NEWS

SECURITIES AND EXCHANGE COMMISSION
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BROKERAGE COMMISSIONS AND RESEARCH AFTER MAY DAY

REMARKS OF
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FOR SEVERAL MONTHS NOW THE SECURITIES INDUSTRY HAS BEEN LOOKING FORWARD WITH VERY MIXED EMOTIONS TO THE DAWN OF MAY DAY AND COMPETITIVE RATES. NOW MAY DAY HAS COME AND GONE BUT THE CONSEQUENCES ARE STILL NOT ENTIRELY CLEAR. NUMEROUS CROSS CURRENTS SEEM TO HAVE BEEN AT WORK. FROM THE VIEWPOINT OF THE INDIVIDUAL INVESTOR NOTHING EXTRAORDINARY SEEMS TO HAVE OCCURRED, BUT WHAT DID OCCUR LOOKS PRETTY PROMISING. THE GENERAL LEVEL OF RATES DID NOT MOVE MUCH BUT A GOOD MANY FIRMS UNVEILED NEW PLANS DESIGNED TO ATTRACT DESIRABLE CUSTOMERS, OFFERING PORTFOLIO ANALYSIS, INTEREST ON CREDIT BALANCES, DISCOUNTS TO REPEAT CUSTOMERS, AND VARIOUS OTHER SERVICES. FIRMS, IN OTHER WORDS, HAVE AVAILED THEMSELVES OF THE OPPORTUNITY TO COMPETE FOR THE BUSINESS OF THE KIND OF INDIVIDUAL CUSTOMERS THEY WANT. THIS SEEMS ALL TO THE GOOD.

THE INSTITUTIONAL PICTURE IS MORE CLOUDED. ALL I CAN TELL YOU IS WHAT I HAVE BEEN TOLD, SINCE I WAS NOT DOWN IN THE FRONT LINES. BUT IT SEEMS JUST AS

WELL TO GIVE YOU MY IMPRESSIONS IF ONLY TO GIVE YOU AN OPPORTUNITY TO CORRECT THEM. OUR SO-CALLED MONITORING SYSTEM IS IN FULL OPERATION BUT IT IS TOO EARLY TO GET ANY MEANINGFUL RETURNS FROM IT. SOME LAG IS INEVITABLE IF WE ARE TO AVOID BURDENING FIRMS WITH REPORTS TO US ALMOST ON A DAY-TO-DAY BASIS. IN THAT CONNECTION, I, AND MY COLLEAGUES AS WELL, WOULD WELCOME ANY INFORMATION WE CAN GET AS TO WHAT IS GOING ON WITH RESPECT TO COMMISSIONS. MUCH OF OUR INFORMATION IS SECOND HAND AND MAY BE WRONG. WE WELCOME RELIABLE FIRST HAND INFORMATION FROM ANYONE WHO WANTS TO CALL US. WITH THOSE APOLOGIES, HERE ARE MY IMPRESSIONS.

A GOOD MANY PEOPLE THOUGHT THAT MAY DAY WOULD BE A NON-EVENT AND FOR THE FIRST COUPLE OF DAYS IT LOOKED RATHER THAT WAY. SEVERAL MAJOR FIRMS HAD ANNOUNCED WHAT THEIR GENERAL LEVEL OF CHANGES WOULD BE, AND MOST FIRMS ADHERED TO THESE. BUT SOME DID NOT, PARTICULARLY DURING THE FIRST FULL WEEK OF UNFIXED RATES. I HAVE THE IMPRESSION THAT A FEW PERFECTLY RESPECTABLE FIRMS WHICH, HOWEVER, HAD NOT PREVIOUSLY BEEN A SIGNIFICANT FACTOR IN THE INSTITUTIONAL MARKET, DECIDED TO TRY TO ENLARGE THEIR MARKET SHARE BY OFFERING DEEP DISCOUNTS. THEY GOT A GOOD DEAL MORE INSTITUTIONAL BUSINESS THAN THEY HAD BEEN

