial institutions under FDICIA.

I believe that, while some further improvements always are possible, there are adequate regulatory safeguards currently in place for exchange-traded derivatives such as options and futures. I am less certain of the need for further safeguards for the growing market for over-the-counter ("OTC") derivatives. As you know, this is a subject area of great concern not only to the Commission, but to other regulators both nationally and internationally. I believe that there is a consensus among regulators that, while the potential systemic effects from these products cannot be ignored, responsible regulators should make every effort to better understand the actual size and dynamics of this market, and likely systemic risks from these products, before proposing any additional regulatory initiatives in this area.

QUESTIONS FROM SENATOR ALFONSE M. D'AMATO (A.5 Continued)

Although hard statistical information in this area is extremely limited, it appears that the OTC derivatives market has become extremely large and is continuing to grow rapidly, heightening concerns that major disruptions in this OTC institutional market have at least the potential to "flow back" to disrupt trading in markets in U.S. equities and equity derivatives. At the same time, much of this OTC business is conducted by firms in entities outside of their registered broker-dealers, and, therefore, outside of the Commission's oversight.

In this regard, the Commission recently issued a concept release which was designed to address the nature of the existing regulatory structure as it applies to derivative products under the Commission's broker-dealer net capital rule.

Under the net capital rule, which applies to all broker-dealers registered with the Commission, broker-dealers are required to maintain certain amounts of liquid assets, or net capital, based on the amount and type of business the firm transacts. The net capital rule currently assesses significant charges for transactions in OTC derivative instruments.

Among other reasons, this stringent treatment has been a factor in decisions by holding companies to engage in certain derivative products which they do not consider dealer securities activities (e.g., interest rate swaps) in entities other than in a broker-dealer registered with the Commission. The Commission has access to information concerning the activities of material broker-dealer affiliates that conduct activities in derivative products through the Commission's risk assessment recordkeeping and reporting rules, which were adopted pursuant to the Market Reform Act of 1990. Thus, we believe the approach taken in the net capital rule, augmented by the risk assessment program, presently provides an adequate system of regulating broker-dealer activities in derivative products.

In order to further explore the regulatory issues regarding derivative products, the concept release identified two major risks associated with derivative products: market risk (the risk of adverse price fluctuations); and credit risk (the risk of counterparty non-performance). The Commission's concept release was designed to solicit public comment on the treatment, including credit risk concerns, of derivative products. One of the items specifically identified for comment in the release was the effect that "netting" arrangements among counter parties can have in reducing overall risks. Generally, we believe netting arrangements have the effect of reducing the overall credit risk exposure in derivative products, but will have no effect on the market risk element of derivative risk.

Once the public comment period for the release has ended, and the Division of Market Regulation has evaluated the comments, the Commission will consider what, if any, modifications to existing broker-dealer capital regulation are warranted. I believe this effort is a responsible and measured effort to address regulatory improvements without stifling innovation.

QUESTIONS FROM SENATOR ALFONSE M. D'AMATO

Q.6 Since small businesses are the engine of economic growth and job creation, it is essential that they have access to credit and capital. I have introduced legislation to facilitate the securitization of small business loans by removing certain regulatory impediments that impose unnecessary costs or delay. Do you think that Congress should expand the availability of credit to small businesses by facilitating securitization and the development of a secondary market for small business backed securities?

Do you think that enabling the private sector to securitize small business loans is a better approach than establishing a new government sponsored enterprise to perform this function?

A.6 Small business is critical to the growth of our economy, and, therefore, I support measures to increase the ready flow of capital to small business while maintaining investor protections and sound markets. Securitization has been a highly effective means of increasing the flow of capital to the mortgage markets, and I believe that similar securitization also should be used to increase the credit available to small businesses.

As part of its Small Business Initiative adopted last fall to facilitate the securitization of financial assets, particularly small business loans, the Commission adopted revisions to the regulations under the Investment Company Act of 1940 to exempt investment grade asset-backed financings from the 1940 Act and revisions to regulations under the Securities Act of 1933 to extend shelf registration to such securities. I fully support such efforts and believe that it is important to eliminate unnecessary regulatory impediments to private sector securitization of small business loans.

I understand the S.384 is intended to encourage securitization of small business loans by eliminating unnecessary impediments to the markets for these securities. I suspect that other measures will be needed as well to spur small business lending, and I support S.479, the Small Business Incentive Act of 1993, designed to encourage new venture capital investment in small businesses.

The issue of whether the government should create a new government-sponsored enterprise to promote securitization is a complex one involving budgetary and other policy issues outside the responsibilities of the SEC.

QUESTIONS FROM SENATOR ALFONSE M. D'AMATO

Q.7 The federal securities laws require securities firms to supervise employees and provide certain information to the SEC and the self-regulatory organizations. The "Privacy for Consumers and Workers Act for 1993" imposes limitations on how information can be obtained and used.

Do these limitations contravene the federal securities laws? Do you think the legislation will constrain the ability of securities firms to establish an effective internal compliance system?

What impact would this bill have on the SEC's oversight activities? What impact would this bill have on the SEC's Electronic Data Gathering Analysis and Retrieval System?

What is the SEC's position on this bill?

