Baker, Watts & Co.
Baltimore, Maryland

March 21, 1968

Mr. Orval L. DuBois, Secretary
Securities and Exchange Commission
500 North Capitol Street
Washington, D.C. 20549

Dear Mr. DuBois:

This letter is written in response to the invitation of the Securities and Exchange Commission for the views and comments of interested persons on proposed Rule 10b-10 and also on the New York Stock Exchange proposal set forth in the attachment to Release No. 8329 of the Commission.

The subject matter of these documents has been given the most careful consideration by our firm and we write to state first of all our opposition to proposed Rule 10b-10 in the form suggested by the Commission for the reasons outlined below.

Secondly, we endorse in principle and <u>in</u> <u>its</u> <u>package</u> <u>form</u> the New York Stock Exchange proposal. Since the latter has not as yet been put into the draft form of rules and changes in the commission structure of the Exchange, we do not undertake to give our unqualified approval, reserving such judgment until the details of the proposals are presented. Nevertheless, we are impressed with the manner in which the Cost and Revenue Committee and the officials of the Exchange have tackled the problem and their recognition of practices that have developed and are proliferating in our industry with regard both to the matter of give-ups and the various methods that have been employed by certain institutions to effect what amounts to volume discount. These have become facts of life today and we commend the Exchange and its Cost and Revenue Committee for taking a realistic view and proposing to work out the details of its "package" in the equitable manner outlined in Mr. Haack's communication to members and allied members dated January 2, 1968.

With regard to the proposed Rule 10b-10 itself, we are greatly disturbed by the specific prohibitions as well as by some of its implications. In the light of all of the discussions of the so called give-up problem that have received wide spread circulation in the past year, it would seem unnecessary for us to do more than refer to the fact that there is a great deal more to the handling of an order than the execution alone. There is no question but that many give-up payments are made to dealers who play no part in the actual execution of a particular order and are even unaware of the order but it should be stressed that these payments are made in recognition of services performed by dealers promoting the sales of investment company shares and/or performing other services, such as furnishing research material. How can it be argued that the investment companies in recognition of this fact do not have the right to direct payments for those services? We believe that in so doing they are fulfilling their fiduciary responsibilities far more faithfully than by endeavoring to shave commissions.

Returning to the proposed rule itself and the implications of the footnote at the bottom of Page 9 of the Commission's Release, it would appear that the Commission adopts the philosophy that give-ups by institutions not under S.E.C. jurisdiction are also questionable and yet if the rule is imposed on investment companies and not on other institutions it would obviously be discriminatory in favor of the former. It can also be inferred that the entire subject of commission charges could be made a matter of competitive negotiation between investment companies and dealers, which we believe can only lead to chaos.

Our firm is not a large distributor of the shares of investment companies and we originate only a limited amount of research for institutional customers; hence, we are not the recipient of substantial give-up payments. However, it is our sincere conviction that the imposition of the proposed rule would do great harm to the investment industry, would undoubtedly mean the elimination of many small firms and a concentration of a large proportion of securities business in the hands of a few large firms with highly adverse consequences to the public interest. Moreover, such an event would have added harmful effects on the many small businesses largely dependent on the existence of local investment dealers for their financing needs and for the maintenance of local markets in their securities. All of this would be detrimental to the best interests of small investors.

Given the evil consequences pictured above how can the Commission take steps to impose a rule so disruptive of the investment industry in seeming contravention of its oft repeated endorsement of investment companies as beneficial economic vehicles? These investment media would not have had the wide spread distribution of their shares among the investing public were it not for the existence of the dealer organizations that would be harmed by this rule.

We would hope that in conjunction with the officials of the New York Stock Exchange and other segments of the investment industry the Commission would assist in working out, preferably on a self-regulatory basis, the details of equitable changes in the commission structure and the proper recognition accorded to volume transactions while preserving in the form of give-ups the principle of reciprocity which is part of the very fabric of American business of all types. We would deplore the prohibition of give-ups and the right of institutions to direct well earned payments for services of one kind or another performed by investment dealers of all sizes throughout the country.

Very truly yours,

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