ACCUSTOMED TO, PARTICULARLY SO LONG AS THE MAJOR FIRMS HELD THE LINE. AT FIRST THESE DEEP DISCOUNTS WERE LARGELY CONFINED TO THE SMALLER INSTITUTIONAL ORDERS OF THE TYPE WHICH ARE SOMETIMES RATHER DISDAINFULLY REFERRED TO AS THE "NO-BRAINERS." INSTITUTIONS NO LONGER PASSED THESE OUT CASUALLY, OR IN RESPONSE TO THE PREFERENCES OF THEIR CLIENTS. LATER THIS DISCOUNTING SPREAD TO LARGE ORDERS, ALTHOUGH NOT TO BLOCKS OF A SIZE CALLING FOR POSITIONING. LARGER INSTITUTIONAL FIRMS AND SOME WIRE HOUSES DISCOVERED THAT THEIR MARKET SHARE SEEMED TO BE DECLINING. THEY WERE NO LONGER GETTING CALLS FROM THEIR REGULAR INSTITUTIONAL CUSTOMERS. AT ABOUT THIS POINT, THE MAJOR INSTITUTIONAL FIRMS CONCLUDED TO LOWER THE UMBRELLA OR PERHAPS ONE MIGHT SAY, TO LOWER THE BOOM, AND THIS APPROXIMATELY IS WHERE WE ARE NOW.

WE ARE TOLD THAT THE INITIATIVE FOR THIS DISCOUNTING CAME NOT FROM INSTITUTIONAL PRESSURES, BUT RATHER FROM SOME FIRMS IN THE INDUSTRY WHICH USED THIS DEVICE TO INCREASE THEIR INSTITUTIONAL SHARE. THE INSTITUTIONS UNDERSTANDABLY ACCEPTED THE DISCOUNTS WHICH WERE OFFERED THEM AND MAY HAVE COME TO THE CONCLUSION THAT THESE REPRESENTED TH' ING RATE. WE ARE ALSO TOLD THAT A GOOD MANY INSTITUTIONS HAD

PRE-PAID THEIR RESEARCH COMMITMENTS BEFORE MAY DAY IN ORDER TO CLEAR THE DECKS FOR WHATEVER HAPPENED THEREAFTER. WHETHER THIS IS SO OR NOT I DO NOT KNOW.

SO WHAT CONCLUSIONS CAN WE DRAW FROM THIS. IT DID NOT SURPRISE ME VERY MUCH TO HEAR OF FAIRLY DEEP DISCOUNTS ON SMALL INSTITUTIONAL ORDERS. WHEN THE NEW YORK STOCK EXCHANGE ESTABLISHED THE RATE FOR THIS KIND OF ORDER SOME YEARS AGO, THE STUDIES ON WHICH THESE RATES WERE BASED INCLUDED A FAIRLY GENEROUS ALLOWANCE FOR THE COMPENSATION OF SALESMEN WHO WERE EXPECTED TO GENERATE SUCH ORDERS. ORDERS OF THIS SIZE FROM INSTITUTIONS, HOWEVER, ARE USUALLY GENERATED BY THE INSTITUTIONS THEMSELVES OR BY THEIR CLIENTS, AND THUS A RATE DESIGNED TO COMPENSATE THE SALESMAN WHO GENERATED THE ORDER AFFORDED ROOM FOR DISCOUNTS ON ORDERS NOT SO GENERATED. IT IS, HOWEVER, RATHER MORE TROUBLESOME TO SEE SUCH DISCOUNTS SPREADING TO LARGER ORDERS WHICH REQUIRE MORE EXECUTION CAPACITY. THIS MIGHT MERELY REPRESENT THE NORMAL WORKINGS OF COMPETITION IF THE FIRMS OFFERING SUCH DISCOUNTS ARE COVERING THEIR COSTS. THE DISTURBING QUESTION IS WHETHER THESE FIRMS REALLY KNOW WHAT THEIR COSTS ARE. UNDER FIXED RATES, THIS WAS NOT

SO NECESSARY. FIRMS COULD CHARGE THE FIXED RATE ON WHAT BUSINESS THEY COULD OBTAIN AND HOPE FOR THE BEST AND A GOOD MANY LESS WELL MANAGED SECURITIES FIRMS SEEM TO HAVE DONE JUST ABOUT THAT. BUT ONCE A FIRM GETS INTO THE BUSINESS OF FIXING ITS OWN RATES, IT HAS TO KNOW WHAT ITS COSTS ARE.