A.7 The "Privacy for Consumers and Workers Act of 1993" would impose major impediments on securities firms' ability to maintain internal compliance systems, and would constrain their operation of statutorily-required policies and procedures to prevent insider trading. It also would seriously impair the Commission's access to the books and records of self-regulatory organizations and other registered securities entites, and would hamper the examination and enforcement activities of the Commission and the self-regulatory organizations.

For these reasons, I support a complete exemption for registered securities entities such as self-regulatory organizations, broker-dealers, investment advisers, clearing agencies, and transfer agents, and their financial affiliates, from the provisions of the bill.

I am unable to address the bill's impact on EDGAR because, as I have certified in my nomination papers, I will be recused from participating in all matters involving EDGAR for a period of one year after I take the oath of office. I am a Director of BDM Holdings Inc., which is the primary contractor operating the Commission's EDGAR project. I also own stock in BDM. Therefore, I was advised that the government-wide Standards of Ethical Conduct for Employees of the Executive Branch require my recusal for one year. I note that if I am confirmed, upon taking the oath of office, I intend to divest my holdings in BDM and resign from the Board.

Because I will be recused from matters involving EDGAR, I intend to delegate to the Senior Commissioner my authority to make decisions concerning EDGAR. The Senior Commissioner at this time is Acting Chairman Mary Schapiro, who has agreed to act in my stead. Consequently, I believe that consistent with my anticipated recusal, I am unable to answer these questions. However, if you desire not my views, but information concerning public dissemination of information and EDGAR, I would be pleased to transmit your questions to Acting Chairman Schapiro, who has agreed to answer them.

QUESTIONS FROM SENATOR JIM SASSER

Q.1 Mr. Levitt, as you may be aware, American investors in Lloyd's of London sponsored insurance syndicates are suing Lloyd's, claiming that they were not provided disclosure of information comparable to the information required to be given to investors in the United States under the federal securities laws. The 110 investors involved in the suit are among 2,500 American investors in Lloyd's sponsored-syndicates. These syndicates have raised over $1 billion in capital for Lloyd's which has been experiencing losses since the mid-1980's.

After a recent dismissal by the U.S. Court of Appeals for the Second Circuit, the investors are expected to file a certiorari petition to the United States Supreme Court, seeking to reverse the Second Circuit's ruling. The dismissal by the Second Circuit affirmed a district court's dismissal of this case on the grounds that the forum selection and choice-of-law provisions in the standard Lloyd's documentation may be judicially enforced so as to cause the American investors to waive their rights under the federal securities laws, thereby leaving them with only such remedies as they may have available under English law in England.

Q.1.A Mr. Levitt, are you familiar with this situation? Do you know if the Securities and Exchange Commission (SEC) has investigated this matter? If so, do you know the status of that investigation?

A.1.A I regret that I cannot respond to your question, because I understand that it is the policy of the SEC not to comment on the existence of an investigation.

QUESTIONS FROM SENATOR JIM SASSER

Q.1.B If confirmed to be SEC chairman, do you intend to have the SEC pursue an investigation? Would you consider having the SEC file an amicus brief with the U.S. Supreme Court?

A.1.B As to an investigation, I have not formed any final views on whether, in light of the recent court decisions and other factors, an investigation would be appropriate.

As to amicus participation, I understand that the Solicitor General's Office, which oversees all Supreme Court litigation for the SEC, generally does not file amicus briefs regarding whether the Court should grant certiorari unless the Court requests that the Solicitor General express the views of the United States. If the Supreme Court makes such a request in a case involving securities issues, the Solicitor General generally seeks the views and assistance of the SEC, and the SEC generally assists in drafting the brief. If the Supreme Court should grant certiorari in this case, the Commission would consider whether to recommend to the Solicitor General that an amicus brief be filed on behalf of the SEC.

Q.1.C What are your views concerning future SEC policy regarding waivers of U.S. investor rights and remedies by foreign issuers? Should foreign issuers that market securities to U.S. investors be subject to SEC oversight? Should that oversight differ from oversight of U.S. issuers?

A.1.C Under the federal securities laws investors cannot waive statutory protections. In the international context, there are often difficult questions about the jurisdictional reach of the U.S. securities laws and whether U.S. law applies to a particular transaction.

Foreign issuers that market securities to U.S. investors in the United States are, and of course should be, subject to SEC laws and oversight. U.S. investors have the same basic rights and remedies under the U.S. securities laws whether they buy American or foreign securities in the U.S. market.

QUESTION FROM SENATOR JIM SASSER

Q.2 As you may know, the House of Representatives is expected to consider the "Securities and Exchange Commission Authorization Act of 1993", H.R. 2239 in the coming weeks. This legislation includes provisions for a full cost recovery system for the SEC. This system authorizes the SEC to collect fees to offset the Commission's appropriation and provide general revenue to the Treasury for deficit reduction purposes.

Do you support this legislation? In particular, do you support the self-funding system? What are the benefits of such a system? And, under this system, would SEC funding remain subject to the appropriations process?

A.2 I strongly support self-funding for the Commission and view such a funding arrangement as critical to the continuing vitality of the agency.

In the last few years, the Commission has struggled to keep pace with the tremendous growth in its oversight responsibilities, despite scarce resources. In view of the increasing pressure that the SEC will continue to face in fulfilling its responsibilities, I believe it is critical to ensure that the SEC's funding is adequate to meet the significant challenges it now faces and will confront as the U.S. markets continue to evolve.

