STATEMENT OF THE HONORABLE JOHN R. EVANS, COMMISSIONER OF THE SECURITIES AND EXCHANGE COMMISSION, BEFORE THE UNITED STATES SENATE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS, CONCERNING THE REGULATION OF MONEY MARKET FUNDS, MAY 13, 1981

Mr. Chairman and members of the Committee:

I am pleased to represent the Securities and Exchange Commission before you today in response to your request that we present our views regarding the appropriate regulation of money market funds and the impact of the growth of money market mutual funds on competing financial institutions, monetary policy, and economic policy. I am accompanied by Joel H. Goldberg, Director of our Division of Investment Management. We appreciate this opportunity to express our views and hope that our comments will be helpful to the Committee. In addition, we are providing the Committee with a report prepared by the staff of the Commission, which contains a comprehensive review of the federal regulation of money market funds.

I want the members of this Committee to know that we are not here today to testify on behalf of the interests of institutions which we regulate or to suggest that they be protected from competition with other financial intermediaries. On the other hand, we do have a statutory responsibility to protect the interests of public investors and we are very concerned with suggestions that legislation should be enacted which would impose bank-type regulation on money market funds to the detriment of such investors. Suggestions which have been made in this regard include requiring the Federal Reserve Board to impose reserve requirements on certain mutual funds, establishing a maximum rate of return on money

market fund shares, prohibiting money market funds from offering certain expedited redemption procedures, requiring a special liquidity account, and requiring dual regulation of institutions which are already subject to a pervasive regulatory framework. The Commission is very sensitive to the general criticism that the innovativeness and productivity of private institutions are being stifled by unnecessary government regulation, and we are attempting prudently to reduce regulation of those under our jurisdiction. We believe that a clear public interest must be served by burdens imposed on those whom we regulate, that the type of burden imposed should have a logical economic or investor protection basis, and that those who wish to save and invest their money should not be discouraged from doing so by regulatory burdens which do not provide them with offsetting benefits.

We are very much aware that many depository institutions are having difficulty attracting savings during a period when money market funds are experiencing dramatic growth. As you know, however, there were periods before the development of money market mutual funds when depository institutions experienced somewhat similar difficulties because greater returns on savings were available elsewhere. Of course, other types of institutions are subject to the same market forces. For example, mutual funds investing in equity securities experienced not only reductions in net inflows but continual net outflows as redemptions exceeded sales for eight straight years from 1971 through 1979 because investors,

considering prospective risks and rewards, no doubt anticipated that other investment opportunities, including those offered by banks and savings and loan institutions, were more attractive than mutual funds.

We can understand why certain depository institutions might like their competitors to be restricted. We believe, however, that any consideration of legislation to impose bank-type regulatory burdens and limitations on money market funds should include an evaluation of the existing regulation of such funds, the present protection provided to investors, and the negative impact that such proposals would have on the millions of people who invest in money market funds. We recognize, of course, that once the facts are presented the policy decision of weighing the negative impact on small investors against the possible benefits to depository institutions and those whom they serve is for Congress and beyond the Commission's areas of responsibility.

Although a large part of the success of money market funds is undoubtedly due to the fact that they are a product responsive to the times and the demands of investors, we believe also that a part of that success is due to the sound and effective regulatory system for investment companies which we administer and the public confidence which that regulatory environment helps engender. In evaluating the adequacy of this regulation, one must bear in mind the nature of money market funds and the legal and factual distinctions between such funds and other investments.

A money market fund is an investment company. An investment company generally is an issuer that invests, reinvests and trades in securities. Most investment companies, including all money market funds, are of the type known as mutual funds--or more precisely, open-end, diversified, management investment companies. They normally offer shares continuously to the public and are required to redeem, on request, each shareholder's securities for his pro rata share of the fund's net asset value. Investors are attracted to investment companies in general to obtain professional investment management of their assets, liquidity of their investments, and diversification of investment risk. A money market fund concentrates its investments in so-called money market instruments, typically short-term debt obligations issued by banks, other corporations, and governmental entities.

A significant feature of money market funds is that they offer smaller investors the opportunity previously enjoyed only by wealthy investors and institutional investors to obtain convenient and efficient access to the large denomination instruments of the money market and their current high yields. In addition to offering the benefits which are characteristic of other investment companies and higher yields than might be available elsewhere, money market funds provide daily dividends and expedited methods of purchasing and redeeming fund shares through such features as telephone redemptions and "check-writing" privileges. While these money market fund services might appear to be similar to services

which have traditionally been offered by depository institutions, there are critical legal and practical distinctions. Money market funds and bank deposits are not interchangeable products.