BEYOND THIS, IT IS CLEARLY TOO EARLY TO DRAW ANY CONCLUSIONS. AFTER ALL NEITHER THE SECURITIES INDUSTRY NOR ITS INSTITUTIONAL CUSTOMERS HAVE EVER HAD ANY EXPERIENCE WITH PRICE COMPETITION IN THE COMMISSION AREA. THEREFORE THE INDUSTRY IS FEELING ITS WAY AND IT WOULD HARDLY BE SURPRISING IF SOME FIRMS ADOPTED A MISTAKEN STRATEGY. ON THEIR SIDE THE INSTITUTIONS DID NOT KNOW WHAT TO EXPECT AND IF SOMEONE OFFERED THEM WHAT LOOKED LIKE A BARGAIN, IT WAS ONLY NATURAL FOR THEM TO ACCEPT IT. WE HAVE HEARD, HOWEVER, THAT SOMETHING ELSE MAY BE HAPPENING WHICH IS NOT SO UNDERSTANDABLE. WE ARE TOLD THAT SOME INSTITUTIONAL TRADERS ARE BEING ALLOWED TO VIE WITH EACH OTHER IN SEEKING BARGAINS ON COMMISSIONS, WITHOUT BEING GUIDED BY ANY GENERAL POLICY ON THE PART OF THE INSTITUTION AS TO WHAT SERVICES IT WANTS TO GET FOR ITS COMMISSIONS AND WHAT IT IS WILLING TO PAY FOR THEM, AND PERHAPS EVEN WITHOUT TOO MUCH

ATTENTION TO BEST EXECUTION. AGAIN I DO NOT KNOW WHETHER THIS IS TRUE OR NOT, BUT IF IT IS, THE INSTITUTIONS INVOLVED WOULD SEEM TO BE MAKING A SERIOUS MISTAKE.

WE EXPECT THAT THINGS WILL SETTLE DOWN, ONCE THE FIRMS AND THE INSTITUTIONS HAVE BOTH HAD MORE EXPERIENCE, WHEN THE INITIAL PROBING AND EXPERIMENTING ARE OVER, AND WHEN EACH HAS A BETTER IDEA OF WHAT IT CAN AND CANNOT DO AND WHAT IT CAN AND CANNOT EXPECT FROM THE OTHER SIDE OF THE BARGAIN. SOMETHING OF THE SORT HAPPENED WHEN WE FIRST INTRODUCED COMPETITIVE RATES AT LEVELS ABOVE $500,000 AND THEN ABOVE $300,000. INITIALLY RATES IN THESE BRACKETS DROPPED VERY SHARPLY. LATER THEY RECOVERED CONSIDERABLY. OF COURSE THE ANALOGY IS NOT PERFECT, BECAUSE UNDER THOSE ARRANGEMENTS THE FIRMS HAD A SUBSTANTIAL CUSHION PROVIDED BY TRANSACTIONS UNDER THE BREAK POINT. BUT, IF ANYTHING, THAT SHOULD LEAD TO MORE CAREFUL NEGOTIATION NOW.

THERE IS ANOTHER INDICATION OF A TRANSITIONAL AND PERHAPS TEMPORARY SITUATION. THE THIRD MARKET WAS QUITE ACTIVE IN MAY. THIS WAS NOT EXPECTED SINCE THE GENERAL ANTICIPATION WAS THAT THE THIRD MARKET WOULD HAVE ROUGH GOING UNDER COMPETITIVE RATES. THE

AUTHORIZED VERSION WAS THAT THE THIRD MARKET SURVIVED UNDER THE FORMER SYSTEM, DESPITE CERTAIN HARDSHIPS SUCH AS RELATIVE ISOLATION FROM A GOOD DEAL OF THE ORDER FLOW WHICH IS SO IMPORTANT TO A MARKET MAKER, BECAUSE IT WAS ABLE TO UNDERCUT THE FIXED COMMISSION. THE NEW YORK STOCK EXCHANGE, IN ITS MORE UNCHARITABLE MOMENTS, REFERRED TO THE THIRD MARKET AS A "PARASITE." THE EXPLANATION WE HEAR FOR THE THIRD MARKET ACTIVITY IN MAY WAS THAT INSTITUTIONAL TRADERS WERE SO FRUSTRATED TRYING TO FIGURE OUT WHAT COMMISSIONS THEY SHOULD PAY THAT THEY AVOIDED THE WHOLE PROBLEM BY DEALING NET IN THE THIRD MARKET WHERE NO ONE COULD SECOND GUESS THEIR DECISIONS ON COMMISSIONS. THIS KIND OF SITUATION CAN HARDLY PERSIST AFTER PEOPLE GET THEIR BEARINGS.