Since January 1989, the SEC has sought congressional approval to change its funding status from appropriated to self-funded, like most of the other financial regulatory agencies. Under a self-funding arrangement, the SEC would be authorized to use fee collections to fund all agency operations rather than rely on annual appropriated funds. The SEC would continue to follow both the authorization and appropriation procedures.

As I stated at my confirmation hearing, an SEC which is underfunded and understaffed could undermine the vitality and integrity of the capital markets, which would, in turn, harm the U.S. economy.

QUESTIONS FROM SENATOR JIM SASSER

Q.3 The Financial Accounting Standards Board (FASB) recently released an exposure draft of a new accounting principle which will require companies which issue stock options to their employees to take a charge to their earnings. I am concerned about the impact of this proposal on the ability of smaller, emerging growth companies to attract and motivate employees at all levels of the organization.

According to some studies, approximately 60 to 70 percent of these kinds of companies offer options to all of their employees. However, if these companies were required to charge earning for options issued, many of these companies might not be able to afford to continue this practice, and might reduce the number and types of employees to whom options are granted. For instance, stock options might be reserved for top level executives, and mid-level and lower-level employees might not be offered stock options at all. Moreover, many of these companies rely on stock options as a recruiting tool. Start-up, cash-poor companies in the biotechnology or the electronics industry, for example, compete for the same pool of talented scientists, engineers and technicians as more established firms. These companies use stock options to attract employees willing to share the risks and the rewards.

Do you know whether the FASB gave any consideration in developing this proposal to the issues of the broad use of stock options in emerging growth industries and their use by those industries in attracting personnel?

What authority does the SEC have to review this proposal? Will the SEC take these issues into account in its review?

A.3 I am well aware of the importance of stock options to American business. In particular, this compensation vehicle is key for small and young businesses that are the lifeblood of the American economy but may not be able to offer cash compensation adequate to attract the talent that they need.

The FASB's recent proposal, which would require recognition of compensation expense equal to the fair value of the option at the date the option was granted, has been extremely controversial. Critics have stated that it is difficult to measure the value of stock options, particularly for options that are not transferable and have restricted exercisability. They have suggested alternative approaches, based on disclosure and patterned after the Commission's changes to the rules governing disclosure of senior executive and director compensation.

Significantly, the FASB's extensive process for considering accounting standards is far from concluded. FASB has just published an exposure draft and comments on that proposed standard may be submitted until the end of 1993. Two public hearings will be held by the FASB on the east and west coasts following the close of the comment period. Thus, there will be every opportunity for all members of the public, including analysts and other users of financial statements, affected public companies, and accounting firms to express their views on the proposal and the effects of the proposal on U.S. businesses and the economy, and offer alternative approaches. FASB also will engage in extensive field testing.

QUESTIONS FROM SENATOR JIM SASSER (A.3 Continued)

I believe firmly that the FASB process should run its course. The American accounting standards setting process has worked well. FASB is a highly respected, expert and independent body that has acted as the primary accounting standard setter since 1973. The Commission, pursuant to the federal securities laws, has full authority to set accounting standards for publicly held companies. I can assure you that the Commission will actively oversee the FASB's process and all FASB's actions with respect to stock option accounting, with a view to assuring that any resulting accounting standard is consistent with the protection of investors and the public interest. The Commission, like the FASB, will consider carefully the comments received on the FASB's exposure draft and take those into account in exercising its oversight authority.

Various bills have been introduced in Congress both favoring and opposing the expensing of options. Legislation on this issue, in my view, would not be wise. Accounting standards are best set by the process we have today.

QUESTIONS FROM SENATOR RICHARD SHELBY

Q.1 The Securities and Exchange Commission has been criticized for its regulation of public utility holding companies under the Public Utility Holding Company Act (PUHCA). The Senate Energy Committee held a hearing in May in which Commission oversight was characterized as lax and ineffective in protecting consumers against the activities of public utility holding companies.

Q.1.A What is your response to this criticism?

A.1.A The Act directs the Commission to administer the statute to protect the interests of consumers and investors, as well as the general public interest in a sound electric and gas utility industry. I believe the Commission will continue to make every effort to live up to its mandate under PUHCA. In that regard, I am informed that the Commission staff recently has expanded its audit program of companies within registered holding company systems. The staff also has worked hard to cooperate with other federal and state regulators. I understand that in its 1995 and 1996 budget request, the Commission is seeking additional staff of 8 and 10 persons, respectively, for the Office of Public Utility Regulation, to help it fulfill its investor and consumer protection responsibilities.

Q.1.B Could you describe the way the SEC regulates registered holding companies now and specifically, the steps the SEC takes before it approves a particular transaction? Do interested parties have an opportunity to participate in the review process?

A.1.B PUHCA subjects registered holding company systems to pervasive economic regulation. The Commission authorizes the financings, acquisitions and intrasystem service and construction agreements of companies in these systems. The statute sets forth specific criteria that must be satisfied before one of these transactions can be approved, and the Commission reviews the proposed transaction for compliance with these criteria. For each transaction, there is an opportunity for public comment.