A money market fund share is an equity instrument. It is common stock upon which dividends are declared and capital gains are distributed only to the extent of the investment company's net income or net capital gains. The value of an investor's interest in such a fund can fluctuate as the value of the fund's portfolio of investments rises or falls. A bank deposit is a debt instrument. It represents a liability of the bank and provides a fixed rate of return in the form of interest. The monetary value of deposits in bank accounts does not fluctuate, and, generally, these accounts are insured up to specified amounts. The Commission views these distinctions as being so important that we would consider appropriate enforcement action against any investment company or individual selling money market fund shares through improper representations that the legal relationship and safety obtainable from owning a share of a money market fund is equivalent to the legal relationship and safety obtainable from the deposit of money in a bank.

Nonetheless, the apparent similarities between the services offered by money market funds and depository institutions have led some to suggest that investors in money market funds might be better protected if those funds were subjected to bank-type regulation. The Commission does not share this view. We believe that the existing framework of

regulation applicable to money market funds provides appropriate investor protection, and that imposing additional, bank-type regulation on those funds would harm the interests of investors without corresponding benefits to them.

The federal securities laws impose, as described by the Supreme Court, a pervasive regulatory framework on the operations of all investment companies, including money market funds. Specifically, the Securities Act of 1933 governs the manner in which a money market fund, like any company offering its shares for sale to the public, may offer its shares to investors. That Act requires full and fair disclosure to investors in the form of prospectuses, which must precede, or be delivered to investors with, the confirmations of their purchases. It imposes liability upon those who fail to fulfill these requirements and upon those who make materially false or misleading representations in connection with an offering of securities. Pursuant to the Securities Act, the Commission requires that money market funds set forth in their prospectuses a listing of their portfolio securities as of the date of the prospectus' financial statements. The Securities Act also effectively restricts the content and nature of investment company advertising. In addition to the Securities Act, which applies generally to companies selling securities to the public, investment companies--including money market funds--are subject to the highly detailed regulatory requirements imposed by the Investment Company Act of 1940 and the rules adopted thereunder. The

Investment Company Act governs virtually every aspect of the corporate structure, operations, and activities of investment companies. For example:

--Investment policies must be established, disclosed and followed; generally, any substantial change must be approved by shareholders.

--Shareholder approval of directors, auditors and investment advisory contracts is required.

--Independent directors must be elected to serve as "watch dogs" to protect shareholder interests.

--Transactions involving persons affiliated with the investment company or its investment adviser are generally prohibited, absent prior Commission authorization or compliance with conditions of exemptive rules.

--Pyramiding of capital structure and speculative investment practices are prohibited or closely restricted.

--Pricing and valuation rules govern the manner in which investment company shares are sold and redeemed.

--Fund assets are subject to strict custodial requirements, and specified amounts of fidelity insurance must be maintained.

--Periodic reports must be sent to shareholders and filed with the Commission.

--Specified books and records must be maintained.

--Various fiduciary duties, including a duty with respect to advisory fees, are imposed on companies and persons managing investment companies.

In response to the emergence of money market funds and their mode of operation, the Commission has addressed various areas of particular regulatory concern. It issued an interpretive release discussing the appropriate methods to be utilized in computing the value of money market fund assets and the prices

of money market fund shares. Extensive hearings were conducted before an Administrative Law Judge, and carefully prescribed conditions were imposed by the Commission before money market funds were permitted to continue certain valuation and pricing methods designed to achieve stable net asset values per share. The Commission issued another release to address and control certain speculative trading practices involving financial futures which the Commission believed might violate provisions of the Investment Company Act. In addition, the Commission has amended its rule governing the time for the pricing of investment company shares for sale and redemption to include special provisions to permit money market fund shares to be priced at times during the day more appropriate for the operation of those companies and to require that shares be priced on days when the money markets are open, whether or not the securities industry generally is open for business.