THE COMMISSION WILL WATCH THE SITUATION CAREFULLY AND THERE ARE CERTAIN STEPS WE CAN TAKE TO DEAL WITH SUCH PROBLEMS ON DISCRIMINATORY PRICING. I WOULD NOT, HOWEVER, HOLD OUT TOO MUCH HOPE THAT WE WILL RE-INTRODUCE FIXED RATES UNLESS SOMETHING REALLY UNEXPECTED HAPPENS. THE NEW LEGISLATION WOULD ALLOW US TO DO THAT UNTIL

NOVEMBER 1, 1976, IF WE DECIDE, AFTER AN ADMINISTRATIVE HEARING, THAT THIS WOULD BE IN THE PUBLIC INTEREST. BUT UNDER NO CIRCUMSTANCES COULD FIXED RATES BE PERMITTED TO CONTINUE AFTER NOVEMBER 1, 1976, UNLESS THE COMMISSION FINDS, AFTER A FULL DRESS ADVERSARY HEARING WITH CROSS EXAMINATION OF WITNESSES, BOTH THAT THE NEW RATES ARE REASONABLE IN RELATION TO COSTS IN ACCORDANCE WITH PUBLISHED STANDARDS AND THAT THE ACTION DOES NOT UNNECESSARILY BURDEN COMPETITION AFTER CONSIDERING ALL AVAILABLE ALTERNATIVES. IT WOULD BE DIFFICULT EITHER TO MAKE SUCH FINDINGS OR TO SUSTAIN THEM IN COURT. WE WOULD, THEREFORE, BE RELUCTANT TO CREATE NEW UNCERTAINTIES AND TO REQUIRE THE INDUSTRY TO GO THROUGH MAY DAY ALL OVER AGAIN.

SO MUCH FOR THE MERRY MONTH OF MAY. BEHIND THE CURRENT TURMOIL, HOWEVER, ARE SOME MORE FUNDAMENTAL QUESTIONS. THE COMMISSION RATE, ALTHOUGH NOMINALLY SIMPLY A CHARGE FOR EXECUTING AN ORDER, HAS TRADITIONALLY PAID FOR A GREAT MANY OTHER SERVICES SOME OF WHICH ARE ONLY VAGUELY RELATED TO AN EXECUTION. THESE INCLUDE CUSTODY OF CUSTOMER'S SECURITIES, ACCOUNTING FOR DIVIDENDS, FORWARDING ANNUAL REPORTS, PRICING MUTUAL FUND

PORTFOLIOS, AND SO FORTH. PARTICULARLY THEY HAVE INCLUDED RESEARCH, WHICH IS YOUR BUSINESS. THIS COMBINATION PROBABLY ORIGINATED WITH THE FACT THAT SECURITIES SALESMEN GENERATED COMMISSION BUSINESS BY PERSUADING A PROSPECTIVE CUSTOMER THAT XYZ WAS A GOOD BUY, AND THIS SALESMANSHIP WAS SOMETIMES DENOMINATED AS RESEARCH.

FOR OPENERS ONE MIGHT ASK, WHAT IS SECURITIES RESEARCH AND WHAT IS IT WORTH? THE TERM "RESEARCH" SOMEHOW CONJURES UP AN IMAGE OF WHITE COATED SCIENTISTS IN THEIR LABORATORIES LABOROUSLY MEASURING MOLECULES IN THE SINGLE MINDED SEARCH FOR TRUTH. OBVIOUSLY THAT IS NOT QUITE WHAT YOU DO. NEVERTHELESS SECURITIES RESEARCH IS AT THE HEART OF THE INVESTMENT PROCESS, BOTH FOR THE PARTICULAR INVESTOR AND FOR THE ECONOMY AS A WHOLE. SECURITIES ARE INTANGIBLES EXISTING ONLY ON PAPER AND IN CONTEMPLATION OF LAW, REPRESENTING EITHER A PROMISE OR A BUNDLE OF RIGHTS AND CLAIMS WHOSE VALUE DEPENDS ON WHAT HAPPENS IN THE FUTURE. SOME SECURITIES ARE VERY VALUABLE, SOME ARE DOUBTFUL, IF NOT WHOLLY SPURIOUS, AND MOST ARE SOMEWHERE IN BETWEEN. YOU CANNOT TELL WHICH IS WHICH SIMPLY BY INSPECTING THE CERTIFICATES. BOTH THE DECISION OF A PARTICULAR INVESTOR TO BUY, SELL OR HOLD AND THE ALLOCATION OF CAPITAL WITHIN THE ECONOMY DEPEND UPON INFORMED JUDGMENTS AMONG A BEWILDERING VARIETY OF