QUESTIONS FROM SENATOR RICHARD SHELBY

Q.2 Another issue which arose at that hearing concerned the disposition of the Ohio Power case, where the Federal Energy Regulatory Commission (FERC) attempted to assert its jurisdiction over a fuel supply transaction and was denied by the Court of Appeals. This decision was cited as one basis for the introduction of legislation to transfer jurisdiction over PUHCA to FERC.

Q.2.A What is the Commission's analysis of the Ohio Power situation? Did the Commission approve a contract that was unfair to consumers? Were interested parties precluded from registering their concerns about the transaction?

A.2.A The Commission issued its orders during the energy crisis of the 1970s, when captive coal operations were thought desirable to provide a stable and secure fuel supply to system operating companies. Both investors and consumers were expected to benefit.

The proposed transactions were published for public comment. No comments were received, from the FERC or other parties. The Ohio Power court of appeals decision noted that the Commission, in its orders, properly discharged its statutory authority. I am aware that the Commission has stated that it will do everything within its power to minimize the impact of the Ohio Power decision on ratemaking and to cooperate fully with the FERC to limit jurisdictional conflict, and I fully support that position.

Q.2.B What is your opinion on the transfer of jurisdiction to FERC? Is it necessary to ensure that consumers are adequately protected?

A.2.B I understand that under the two previous administrations, the Commission supported a transfer of the responsibilities under the Act. Before I take a position on a transfer, I will consult with my fellow Commissioners, the staff of the Commission, and the Federal Energy Regulatory Commission. Even if no transfer is effected, the Commission should do all it can to coordinate with the Federal Energy Regulatory Commission.

QUESTIONS FROM SENATOR RICHARD SHELBY

Q.3 What is your opinion of the proposal by the Financial Accounting Standards Board (FASB) to require companies to take a charge to earnings for stock option compensation?

The FASB is an independent organization and the Commission has a tradition of respecting this independence. However, if FASB made a decision that was considered questionable and potentially damaging to the economy, would the Commission review this decision?

A.3 I am well aware of the importance of stock options to American business. In particular, this compensation vehicle is key for small and young businesses that are the lifeblood of the American economy but may not be able to offer cash compensation adequate to attract the talent that they need.

The FASB's recent proposal, which would require recognition of compensation expense equal to the fair value of the option at the date the option was granted, has been extremely controversial. Critics have stated that it is difficult to measure the value of stock options, particularly for options that are not transferable and have restricted exercisability. They have suggested alternative approaches, based on disclosure and patterned after the Commission's changes to the rules governing disclosure of senior executive and director compensation.

Significantly, the FASB's extensive process for considering accounting standards is far from concluded. FASB has just published an exposure draft and comments on that proposed standard may be submitted until the end of 1993. Two public hearings will be held by the FASB on the east and west coasts following the close of the comment period. Thus, there will be every opportunity for all members of the public, including analysts and other users of financial statements, affected public companies, and accounting firms to express their views on the proposal and the effects of the proposal on U.S. businesses and the economy, and offer alternative approaches. FASB also will engage in extensive field testing.

I believe firmly that the FASB process should run its course. The American accounting standards setting process has worked well. FASB is a highly respected, expert and independent body that has acted as the primary accounting standard setter since 1973. The Commission, pursuant to the federal securities laws, has full authority to set accounting standards for publicly-held companies. I can assure you that the Commission will actively oversee the FASB's process and all FASB's actions with respect to stock option accounting, with a view to assuring that any resulting accounting standard is consistent with the protection of investors and the public interest. the Commission, like the FASB, will consider carefully the comments received on the FASB's exposure draft and take those into account in exercising its oversight authority.

Various bills have been introduced in Congress both favoring and opposing the expensing of options. Legislation on this issue, in my view, would not be wise. Accounting standards are best set by the process we have today.

QUESTIONS FROM SENATOR CAROL MOSELEY-BRAUN

Q.1 What are your views on the recent proposal devised by the Chicago Mercantile Exchange to consolidate all of the financial regulators into one super regulator with cabinet status? What are your views on regulatory consolidation generally?

A.1 Proposals to consolidate independent regulatory agencies within the Administration such as the Chicago Mercantile Exchange proposal should be carefully considered before they are implemented. Whether any such proposal is considered or not, I think it is important for the heads of the respective agencies to work in a candid and cooperative manner to address specific issues as they arise so that the U.S. financial services can continue to compete effectively in a manner consistent with the protection of investors and the maintenance of fair and orderly markets. This will take some good will and compromise on all sides and I am committed to that process.

The consolidation of regulation of financial products into a single agency does have some potential benefits. It can enable regulators to monitor better for systemic risk across products and markets and reduce the potential for uneven regulation between markets. Nevertheless, it may be more productive to address first the statutory differences between the financial markets before undertaking a massive regulatory restructuring.

The CME proposal would combine the securities, commodities, and banking independent agencies as well as some functions of the Department of Labor and Federal Reserve Board into a single cabinet department. I have only briefly read the proposal, and would like to take some time to study it further. Nevertheless, my preliminary reading raises several concerns for me about whether such a proposal should be used as the model for regulatory consolidation. First, I am concerned that such a large agency, burdened by the responsibility for oversight of the banking system and pension funds, would not keep pace with the innovations in the securities and futures markets. Second, I am concerned that the proposed super agency could diminish the effective, independent, and vigorous enforcement and market oversight program of the Commission. Regulatory consolidation may sound appealing, but I would want to make sure that it does not compromise the protection of investors or the maintenance of fair and orderly markets or create more problems than it was intended to solve.

