HOLD FOR DELIVERY

Address By

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When I last addressed this distinguished group, one year ago in San Francisco, I spoke to you about the year that had just passed. I called it a historic year, for a number of reasons. The Securities Acts Amendments of 1964 had just become law. There had been a series of significant judicial decisions. Implementation of the Report of the Special Study of Securities Markets was proceeding at full pace, and I took the occasion then to announce the proposal of a landmark rule dealing with stock exchange specialists, aimed at meeting a problem discussed by the Special Study.

The twelve months since that speech have probably not been as dramatic, in terms of specific points of reference, as the preceding year. But they have been, I suggest, no less important to the securities industry and its regulation. We now have the experience of the first year under the 1964 Amendments behind us, and I think we have learned a great deal. Implementation of the Special Study and the no-longer-new Amendments Act has continued. The anti-trust issue has come to the fore; the Texas Gulf Sulphur case was begun. And, as you probably know, a good part of the year has been devoted to study, by the Commission and its staff, of some of the most far-reaching questions imaginable, matters which go to the essence of the securities business, how it is conducted, and how it is to be regulated. We have been working on problems suggested, but by no means resolved, in the Special Study and Wharton School Reports, and some new ones not raised by those provocative documents. The long-term effects of these activities can hardly be measured now, and in some respects, because of their very nature, our studies can never be finished; but I believe firmly that what we have done thus far will be of lasting significance in the field of securities regulation.

For me, personally, it has also been a year which in one respect I would rather forget. Suffice it to say that while my physical activities might have been somewhat curtailed, I had plenty of time for discussion, for reading, and for thought, all of which I believe was constructive.

I do not want to take your time today, however, with a detailed review of the year. Instead, I want to raise with you a matter with which we have all been concerned over the years, but which is becoming ever more crucial. I refer to the complexity of the laws we administer and to which the securities industry is subjected, and what I believe we must -- and I emphasize the word must -- do to maintain the viability of our regulatory system, which is unique and which has to its credit a list of accomplishments of which we can be justly proud. I am calling on you, as state administrators, and on the self-regulatory institutions, together with the SEC, to renew our efforts to reduce the burdens of this complexity to a minimum;

to eliminate as much as we humanly can the waste of energies and resources caused by duplication and lack of coordination in the regulatory effort; in short, to see that our overlapping jurisdiction works to the public benefit and not as a hindrance to legitimate regulatory and industry goals.

Judge Henry Friendly, speaking before the American Law Institute last spring, listed the undue complexity of the law as one of the four most critical areas requiring action by the bar. While he was speaking of American law in general, securities regulation did not escape unmentioned. At the risk of being accused of apple-polishing -- my decisions are reviewable by his Court -- I share Judge Friendly's concern, and believe that now is the time for the regulators to do something more about it.

There is, of course, no longer any real objection to regulation, as such; that issue now seems almost prehistoric. Nor is there much objection to the high degree of regulation which is imposed on those in the securities industry, and this is as it should be, for they are in what has aptly been called a dangerous business. I assume, and endorse, the existing regulatory structure, intricate though it is, and believe we should concentrate instead on the manner in which we go about our business of enforcing our several responsibilities within the spheres of our respective jurisdictions.

Each of the six statutes administered by the Securities and Exchange Commission contains a section which carefully preserves state regulation to the extent not inconsistent with the Federal statutes. This recognition of the traditional interest of the states in this field is one of the complicating factors, but one common enough in our federal system of government. Superimposed on this Federal-State pattern, however, are the self-regulatory institutions, exercising quasi-governmental powers and creating a three-tiered system of regulation. The relatively simple Federal-State structure has created significant tensions in some areas of the law. We all know how much more complex is the system under which we securities regulators operate. Our obligation to avoid unnecessary burdens on the public is correspondingly greater.

I do not mean to imply that the problem I describe is one which has been wholly ignored in the past. The state securities administrators in particular have contributed greatly, through uniform laws, administrative policies, and forms, and through information-sharing services in connection with securities offerings. On the part of the Commission, we can point to our efforts as a central clearing house for information concerning enforcement activities by Federal, State, and self-regulatory agencies. It is not enough,

however, that we have not been idle in the past. As the securities industry continues to produce innovation after innovation, and as the tempo of the securities markets continues to quicken, taxing our imaginations as well as our resources, we must make every effort to see that the role of regulation is one which truly benefits and protects the investor, and burdens commerce the least.