ALTERNATIVES. THE SECURITIES ACT OF 1933 AND IN LARGE MEASURE THE SECURITIES EXCHANGE ACT OF 1934 WERE DESIGNED TO PERMIT THESE INFORMED JUDGMENTS BY MANDATING DISCLOSURE WITH RESPECT TO SECURITIES. A VAST MASS OF INFORMATION IS THUS PRESENTED BUT FINANCIAL ANALYSTS SAY THAT IT IS NOT ENOUGH AND DILIGENTLY SEARCH FOR MORE. YET FROM ALL THIS THERE SELDOM EMERGES A CLEAR CONSENSUS AS TO THE RELATIVE VALUE OF DIFFERENT SECURITIES AND WHICH SHOULD BE BOUGHT AND WHICH SHOULD BE SOLD. THIS IS TROUBLESOME TO YOU AND TO OTHERS, BUT IT IS CLEARLY A GOOD THING. IF EVERYBODY AGREED AS TO WHAT TO SELL AND WHAT TO BUY AND ACTED ON THESE JUDGMENTS, THAT ACTION WOULD CERTAINLY MAKE THEM ALL WRONG. IN THE SECURITIES MARKETS TRUTH IS RELATIVE.

CONFRONTED WITH THESE PARADOXES SOME PEOPLE SIMPLY GIVE UP AND CONCLUDE THAT SECURITIES RESEARCH IS BY NATURE USELESS. THUS A RECENT LEARNED ARTICLE ON COMPETITION AND REGULATION IN THE SECURITIES MARKETS DISMISSES THE PROBLEM OF PAYING FOR RESEARCH UNDER COMPETITIVE RATES BY SUGGESTING THAT, IN VIEW OF THE "RANDOM WALK" THEORY, MUCH SECURITIES RESEARCH "IS WORTHLESS."

AS A GENERAL PROPOSITION THIS CANNOT BE TRUE SINCE ACCURATE INFORMATION IS ESSENTIAL TO INVESTING. THE RANDOM WALK THEORY, AS A VERSION OF THE THEORY OF EFFICIENT MARKETS, RESTS ON A VERY DIFFERENT CONCLUSION. THIS ESSENTIALLY IS THAT THERE IS SO MUCH INFORMATION AVAILABLE IN THE MARKETS ABOUT ALL SECURITIES THAT A PARTICULAR SECURITY WHICH IS TRULY UNDERVALUED BY THE MARKET IS A RARE BIRD. THAT THEORY DOES, HOWEVER, SEEM TO SUPPORT THE VIEW THAT PURPORTED SECURITIES RESEARCH WHICH MERELY REPEATS WHAT HAS ALREADY BEEN MADE KNOWN AND ACTED UPON IS NOT WORTH VERY MUCH.

ONE IS THUS LED TO OBSERVE THAT SECURITIES RESEARCH COMPRISES A VAST AMOUNT OF DATA WHICH IS ANALYZED BY A GREAT MANY PEOPLE IN A GREAT MANY DIFFERENT WAYS AND IN A VAST VARIETY OF COMBINATIONS RESULTING IN A GREAT MANY DIFFERENT CONCLUSIONS. EACH ANALYTICAL SCHOOL PLACES EMPHASIS ON DIFFERENT FACTORS RANGING FROM THE STATE OF THE ECONOMY, TO THE METICULOUS ANALYSIS OF A PARTICULAR COMPANY, TO THE MYSTERIES OF CHARTING. MOST OF US AGREE THAT THE PROCESS, WHEN CAREFULY AND HONESTLY DONE, IS VALUABLE BUT IT IS EXCEEDINGLY DIFFICULT TO PLACE AN AGREED VALUATION ON ANY PARTICULAR PIECE OF IT.