QUESTIONS FROM SENATOR CHRISTOPHER S. BOND

Q.1 Chairman Breeden believed that states should be preempted from regulating the securities laws - a view not favored by the MO state securities Commissioner. What is your view of state securities regulation - not enforcement about the regulation of securities offerings, investment companies, broker-dealers and investment advisers by the states?

A.1 As you know, most large companies, whose stock is traded on an exchange or NMS-NASDAQ, are exempt from state registration requirements governing securities offerings. For small and developing companies trying to raise capital, however, compliance with the securities laws of all the states and the federal government presents one of the most significant costs. Coordination and elimination of redundant or conflicting requirements among state laws, as well as with federal law, is key to lowering the regulatory costs incurred in the capital raising process for those small businesses. I am committed to working with the state securities regulators to further coordinate and streamline the regulation of securities offerings, registered and exempt, consistent with the protection of investors.

State registration of broker-dealers is an important element of the state securities commissions' supervision and enforcement program regarding broker-dealer activity within a particular state. At the same time, it creates substantial duplication of federal and self-regulatory organization registration requirements. I believe that efforts should be increased to streamline the registration process through encouraging uniform reqistration requirements and the use of uniform forms, as well as to enhance the Central Registration Depository operated by the National Association of Securities Dealers, Inc., to reduce the burdens of multiple registrations. Moreover, greater coordination on direct regulation of broker-dealers should be sought.

With respect to investment companies and investment advisers, state regulators are often the first to receive investor complaints that identify areas of investor confusion or troublesome local sales practices. This is particularly true in the case of investment advisers, the large majority of whom do not operate at a national level. Regular meetings and information sharing enables both federal and state regulators to identify and address significant problems in the investment company and investment adviser industries. It will be important for the Commission to continue to work closely with the state securities regulators to see that investors remain adequately protected and that federal and state regulations become as uniform as possible.

QUESTIONS FROM SENATOR CHRISTOPHER S. BOND

Q.2 What could the SEC under your direction do to improve the coordination of regulatory matters with the states - in particular - investment adviser and broker-dealer exams and the review of securities offerings?

A.2 There are numerous recent examples of successful coordination between the SEC and the states. In the area of securities offerings, for example, the Uniform Securities Act, which is the basis of the state registration process in about 40 states, permits coordinated registration among the Commission and the states. Similarly, the Commission has worked with the North American Securities Administrators Association ("NASAA") in developing the Uniform Limited Offering Exemption (ULOE), which has been adopted in some form by more than half the states. An issuer raising capital in a state that has adopted ULOE may take advantage of a state registration exemption and a federal exemption under Regulation D. The Commission and NASAA have continued to work together on developing greater use of ULOE, and in encouraging the states to adopt a truly uniform version of the rule.

In the broker/dealer area, the Commission staff has worked very closely over the last year with NASAA, the NASD and the New York Stock Exchange with regard to planning a coordinated federal, state and SRO examination sweep to test for broker-dealer compliance with the new Penny Stock Rules. This examination sweep, which began on Monday, July 12, 1993, is the largest coordinated regulatory project ever undertaken by the Commission. In this regard, 40 state securities commissions, 12 NASD District Offices, the Commission's nine Regional Offices and the New York Stock Exchange all will be conducting broker-dealer examinations as part of this project. The 1990 examination sweep with the State of Florida and the NASD to test for broker-dealer compliance with Exchange Act Rule 15c2-6 (the "Cold-Call" Rule) is another excellent example of coordination with state securities officials in this area.

In the investment adviser area, the staff of the Commission's investment adviser inspection program has a long history of actively coordinating inspections with the states. Since 1986, the Commission's investment adviser inspection staff has actively sought to involve personnel from state securities commissions in the inspection process. The Commission's staff has provided training in inspection techniques to staff of over 20 state securities commissions and has conducted many inspections on a joint basis with staff from these states. Such coordination promotes efficiency in the use
of government resources and reduces the cost and disruption that inspections impose on registrants. I will encourage the staff to continue its efforts with the states and also encourage other states to work with the Commission's staff to develop further a coordinated inspection program.

I believe it is important to continue and build upon this coordination of Commission and state efforts, in order to further the efficiency of our regulations and assure strong and effective enforcement.

QUESTIONS FROM SENATOR CHRISTOPHER S. BOND

Q.3 How can the SEC sooner involve the states in upcoming initiatives that make changes that dramatically affect the state regulatory framework? Some examples in the past include the SEC small business initiative, off the page prospectus, and international securities offerings.

A.3 The dual system of federal-state securities regulation can impose unnecessary costs and burdens on the capital markets unless regulators are able to work together cooperatively and effectively to harmonize regulatory requirements, while maintaining investor protection. Thus, I agree that it is important for the Commission to attempt to coordinate its regulatory efforts with the states in order to minimize conflicting or duplicative requirements.

As you know, pursuant to section 19(c) of the Securities Act, each year the Commission holds a joint conference with the North American Securities Administrators Association that is intended to carry out the policies and purposes of section 19(c). These conferences provide a valuable forum for identifying specific issues of concern in the corporation finance, market regulation, investment management and enforcement areas, and for developing ways to enhance federal/state coordination and cooperation more generally. As noted in my answers to Questions 1 and 2, there have been a number of successful initiatives resulting from this type of cooperative effort. I believe that continuing this tradition of cooperation will promote the public interest in fair and efficient securities markets.