To be more specific, there are a number of contexts in which the need for coordination and cooperation arise -- in the substantive rules of conduct, in the conduct of inspections of broker-dealer firms, in investigative and enforcement activities, and in the administration of qualifications examinations for salesmen and others in the securities business, to name a few. Let me address myself, as an example, to the subject of qualifications examinations, which well illustrates the problems and also points to possible methods of solution.

The Commission is in the examination business because of the Securities Acts Amendments of 1964, which authorize and direct the Commission to set qualifications standards, including examinations, for persons associated with broker-dealers that are not members of a national securities association, the only existing one being the NASD. As most of you know, the Commission recently adopted Rule 15b8-1, which requires, with certain exceptions, that salesmen and other persons connected with non-member firms, including supervisors, pass a general securities examination before July 1, 1966. This requirement is in accord with the long-held view of the Commission that a general securities examination is essential to achieve a competent and well-informed securities industry.

In order to explain the problem facing the Commission in devising and administering a suitable examination requirement without imposing any unnecessary burdens on those in the securities industry, I think I should describe briefly the qualifications examination picture as it exists in this country today.

First, 31 states require salesmen (and in some cases principals) to pass a general securities examination. Of these, 22 use the State Securities Sales Examination, which is sometimes called the Uniform Salesman's Examination, an examination developed by the New York Stock Exchange and provided to the states in the interest of raising qualifications standards. Four states use examinations of their own preparation, and the other five use the NASD examination for registered representatives. In addition to a general securities examination, 20 states require applicants to pass a written examination covering State Securities laws, and five states have special examinations for salesmen of broker-dealers selling variable annuities and government and municipal bonds.

The self-regulatory agencies also give a number of examinations. The NASD requires registered representatives and principals of member firms to take an examination testing their general knowledge of the securities business. Beginning this year, salesmen who move up in a firm and become principals will have to take the principals' examination; previously, only those directly coming into the securities business as principals had to take that examination.

The New York and American Stock Exchanges have a whole battery of examinations, for office partners, floor partners, registered traders, registered representatives, and supervisory analysts. The Midwest and Pacific Coast Stock Exchanges also have examination programs.

A certain amount of coordination has already been achieved among these examination programs, in significant part as a result of the efforts of the NASA and the Midwest Securities Administrators. As you know, a number of states that give their own examinations have reciprocal arrangements with each other and 25 states that give their own examination will accept the NASD registered representatives' examination in fulfillment of their own requirement. The uniformity provided by the State Securities Sales Examination is a step toward the goal of maximum coordination. Furthermore, the NASD and the New York Stock Exchange have entered into an arrangement whereby applicants for registration as salesmen or principals with firms that are members of both these organizations can take one four-hour examination at an NASD testing center, instead of two examinations that would take a total of seven hours. The NASD has a similar arrangement with the American Stock Exchange. Besides the coordination of examinations with the NASD, the New York Stock Exchange already accepts the Amex members' examination and the examination given by the Pacific Coast Stock Exchange concerning floor procedures.

Nevertheless, duplication of effort does exist. A person wishing to become a salesman with a securities firm may, for example, be required to prove his general knowledge and understanding of the securities business by taking separate, although similar, examinations given by the state or states in which he is seeking to be licensed and by the NASD. He may have to report to separate testing centers and the grading of the examinations may be different.

Now the Commission enters the examination picture for the first time. Although the number of non-NASD broker-dealers -- what we now refer to as the "SECO" population -- is not large, about 450 firms, they employ over 25,000 salesmen, and some of these firms have a high turnover. So the Commission is going to be a large-scale examiner.

In approaching its new responsibility, the Commission is determined not to create duplication or to add unnecessarily to the burdens of regulation now borne by the broker-dealer community. On the contrary, we may be able to use the new authority that Congress has given us to achieve greater uniformity, and perhaps eventually reach the goal of a uniform qualifications examination covering general securities matters that would be accepted by all the regulatory agencies, Federal and State, government and self-regulatory.