SOME OF IT MIGHT BE, AND WAS, CHARACTERIZED AS GARBAGE.

COMPETITION BETWEEN SECURITIES FIRMS FOR INSTITUTIONAL BUSINESS UNDER FIXED RATES WAS A PROCESS WHICH SEEMED TO DEFY ECONOMIC ANALYSIS. TWO VERY DIFFERENT SERVICES, EXECUTION AND RESEARCH, WERE PAID FOR BY LUMP SUM COMMISSIONS FIXED BY THE NEW YORK STOCK EXCHANGE LARGELY UPON THE BASIS OF HISTORY ADJUSTED FOR INFLATION. BOTH SERVICES ARE VALUABLE BUT ALMOST IMPOSSIBLE TO VALUE. THUS, ON THE EXECUTION SIDE, SOME ORDERS COULD BE EXECUTED ALMOST AUTOMATICALLY. YOU SIMPLY WALKED ACROSS THE FLOOR AND HANDED THEM TO THE SPECIALIST. OTHERS REQUIRED BROKERAGE SKILL, SOMETIMES DEFINED AS A FEEL FOR THE MARKET OR AS AN ABILITY TO FIND THE OTHER SIDE. THE RESEARCH SIDE PRESENTED THE PROBLEMS I HAVE ALLUDED TO. IT IS, THEREFORE, NOT SURPRISING THAT ECONOMISTS, WHEN CONFRONTED WITH THIS DUAL PROCESS, THREW UP THEIR HANDS IN HORROR AND ALMOST UNANIMOUSLY RECOMMENDED THAT IT BE ABOLISHED. THAT IT GAVE RISE TO ABUSES AND INEFFICIENCIES SEEMS, AT LEAST TO ME, CLEAR. THESE ARE DOCUMENTED IN THE COMMISSION'S RELEASE OF JANUARY 23, 1975 ANNOUNCING RULE 19B-3 ELIMINATING FIXED COMMISSION RATES ON PUBLIC ORDERS AND IN THE HEARINGS WHICH PRECEDED THAT ACTION.

AS POINTED OUT IN THAT RELEASE, BY THE END OF 1974 FEW PEOPLE DEFENDED FIXED RATES ANYMORE EXCEPT UPON THE GROUND THAT ANY ALTERNATIVE WOULD BE WORSE. THOSE WHO FELT THAT WAY THEN ARE PROBABLY NOW INCLINED TO SAY "I TOLD YOU SO." BUT I THINK IT IS NOT YET TIME TO GIVE UP ON COMPETITION EVEN IN THIS VERY PECULIAR MARKET. AFTER ALL IT TOOK US YEARS TO GIVE UP ON FIXED RATES FOR COMBINED AND UNDEFINED SERVICES, ALTHOUGH THE DEFECTS OF THAT PROCESS HAVE BEEN FAIRLY OBVIOUS FOR ABOUT A DECADE.

WE KNOW THAT MANY TYPES OF RESEARCH ARE ESSENTIAL AND WILL CONTINUE TO BE REQUIRED NOT ONLY BY INDIVIDUALS BUT ALSO BY INSTITUTIONS. NOTWITHSTANDING THE EXPERIENCE OF THE PAST MONTH, WE SHOULD ALSO KNOW THAT INSTITUTIONAL RESEARCH IS NOT WHAT ECONOMISTS CALL A "FREE GOOD." IN OTHER WORDS THERE IS NO SUCH THING AS A FREE LUNCH. I THINK MOST OF US CAN SEE WHERE WE WOULD LIKE TO GO, BASED UPON A FEW SIMPLE PRINCIPLES WHICH INCLUDE THE FOLLOWING. FIRST, NO INSTITUTION CAN OBTAIN ALL THE RESEARCH IT NEEDS IN HOUSE, AND THE SMALLER INSTITUTIONS CANNOT EVEN TRY TO. SECOND, GIVEN THE CHARACTERISTICS OF RESEARCH IT MUST COME FROM A NUMBER OF SOURCES. NO ONE HAS A MONOPOLY OF GOOD IDEAS, AND THE MARKETS CANNOT WORK