Q.4 What steps will the SEC take to make sure public information is made readily available to the public, particularly information that is computerized, such as CRD for broker-dealers and EDGAR for securities offerings and reports? Could access to this information be made available through INTERNET or some similar computer network? Could terminals be made available in federal offices around the country?

A.4. I regret that I am unable to answer these questions because, as I have certified in my nomination papers, I will be recused from participating in all matters involving EDGAR for a period of one year after I take the oath of office. I am a Director of BDM Holdings Inc., which is the primary contractor operating the Commission's EDGAR project. I also own stock in BDM. Therefore, I was advised that the government-wide Standards of Ethical Conduct for Employees of the Executive Branch require my recusal for one year. I note that if I am confirmed, upon taking the oath of office, I intend to divest my holdings in BDM and resign from the Board.

Because I will be recused from matters involving EDGAR, I intend to delegate to the Senior Commissioner my authority to make decisions concerning EDGAR. The Senior Commissioner at this time is Acting Chairman Mary Schapiro, who has agreed to act in my stead. Consequently, I believe that consistent with my anticipated recusal, I am unable to answer these questions. However, if you desire not my views, but information concerning public dissemination of information and EDGAR, I would be pleased to transmit your questions to Acting Chairman Schapiro, who has agreed to answer them.

QUESTIONS FROM SENATOR CHRISTOPHER S. BOND

Q.5 What steps should be taken regarding the EDGAR system to ensure one stop filing, i.e., one filing can be done to satisfy both SEC and state requirements? What steps will be taken to ensure the states access to EDGAR filed information, so that their computer system, the SRD, can function efficiently?

A.5 I regret that I am unable to answer these questions because, as I have certified in my nomination papers, I will be recused from participating in all matters involving EDGAR for a period of one year after I take the oath of office. I am a Director of BDM Holding Inc., which is the primary contractor operating the Commission's EDGAR project. I also own stock in BDM. Therefore, I was advised that the government-wide Standards of Ethical Conduct for Employees of the Executive Branch require my recusal for one year. I note that if I am confirmed, upon taking the oath of office, I intend to divest my holdings in BDM and resign from the Board.

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QUESTIONS FROM SENATOR MACK

Q.1 It is my understanding that at the Senate hearing on S. 544, a bill introduced by Senator Bumpers, the SEC was accused by state regulators and consumer groups of being insensitive to consumer interests during the SEC's consideration of the Ohio Power case. It seems to me that the SEC can resolve many of the concerns of these other interests under current law.

Q.1.A How have you responded to the criticism raised in the Senate Energy hearing?

A.1.A PUHCA directs the Commission to administer the statute to protect the interests of consumers and investors, as well as the general public interest in a sound electric and gas utility industry. The Commission issued its orders in the Ohio Power matter during the energy crisis of the 1970s, when captive coal operations were thought desirable to provide a stable and secure fuel supply to system operating companies. Both investors and consumers were expected to benefit. The Ohio Power court of appeals noted that the Commission, in its orders, properly discharged its statutory authority. I am aware that the Commission has stated that it will do everything within its power to minimize the impact of the Ohio Power decision on ratemaking, and I support that position.

Q.1.B Would you consider committing the SEC to be more responsive to consumer interests perhaps through conducting more formal proceedings on affiliate transactions at the time they are filed allowing intervention by other regulators, such as the states or the FERC?

A.1.B The Commission has a statutory mandate to protect the interests of consumers. For each transaction that requires approval, there is an opportunity for public comment. Interested persons may ask the Commission to hold a hearing. Whether such a request is granted depends upon the facts or issues raised by the request. No comments were received in the Ohio Power matters, from the FERC or other parties.

The Commission gives weight to the comments of state and local regulators. PUHCA was intended in large part to facilitate state regulation of public utilities in holding company systems. The statute was also companion legislation to the Federal Power Act.

I fully support the Commission's efforts to work in consultation with state and federal regulators.

Q.2 A narrow interpretation of related businesses might have been appropriate in the early days of PUHCA, but with the evolution of the utility industry and our current emphasis on promoting conservation and energy efficiency shouldn't the SEC take a more favorable view of utility investment in such programs and in fact shouldn't the commission encourage utilities to invest in such programs?

A.2 PUHCA sets forth specific criteria that must be satisfied before a registered holding company can engage in nonutility activities. The Commission and the courts have interpreted these provisions to require a functional relationship between the proposed activities and the core utility business. The Commission has determined in a number of matters that proposed transactions involving demand side management satisfied the statutory criteria.

QUESTIONS FROM SENATOR MACK

Q.3 Under your leadership, what role will the Securities and Exchange Commission play in the impending discussion on the proposed changes to the accounting standards for stock-based compensation?

A.3 The Commission, pursuant to the federal securities laws, has full authority to set accounting standards for publicly held companies. I can assure you that the Commission will actively oversee the FASB's process and all FASB's actions with respect to stock option accounting, with a view to assuring that any resulting accounting standard is consistent with the protection of investors and the public interest. The Commission, like the FASB, will consider carefully the comments received on the FASB's exposure draft and take those into account in exercising its oversight authority.