The new Commission examination system is the result of a year of study and of close coordination with the states, the NASD, and the exchanges. Let me say that the cooperation we have received has been willing and very constructive.

As latecomers in the field, we realize that we could not reasonably expect any of you or any self-regulatory agency to scrap its own examination and accept ours. Nor would we want you to. These examinations have been developed over the past years as a result of pioneering efforts, diligently pursued, to raise standards in the securities industry.

Our examination will be derived in large part from the general securities portions of the NASD examination. It will, however, be the Commission's own examination, and it will be amended periodically to incorporate questions on new developments. The Commission will grant reciprocity to any general securities examination that is a satisfactory alternative; this includes all the major examinations given today -- the State Securities Sales Examination, and the examinations given by the New York and American Stock Exchanges and the NASD. We hope that reciprocity will be granted in return and that such arrangements, together with those already existing that I described earlier, will pave the way to a truly uniform securities examination that every prospective salesman would take. The Commission intends to use its influence to increase cooperation among testing authorities. Toward this end, we expect to communicate with exchanges and the NASD and the State Administrators with a view toward establishing a uniform securities examination, to be used by all regulatory and self-regulatory agencies. This examination would cover a core of basic subjects. The various regulatory agencies might also require the salesman to answer additional questions on their own particular areas of concern. For example, a salesman might be required to take, in addition to the uniform examination, a supplemental examination on state law, one on NASD rules if the broker-dealer is a member or on the Commission's SECO rules if he is not, and one on exchange rules if the firm is a member of an exchange.

These examinations would be given at the same time and place, saving the applicant time, effort, and money.

The device of using a common core, with supplemental parts to cover special state and other regulatory agency needs, is one which already has been explored in connection with broker-dealer and investment adviser registration forms. We have been working for some months on revisions of our B/D and ADV forms, with an eye not only to meeting our own needs, but in the hope that the revised forms will be suitable for adoption by the states, the NASD, and the exchanges. Our revisions have been discussed with representatives of these agencies, and I know that the Committee on State Regulation of Securities of the American Bar Association has prepared, for use by state administrators, uniform forms which utilize copies of the SEC applications to supply basic information. The SEC application would then be supplemented with any additional information which may be required in particular jurisdictions.

Opportunities for this kind of action are almost endless. Is it necessary that inspections of the same broker-dealer firms be conducted by several regulatory and self-regulatory bodies, each looking for particular items but ignoring the requirements of the others? Must investigations and enforcement activities be duplicated at the various regulatory levels? Why must the same information be supplied over and over, in slightly different form each time, in connection with some of the most common forms of interstate securities transactions?

It is inevitable, I suppose, that as the securities business undergoes change, as at present, toward more sophisticated techniques, the responses by regulatory authorities must be equally sophisticated. This means that our need for information, statistics, and basic knowledge of the business will continue to increase. Most of what we know, and will have to find out, comes from the industry itself, which is already filing reports with all the securities regulatory authorities as well as with a myriad of other Federal, State and local agencies. On top of that, we have no hesitancy in asking firms to review all transactions when our surveillance of the markets turns up a problem, and we of course expect industry leaders to devote large amounts of their time to non-remunerative service to the self-regulatory organizations. Despite these demands, the industry response has on the whole been good. The studies I referred to earlier would have been impossible without the cooperation of the industry, either by supplying statistics or examples, testifying, or spending hours of discussion in order to educate us to the point of understanding. Clearly, if we are to expect this kind of attitude to persist, we must ourselves do our best to minimize the burdens we impose.

It would be unreal to suppose that the program I envisage will be accomplished overnight or without any disagreements among us over the best approach to particular questions. It is easy to suggest uniformity, often more difficult to arrive at it. There may be more than one way to automate back-office procedures, for example, but this does not necessarily mean that more than one cooperative system is desirable. It is necessary that we approach each item with a willingness to bend enough to arrive at a consensus -- without, I might add, always settling for the lowest common denominator. I know that, with the proper attitude, we can resolve any problem of this type which may arise among us. Indeed, as I have indicated above, thanks particularly to the work of this group of state administrators, much has already been accomplished. I am counting on your continued cooperation, and I assure you of ours.