In the area of money market fund advertising, the Securities Act and Commission rules have long imposed severe restrictions on investment companies wishing to advertise the sale of their shares because Congress, in passing the Securities Act, intended that investors should have the benefit of the disclosure in a statutory prospectus when making securities investment decisions. Although in recent years the Commission has adopted rules to permit mutual funds, including money market funds, to convey a wider variety of information in their advertising to investors, an investor must still receive a full, statutory prospectus prior to, or contemporaneously

with, the confirmation of his purchase, and the Commission has provided special protection for persons interested in money market funds by requiring the funds to calculate their yields using a standardized method. This makes it easier for investors adequately to compare funds.

In addition to these measures, the staff of the Commission has intensified its oversight of money market funds through increased inspections of such funds. As a supplement to the routine and for-cause inspections normally performed, the staff also has conducted special limited inspections of each money market fund to assure itself that no significant regulatory problems exist within the industry. Such inspections were performed during the Fall of 1979, and another series of industry-wide inspections was performed approximately two months ago. As a result of the earlier inspections, the staff found only isolated problems, which were promptly corrected. The most recent inspections revealed, again, that on the whole money market funds are operating in an appropriate manner. Information obtained from the latest inspections indicates that funds have not made any significant shifts in portfolio investments nor has there been any problem with the quality of funds' investments. While the inspections disclosed minor deficiencies in the operations of some funds, which are currently being remedied, the inspections indicate that no significant regulatory problems exist in the money market fund industry.

In view of the thorough oversight which the Commission and its staff has exercised over the money market fund industry,

including the recently completed industry-wide inspections, we are confident that the existing investment company regulatory framework is successfully protecting investors in money market funds. It has been suggested by some, however, that for the purpose of increasing liquidity and safety for investors, or in order to have fair competition, it may be appropriate to impose additional regulatory requirements on money market funds which offer a "check-writing" feature or other forms of expedited redemption procedure by, for example, requiring such money market funds to set aside reserves of uninvested assets. I note that the Chairman of this Committee has evidenced a particular interest in this subject, and thus I would like to explain in some detail why the Commission does not believe that such provisions are necessary or appropriate to protect investors.

To begin with, money market funds which offer features such as "check-writing" privileges are not essentially different from traditional mutual funds. The "check-writing" privilege is merely an alternative method of effecting fund redemptions. Unless special provisions are made, redeeming one's investment in a mutual fund can be a cumbersome procedure. Without expedited means of redemption, most funds require that investors provide certain written documents, including a signature guaranteed by an investment banker or a commercial bank. After these materials are received by the fund, a redemption check is mailed to the shareholder. The shareholder may then experience additional delays in the use of his money until the redemption check is processed.

Most money market funds have sought to avoid delays to shareholders in receiving redemption proceeds, as well as in receiving credit for their investments, by establishing expedited means of effecting redemptions and investments. Most money market funds provide that shareholders may receive payment for redeemed shares and credit for money invested on the same day by wiring federal funds through the banking system. In order to effect transactions through wired federal funds the shareholder must have a previously established account at a commercial bank.

As an additional means of expediting redemptions, many money market funds also provide "check-writing" privileges. In general, the "check-writing" privilege is effected through an arrangement with a commercial bank in the following manner. The fund causes a checking account to be established with a commercial bank which is often the fund's custodian and transfer agent. The account may be a single account through which all drafts of the fund's shareholders are presented and paid, or the bank may set up separate accounts for each individual shareholder. The shareholder may then write a draft payable to a third party against that checking account. When the draft is presented for payment, the transfer agent determines whether the shareholder has a sufficient investment in the fund to cover the draft. If sufficient monies are available, the transfer agent, acting as agent for the redeeming shareholder, effects the redemption of a sufficient number of the shareholder's shares to generate the money necessary

to honor the draft and the bank makes payment on the draft from cash in the money market fund's account with the bank. In most cases the fund has sufficient cash available in its custodial account with its custodian bank through cash management of proceeds from sales of the fund's shares and maturing portfolio securities so that redemptions through the "check-writing" privilege are merely an offset against cash available for reinvestment by the fund. However, if there were insufficient cash held by the custodian bank to cover such redemptions, then the fund would liquidate portfolio securities or take other steps to meet these redemptions.

Thus far, the Commission has found no evidence, either through its inspections or otherwise, of shareholders having any significant problems with the "check-writing" privilege. On the other hand, in addition to convenience, this redemption method allows the investor to earn interest on his investment in the money market fund until his money is actually available for his use. Therefore, the "check-writing" privilege appears to be a benefit without any counterbalancing disadvantages to the investor.