Q.4 Do you feel that the proposed changes to the accounting standards for stock-based compensation are necessary or appropriate?

A.4 I am well aware of the importance of stock options to American business. In particular, this compensation vehicle is key for small and young businesses that are the lifeblood of the American economy but may not be able to offer cash compensation adequate to attract the talent that they need.

The FASB's recent proposal, which would require recognition of compensation expense equal to the fair value of the option at the date the option was granted, has been extremely controversial. Critics have stated that it is difficult to measure the value of stock options, particularly for options that are not transferable and have restricted exercisability. They have suggested alternative approaches, based on disclosure and patterned after the Commission's changes to the rules governing disclosure of senior executive and director compensation.

Significantly, the FASB's extensive process for considering accounting standards is far from concluded. FASB has just published an exposure draft and comments on that proposed standard may be submitted until the end of 1993. Two public hearings will be held by the FASB on the east and west coasts following the close of the comment period. Thus, there will be every opportunity for all members of the public, including analysts and other users of financial statements, affected public companies, and accounting firms to express their views on the proposal and the effects of the proposal on U.S. businesses and the economy, and offer alternative approaches. FASB also will engage in extensive field testing.

As you know, the Commission is responsible for the accounting standards applicable to publicly held companies, and must make certain that those standards are consistent with the protection of investors and the public interest. You may be certain that the Commission will oversee the FASB process and carefully consider fully all the views and comments on the exposure draft in determining whether to accept the standard. The Commission will make that decision on the basis of the full record to be developed through the public comment and hearing process and field testing and analysis.

QUESTIONS FROM SENATOR ROBERT F. BENNETT

Q.1 As you may know, in May of this year Thomas P. Hart, the Chairman of the Options and Derivative Products Committee of the Securities Industry Association ("SIA"), wrote to the distinguished Chairman of the House Energy and Commerce Committee concerning the SEC's "Phase-In Plan" for multiple trading of options. Under this plan, each calendar quarter 100 "grandfathered" options -- traded on only one options exchange prior to January 22, 1990 -- are to become eligible for multiple trading.

In his letter, Mr. Hart states that there is no evidence that the public has benefitted from multiple trading; that small orders on multiply-traded options are "not necessarily going to the best market," with many firms discussing including language in their options agreements that disclaims responsibility for providing best execution of orders; and that going to multiple trading on a widespread basis will impose substantial costs on the industry that will ultimately be passed on to the individual investor.

The letter therefore calls for a reexamination of the entire concept of multiple trading. In response, Chairman Dingell has now asked the SEC to follow such a course of action, including revisiting the need for trade-through protection and a linkage.

Do you believe that such a reexamination is warranted, and if so, should a Phase-In Plan be suspended until the study is completed?

A.1 If confirmed, I expect to discuss with Commission staff, representatives from the options exchanges, and other interested parties what changes, if any, are appropriate in Commission policies with respect to multiple trading of options, competition among exchanges, and assuring best execution of their options orders. Acting Chairman Mary L. Schapiro is responding to the inquiry from Chairman Dingell of the House Energy and Commerce Committee.

This matter involves whether and how the options exchanges and their members will adjust to the end of exclusive listing of options on one exchange, which the Commission mandated when it adopted Rule 19c-5 in 1989 following extensive notice and comment. At that time, the Commission determined that competition among exchanges in trading options would benefit public investors. Thereafter, to permit the exchanges to adjust to multiple trading and implement a system for linking the options markets, then Chairman Breeden asked the exchanges voluntarily refrain from listing any of the over 500 options that were not subject to multiple trading before adoption of Rule 19c-5 and that have come to be known as the "grandfathered options." That request was extended for more than two years. When a consensus among the exchanges regarding a linkage system was not reached, the exchanges were asked voluntarily to proceed with implementation of Rule 19c-5 in an orderly fashion, starting with 100 classes of the least actively traded options in November 1992 and generally proceeding with 100 options classes each quarter. Most recently, the Commission staff asked that the exchanges voluntarily slow that process to 50 classes of the least actively traded options in June.

QUESTIONS FROM SENATOR ROBERT F. BENNETT (A.1 Continued)

Although 946 options classes (new options classes as well as 250 of the total 500 grandfathered options classes) are eligible for multiple trading, only 162 classes (17.1%) are, in fact, multiply-traded. Further, none of the grandfathered options currently available for multiple trading has been multiply-traded. Thus, with only 262 options left to become available for multiple trading, it is expected that only a small percentage of the total 500 grandfathered options will actually be multiply-traded. This is consistent with my understanding that the options markets are only interested in trading the most actively traded options classes.

In assessing the need for further trade-through protections or linkages for multiply-traded options two points should be recognized. First, public customers have absolutely no opportunity for price improvement from a competing market absent the potential for multiple trading. Second, the Federal securities laws, exchange rules and fiduciary principles require broker-dealers to seek to obtain the "best execution" for their customers' orders. The anti-waiver clause of the Securities Exchange Act of 1934, Section 29(b), makes clear that this duty cannot be shifted to the individual investor.
Before adopting the rule expanding multiple trading to equity options, Rule 19c-5, the Commission weighed the reasonably anticipated benefits against the possible adverse consequences, and found that, even without a market linkage system, the benefits to investors from a competitive marketplace outweighed the possible costs. No changes, that I am aware of, have occurred since the implementation of Rule 19c-5 that would call into question the analysis on which the Commission's approval was based.