PROPERLY UNLESS A WIDE VARIETY OF OPINION, INCLUDING MUCH OPINION WHICH TURNS OUT TO BE WRONG, IS REPRESENTED. THIRD, EVEN GIVEN THE FOREGOING, THE RESEARCH PROCESS, LIKE OTHER PROCESSES, CAN BENEFIT FROM SOME TYPE OF ECONOMIC DISCIPLINE. IF NO ONE WANTS A PRODUCT ENOUGH TO PAY FOR IT, THE PRESUMPTION IS THAT THIS PRODUCT MAY NOT BE WORTH PRODUCING. THESE PRINCIPLES LEAD TO THE CONCLUSION THAT RESEARCH SHOULD BE WIDELY AVAILABLE, THAT IT COME FROM MANY INDEPENDENT SOURCES, AND THAT CONSUMERS OF IT SHOULD BE ABLE TO BUY WHAT THEY WANT, AND TO NOT BUY WHAT THEY DON'T WANT.

THE PROBLEM IS HOW TO GET FROM HERE TO THERE. THE NEEDED RESEARCH MUST COME FROM THE STREET, SINCE, AT LEAST AT PRESENT, THERE IS NO OTHER PLACE FOR IT TO COME FROM. IT SEEMS THAT FOR THE TIME BEING IT WILL HAVE TO BE PAID FOR BY COMMISSIONS SINCE MECHANISMS AND PROCEDURES FOR PAYING FOR IT SEPARATELY SIMPLY DO NOT NOW EXIST. THE NEW LEGISLATION RECOGNIZES THIS FACT. I SHOULD NOTE, HOWEVER, THAT THERE IS ONE DOOR WHICH THE NEW LEGISLATION PRETTY WELL CLOSES AND THAT IS THE GIVE-UP. ON THAT SUBJECT THE UNANIMOUS CONFERENCE REPORT WENT OUT OF ITS WAY TO USE SOME PRETTY EMPHATIC LANGUAGE AS FOLLOWS:

"THE CONFEREES ANALYZED THE POSSIBILITY THAT THE FIDUCIARY PROVISION WOULD BE ASSERTED AS A SHIELD BEHIND WHICH THE GIVE-UPS AND RECIPROCAL PRACTICES WHICH WERE SO NOTORIOUS DURING THE LATE 1960'S COULD BE REINSTITUTED. THE CONFEREES BELIEVE THE NEW LANGUAGE WOULD NOT PERMIT SUCH A RESULT. THE PROVISION AGREED TO PROVIDE THAT A MONEY MANAGER MAY PAY A BROKER OR DEALER AN AMOUNT OF COMMISSION, FOR THAT BROKER OR DEALER'S EXECUTING A TRANSACTION, IF THE MONEY MANAGER DETERMINES THAT THE SERVICES IT RECEIVES FROM THAT BROKER OR DEALER JUSTIFY THE PAYMENT. THE PROVISIONS HAVE NO APPLICATION WHATSOEVER TO A SITUATION IN WHICH PAYMENT IS MADE BY A MONEY MANAGER TO ONE BROKER OR DEALER FOR SERVICES RENDERED BY ANOTHER BROKER OR DEALER. THE GIVE-UP WAS A REGRETTABLE CHAPTER IN THE HISTORY OF THE SECURITIES INDUSTRY AND THE LIMITED DEFINITION OF FIDUCIARY RESPONSIBILITY ADDED TO THE LAW BY THIS BILL WILL IN NO WAY PERMIT ITS RETURN."

THE ULTIMATE STRUCTURE CANNOT NOW BE FORESEEN. THERE ARE GOOD ARGUMENTS, PARTICULARLY IN ECONOMIC THEORY, THAT RESEARCH SHOULD BE MARKETED FOR A SEPARATE CHARGE. I AM, FRANKLY, INCLINED TO PREFER THAT AS THE ULTIMATE OUTCOME. BUT I WOULD NOT PROPOSED TO DICTATE THIS RESULT. IF THE INDUSTRY EVOLVES DIFFERENTLY, SO BE IT. IN THE MEANTIME IT IS UP TO ALL OF US TO KEEP OUR EYE ON THE REALITIES OF THE SITUATION AND ON WHERE WE WANT TO BE A YEAR FROM NOW, RATHER THAN MERELY ON YESTERDAY AND TOMORROW.