I would also add that money market funds are not the only type of mutual fund utilizing expedited means of redemption. Other, more traditional forms of mutual funds also use wired federal funds as well as drafts to third parties as a means of effecting redemptions. Accordingly, the Commission does not believe that the offering of "check-writing" by a money market fund is an appropriate basis for

subjecting such fund to a fundamentally different regulatory scheme than that to which other mutual funds are subjected.

We now turn to the suggestion that liquidity problems might be potentially serious enough to require money market funds to maintain a special liquidity account. We do not believe that any such requirement is necessary or desirable. This is because money market funds, by virtue of the types of investments in which they invest, are highly liquid. By definition their portfolios are composed of short-term debt instruments which generally are readily marketable. Moreover, money market funds typically "stagger" their portfolio investments so that on any given day a certain number of instruments mature, thus providing the fund with cash to help meet redemptions if necessary.

While required by the Investment Company Act to redeem shares within seven days after receipt of tender, most money market funds have undertaken to provide same day redemption proceeds and, thus, are obligated to maintain sufficient liquidity to meet that undertaking. Although the Commission has never believed it necessary to require that money market funds maintain a certain percentage of their assets as cash or cash equivalents, it has given guidance on the purchase of restricted securities through a series of interpretive releases, and has prohibited money market funds utilizing the amortized cost method of valuing their assets from purchasing illiquid securities. Moreover, the Commission would consider appropriate enforcement action against any

money market fund which did not maintain sufficient liquidity to meet its obligations. Because of the Commission's vigorous adherence to these principles, money market fund liquidity has never been a significant problem.

In our view, any regulation which required the maintenance of a liquidity account would be not only unnecessary, but actually harmful to investors. Because money market funds' portfolios already consist of short-term, readily marketable debt instruments, a requirement for a liquidity account presumably would amount to a requirement for increased holding of uninvested cash. Such a requirement would reduce the amount of assets available for investment and thus would have the effect of reducing the yield to investors. In the Commission's view, this reduction in yield would not be justified by any corresponding increase in investor safety resulting from increased liquidity.

Despite our belief that the current regulatory scheme provides appropriate protection for investors, the Commission is aware that there is some concern that the operations of money market funds raise other public policy considerations respecting the operation of the banking system and the administration of monetary policy. There have been legislative proposals which would either require or authorize the Federal Reserve Board to impose reserve requirements on the assets of money market mutual funds. Such requirements would have a different effect on money market funds than they do on depository institutions. Reserve requirements placed on

banks have no direct effect on the return paid to bank depositors in that the rate of return is guaranteed. The money market fund shareholder, on the other hand, receives a proportionate share of the return on his investment after expenses. If reserve requirements are imposed on money market funds, less money will be available for investment which will result in a lower yield to the investor. Therefore, unless a reserve requirement would provide increased safety to the investor, he is not benefited by such a restriction. As I mentioned earlier, what a money market fund offers and sells to the public is shares of its stock. This does not create a liability in any fixed amount and it makes little sense to require reserves in order to fund an obligation which does not exist. Nobody would think of requiring a bank to create some kind of reserve when it sells shares of its stock, as banks frequently do.

Moreover, it is well known that reserves required by the Federal Reserve Board are not intended as a source of liquidity or safety and cannot be used for the purpose of meeting unexpected cash withdrawals without violating the legal reserve ratio. Instead, legal reserves facilitate the clearing of checks written against demand deposits and are a means by which the Federal Reserve Board can influence the lending ability of depository institutions and thus the money supply. For monetary measurement and control purposes, the Federal Reserve Board does not categorize money market fund shares along with currency or commercial bank demand deposits

or with negotiable order of withdrawal accounts at banks or thrift institutions, draft accounts at credit unions, or demand deposits at mutual savings banks. Instead, money market mutual fund shares are categorized along with small denomination time deposits in depository institutions. Mutual fund industry figures, which indicate that the turnover rate of money market fund accounts is about 2.9 annually or approximately the same as time deposit accounts and much lower than demand deposit accounts in commercial banks, give support to this differentiation.

The fact that a money market fund share is an equity, rather than a debt, instrument also causes serious problems with respect to any proposal to establish a maximum rate of return payable on funds invested in money market mutual funds. Essentially, the dividends paid to a money market fund investor represent the money earned by the company from its investments reduced by the company's expenses. If the amount of dividends payable were artifically restricted to less than such earnings, the "excess" money could not be retained by the owners of the fund, as is the case with the owners or stock holders of the equity securities of a bank or any other company, because the shareholders whose return would be restricted are themselves the owners of the fund.