Nevertheless, in light of concerns expressed by exchanges and members firms and the desirability that the exchanges implement procedures and facilities to aid members in meeting their obligations to customers in volatile markets, the Commission staff recently encouraged the options exchanges to reduce, from 100 to 50, the number of grandfathered options to be made available for multiple trading each quarter. Fifty grandfathered options classes became available for multiple trading on June 21, 1993, the next 50 will become available on September 20, 1993.

I understand that the Commission staff is continuing to work with the options exchanges, and other options market participants, to implement procedures and system upgrades that will minimize any possible adverse effects from multiply-trading options. The staff also is prepared to assist in the development, evaluation and implementation of a linkage system should the options exchanges and broker-dealer community reach a consensus to develop such a system.

In summary, I intend to carefully review the progress the markets are making in upgrading their systems. I would give full consideration to any market need to defer the multiple trading of the more actively traded issues while balancing the need to allow the public to receive the full benefits of a competitive options environment.

QUESTIONS FROM SENATOR ROBERT F. BENNETT

Q.2 Do you have a position on H.R. 2515?

A.2 Yes, I support H.R. 2515, sponsored by Representative Wyden, to reform the unlisted trading privileges ("UTP") application and approval process. I am aware that, under the current process, the Commission is required to provide at least 10 days notice to various interested parties before the Commission can approve an application for unlisted trading priviledges. This notice requirement has not been substantively amended since 1936. Because of this notice requirement, regional exchanges must wait several weeks before competing with, for example, an exchange that lists a security that was the subject of an initial public offering. In contrast, dealers in the over-the-counter ("OTC") market are able to trade that security as soon as it is listed on an exchange because there is no similar approval process for trading in the OTC market.

The regional exchanges have expressed strong interest in streamlining the UTP application and approval process in order to allow the regional exchanges to compete for order flow in securities as soon as they become listed on another exchange. H.R. 2515 eliminates any waiting period for exchanges to compete for order flow in new listings and applications for UTP would be effective on filing, subject to summary suspension by the Commission if necessary in what should be very rare cases. Finally, the proposal provides the Commission with rulemaking authority to designate additional procedures or requirements for extending UTP as necessary or appropriate for the maintenance of fair and orderly markets, the protection of investors and the public interest, or otherwise in furtherance of the purposes of the Exchange Act.

I believe that H.R. 2515 provides a workable, balanced approach that will significantly improve the UTP application and approval process.

QUESTIONS FROM SENATOR DALE BUMPERS

Q.1 Several months ago I introduced S. 544, The Multistate Utility Consumer Protection Act of 1993. This bill would, among other things, transfer the regulatory jurisdiction over the Public Utility Holding Company Act (PUHCA) from the SEC to the Federal Energy Regulatory Commission (FERC). Do you support this legislation?

A.1 I understand that under the two previous administrations, the Commission supported a transfer of the responsibilities under the Act. Before I take a position on a transfer, I will consult with my fellow Commissioners, the staff of the Commission, and the Federal Energy Regulatory Commission. Even if no transfer is effected, the Commission should do all it can to coordinate with the Federal Energy Regulatory Commission.

Q.2 The Senate Energy and Natural Resources Committee held a hearing in May concerning S.544 and the SEC's regulation of utility holding companies. The record from the hearing clearly demonstrates the SEC's lack of effective oversight of utility holding companies over the last 20 years. If the SEC were to continue to regulate holding companies pursuant to PUHCA, what would you do as Chairman of the Commission to improve oversight?

A.2 If confirmed, I will make it a priority to ensure that the Commission administers the statute to protect the interests of consumers and investors, and the general public interest in a sound electric and gas utility industry, as required by PUHCA. I understand that in its 1995 and 1996 budget request, the Commission is seeking additional staff of 8 and 10 persons, respectively, for the Office of Public Utility Regulation, to help it fulfill its investor and consumer protection responsibilities.

Fundamental changes are occurring in these industries and the Commission will face new challenges in its administration of the statute. The Energy Policy Act of 1992, for example, greatly increased the extent to which holding companies may engage in activities that were severely restricted under prior law. The statute also gave the Commission primary responsibility to protect the consumers of registered systems against any adverse effects of the new ventures.

The availability of adequate resources will be critical to the Commission's success. If confirmed, I will maintain careful oversight of the agency's ability to carry out its responsibilities under PUHCA effectively.

QUESTIONS FROM SENATOR DALE BUMPERS

Q.3 In addition to the subject most people identify the SEC with, as Chairman of the Commission you would be assigned the task of regulating a variety of transactions engaged in by utility holding companies. What qualifications do you have to oversee utility matters?

A.3 PUHCA is New Deal federal securities legislation, which requires the Commission to regulate the corporate structure and financing of public-utility holding companies and intrasystem transactions. The administration of the statute requires general knowledge and experience concerning such matters as corporate structure, capital formation, financial transactions, acquisitions of assets, and potential conflicts of interest. I believe my many years of experience in and knowledge of a wide range of corporate, business and financial matters qualifies me to ensure the effective administration of the Act.