From an economic and legal standpoint, we find it difficult to imagine how the rate of return might be restricted. The company might consider finding some way either to increase its expenses, or to reduce its earnings from investments, or

both. For a money market fund to increase its expenses artificially--by, for example, raising the adviser's fee to unnecessarily high levels--would not only be unjustifiable as an economic matter, but also a breach of the fiduciary duties imposed upon investment advisers and directors of investment companies under the Investment Company Act. As a practical matter, then, compliance with any regulations limiting the return payable to investors would probably necessitate a money market fund's artificially reducing its earnings by keeping some portion of its assets uninvested. Thus, a ceiling on dividends would amount to little more than a reserve or "liquidity account" requirement under a different name, and I have already indicated the Commission's view that such requirements would hurt, not help, investors in money market funds.

If regulations such as reserves on money market funds, liquidity accounts or maximum rates of return are not needed for investor protection and would not serve the normal purposes for which such regulations are imposed upon depository institutions, it would appear that the questions remaining for Congress are: (1) would the imposition of such regulations enhance the relative attractiveness of depository accounts sufficiently to bring about a significant increase in the flow of money into depository accounts; and, (2) if that is so, would the benefits of that result outweigh the detriment of precluding investors from receiving the benefits presently available from money market funds.

Implementation last year of Executive Order 12201 by the Board of Governors of the Federal Reserve System provides some guidance on the effect of reserve requirements and other bank-type regulations. Beginning in March, 1980, money market funds were required, in general, to maintain varying proportions of their assets--something under 15 percent --in special, non-interest bearing accounts with Federal Reserve Banks. The amount of the required reserve was later reduced and eliminated altogether by the end of July, 1980. That temporary reserve requirement, which resulted in a reduction in yield of perhaps 1 percent, does not appear to have been great enough to slow sales of money market funds to any significant extent. Since the imposition of a reserve requirement in 1980 did not have any significant impact on the flow of money into money market funds, it is not at all clear that the imposition of similar reserve requirements in 1981 would cause money to flow in significant amounts back to depository institutions.

Moreover, even if Congress imposed more severe requirements than those previously imposed, or other requirements sufficiently disadvantageous to investors so as to reduce by a significant amount investments in money market funds, it should not be assumed that most of this investment would necessarily flow into passbook savings accounts at depository institutions. It appears that investors owning most of the shares of money market funds would have alternative methods of obtaining money market fund rates. Industry figures,

which we have no reason to question, indicate that an overwhelming percentage of total money market fund assets is in accounts over $10,000, which, of course, is the minimum investment required to purchase a six-month bank money market certificate or a Treasury bill. Moreover, statistics regarding the non-competitive tenders for Treasury bills, which are set forth in Appendix A, indicate that investors are well aware of this alternative. As interest rates have risen, so has the percentage of non-competitive bids, which presumably includes the type of investor who is attracted to money market funds.

In addition to our judgment that passbook savings accounts would not necessarily be the alternative investment chosen for most of the money now invested in money market funds, the Commission believes that reducing the attractiveness of money market funds may not contribute significantly to the total amount of money deposited in banks and thrift institutions, even at rates higher than passbook rates. We base this belief on the fact that a large percentage of money market funds' assets are deposited directly into the banking system. As of March 31, 1981, 30 percent of all money market fund assets were invested in bankers acceptances and negotiable certificates of deposits at banks with assets in excess of $750 million. Included as Appendix B are statistics on the distribution of money market fund assets in selected types of instruments. In addition to this amount, which represents assets in the country's approximately 200

largest banks, additional money market fund assets are invested in smaller banks. While we do not have figures on the amount of money invested in smaller banks, money market funds have expressed interest in, and are, investing in certificates of deposit of smaller banks.

The Commission believes that the federal securities laws, as we administer them, fulfill the Congressional objective of protecting investors in money market mutual funds without imposing undue costs and burdens. The facts indicate that many investors have purchased shares in money market funds to receive investment benefits which otherwise would be unavailable to them. It is the Commission's view that the imposition of additional requirements upon these funds is not necessary for purposes of investor protection, could set barriers to certain investors' participation in the money markets, and would deprive smaller investors of investment benefits larger investors could still obtain.

It is also the Commission's view that the harm to small investors, and the inconvenience to large investors, which could result from the imposition of bank-type regulations on money market funds may not be significantly offset by any benefit to banks and thrift institutions. We believe that any adverse effects on banks and savings and loan institutions attributable to the growth of money market funds are part of a much broader problem--high rates of inflation and accompanying high interest rates, coupled with legal restrictions on returns that can be paid by depository institutions. In

recent years these factors have lessened the relative attractiveness of deposits in banks and thrift institutions. Any legislative solution to such adverse effects that is narrowly focused on imposing restrictions on money market funds is unlikely to be effective, particularly in light of the new bank and savings and loan products that are emerging. For example, a new bank account has been introduced recently which is not subject to Regulation Q ceilings because the funds are deposited in a foreign branch. The interest rate on these accounts which is comparable to money market fund rates of return is set daily, and there is no penalty for premature withdrawal. These accounts vary in such details as the minimum amount that must be invested and the minimum balance required, but their rates are generally computed daily, are comparable to money market fund rates, and deposits are not covered by FDIC or FSLIC insurance. In addition, in order to avoid the interest-rate limitations of Regulation Q and compete with money market funds, both banks and savings and loan associations have developed or are developing so-called retail repurchase agreements pursuant to which investors can, in effect, purchase an interest-paying instrument purportedly collateralized by government securities. The Commission has not yet addressed the question of whether these arrangements require registration under the federal securities laws.

Although our testimony is primarily focused on money market funds and their regulation, we understand that the Committee would like us to comment also on competitive conditions

generally among financial institutions, bank underwriting of commercial paper and private placements of securities, and the recent merger announcements of American Express Company and Shearson Loeb Rhoades, Inc. and The Prudential Insurance Company of America and Bache Group, Inc. Much has been said and written about competitive conditions by competing partisan financial institutions and their representatives. Each emphasizes its own regulatory burdens and the benefits enjoyed by its competitors. I do not have anything new to add to that debate. Of course, the Commission has always been of the view that equally situated competitors should be subject to comparable regulation. Because of that view, regulation or lack thereof on institutions not under our jurisdiction which compete with firms which must comply with our regulation has often played a part in the Commission's regulatory decision making.

Bank underwriting of commercial paper is the subject of pending litigation. The Commission has taken the position that in view of the inclusion of commercial paper within the definition of a security in the Securities Act of 1933, commercial paper should also be deemed a security under the Glass-Steagall Act since the two statutes were considered by the same Congressional Committees, were enacted contemporaneously, and were designed to achieve a comprehensive regulatory framework for the nation's financial markets. If this interpretation is followed, underwriting by banks of third-party commercial paper would be prohibited under Glass-Steagall. As you may

be aware, on September 26, 1980, the Board of Governors of the Federal Reserve System took a contrary view. The Commission has filed a brief as _amicus curiae_ in the U. S. District Court for the District of Columbia supporting two challenges to the Board's position. Our _amicus curiae_ brief indicates our concern that the Board's interpretation permitting bank underwriting of commercial paper would seriously erode the interrelationship of the federal securities laws and the banking laws and that the fundamental policy judgments inherent in any alteration of the lines drawn by Glass-Steagall should be reserved to Congress. We would be glad to make copies of our brief available to the Committee.

Banks have been engaged in the private placement of securities for several years despite questions regarding the legality of such services under the Glass-Steagall Act. With certain exceptions, Section 21 of that Act prohibits banks from engaging "in the business of issuing, underwriting, selling or distributing, at wholesale or retail, or through syndicate participation, stocks, bonds, debentures, notes or securities." In letters dated November 11, 1974, and January 15, 1975, the Office of the Comptroller of the Currency took the position that in connection with private placements of securities, a national bank "will not be permitted to participate in any significant way in negotiations between its clients and the prospective purchasers of equity or debt issues, and may not charge a fee contingent upon the successful placement of the securities." Subsequently, however, the

Acting Comptroller stated publicly that the positions expressed in those letters were under "active reconsideration" and that his Office had "no official position" on bank participation in private placement activities.

In a June 1977 report to Congress, the staff of the Federal Reserve Board concluded that whether "the Glass-Steagall Act prohibits commerical banks from assisting private placements is not free from doubt" although "the stronger case would support a conclusion that assistance of private placements is not prohibited by the Act and is within the scope of permissible activities for commercial banks."

In response to interpretive requests with respect to broker-dealer registration of persons proposing to advise or assist issuers regarding private placements, the Commission's staff has declined to take a no-action position. Thus, if banks were not excluded from the definition of "broker" and "dealer" in the Securities Exchange Act, under current staff interpretive positions, most banks actively engaged in providing these services probably would be required to register as broker-dealers. The Commission has not taken a position on whether such services are appropriate under the Glass-Steagall Act. Our February 1977 Report to Congress on Banks Securities Activities includes a section which discusses private placement activities of banks at that time.

The proposed combinations of American Express with Shearson and Prudential with Bache are symptomatic of the evolving structure of our economy and markets. Firms are constantly

designing new products to meet perceived demands and are seeking efficient structural means by which to provide the public with a full range of desired financial services. The Commission's views on such combinations are predicated on its responsibilities under the securities laws which emphasize disclosure and fair and efficient markets, and were designed to complement rather than to interfere with the natural operation of economic forces.

Although it is important for the Commission to keep abreast of market developments so that it is able to effectively respond when necessary, our immediate regulatory concerns with respect to the two mergers involving brokerage firms are similar to those we would have with any major business combination. Relevant disclosure documents regarding these transactions, consisting of proxy material under the Securities Exchange Act of 1934 and a registration statement under the Securities Act of 1933, must be filed with the Commission and shareholder votes are required in both cases. The Commission will, of course, retain regulatory jurisdiction over the brokerage houses and, therefore, as with any broker-dealer, continued compliance with the securities laws and the regulations of the SEC and the self-regulatory organizations is mandated.

I thank you for this opportunity to present our views. Mr. Goldberg and I would be pleased to respond to any questions which the members of the Committee may have.

Appendix A

Non-Competitive Tenders for Treasury Bills (13 & 26 wk)
(in millions)

	Total of Bids Accepted	Total Non-Competitive Bids Accepted	Percentage Non-Competitive Bids of Total Bids	Average Discount Rate
12/79	$25,729.7	$3605.3	14.0%	11.96%
1/80	32,373.3	6133.9	18.9	11.94
2/80	25,938.1	4594.4	17.7	12.77
3/80	26,710.8	6950.0	26.0	15.31
4/80	27,772.9	7502.0	27.0	13.81
5/80	35,096.3	5408.1	15.4	9.25
6/80	28,103.6	3298.3	11.7	7.11
7/80	40,072.8	8544.7	21.3	8.11
8/80	36,113.3	4546.1	12.6	9.32
9/80	30,559.4	5939.1	19.4	10.43
10/80	39,260.0	8332.7	21.2	11.57
11/80	32,284.9	6680.4	20.7	13.76
12/80	33,207.5	5826.9	17.5	15.22
1/81	42,839.7	7414.3	17.3	14.30
4/81	32,604.1	7176.2	22.0	13.92

Sources: Treasury Bulletin Table PDO-2, various dates
The Wall Street Journal, April 7, 14, 21 & 28, 1981

Appendix B

Distribution of Money Market Fund (MMF) Assets
In Selected Types of Instruments
(in millions)

	Negotiable CD's at Banks With Assets of $750 M or More	Commercial Paper	Bankers Acceptances	Treasury Bills	Treasury Notes
12/31/79					
M M F holdings	$18,128 1/	$ 14,453	$4,845	$1,621	$4,020
Total outstanding	91,498	112,803	45,321	172,644	283,379
% M M F holdings of Total	19.8%	12.8%	10.7%	0.9%	1.4%
12/31/80					
M M F holdings	19,691	25,026	6,535	2,920	5,308
Total outstanding	116,374	125,068	54,744	216,104	321,634
% M M F holdings of Total	16.9%	20.0%	11.9%	1.4%	1.7%
03/31/81 2/					
M M F holdings	20,395	29,584	6,564	13,992	6,871
Total outstanding	114,208	127,957	54,465	235,315	336,505
% M M F of Total	17.9%	23.1%	12.1%	5.9%	2.0%

1/ Includes non-bank CD's, e.g. those issued by thrift institutions

2/ CD's as of 2/28/81; Commercial paper and Bankers Acceptances as of 1/31/81

Sources: Federal Reserve Bulletin, 2/80, Tables 1.30, 1.33 and 3/81, Tables 1.29, 1.32
Treasury Bulletin 1/80, 1/81, 4/81, Table FD-3
Trends in Mutual Fund Activity, Investment Company Institute