SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

May 20, 1975

Honorable Harrison A. Williams, Jr.
United States Senator
United States Senate
Washington, D. C. 20515

Dear Senator Williams:

This is in response to your letter, dated May 19, 1975, which was hand delivered to my Office this afternoon. In your letter, you indicate that you were "greatly disappointed" to read quotations attributed to "SEC sources" concerning the possible abolition of New York Stock Exchange Rule 394 as a result of changes in S. 249 apparently agreed to by the House-Senate conferees. You also suggest that statements attributed to Commissioner John Evans, to the effect that Rule 394 "will probably be eliminated one way or another by competition or the SEC," are "most ill-advised," and detract "from the atmosphere of judicious propriety and unbiased rule making which we all have the right to expect from an independent regulatory agency such as the SEC."

Your letter points out that, "[n]owhere in the legislation is there an absolute congressional mandate that the Commission repeal New York Stock Exchange Rule 394." You also suggest that the new legislative provisions dealing with that rule will necessitate "a fresh, unbiased Commission review of Rule 394."

As you no doubt are aware, New York Stock Exchange Rule 394, and similar rules in effect on other national securities exchanges, have been the subject of much study and comment, not only by the Commission, but by both Subcommittees in Congress that participated in the development of legislation now captioned S. 249. Indeed, the Subcommittee on Securities which you chair, as early as 1973, described New York Stock Exchange Rule 394 as a "major impediment to the development of a central market system," and recommended major changes in Rule 394. The House Subcommittee studying the securities markets reached even more forceful conclusions.

I am sorry if the comments of Mr. Evans and, perhaps, a member of our staff, are troublesome to you. The decisions the Commission will have to make in its review of Rule 394 are, as you aptly point out, quasi-legislative in nature and, for that reason, cannot be prejudiced by any individual's comments. In any event, we will bring as much objectivity and fairness to bear on our decision-making as we possibly can.

I cannot agree with you, however, that Mr. Evans's statements were "most ill-advised." In the statement attributed to him, Mr. Evans stated quite clearly that "[u]nder the legislation we

will take a fair objective look at 394." And I personally believe that it is useful for the industry and interested members of the public to gain an insight into the tentative and preliminary thinking of individual members of the Commission; Mr. Evans's statement serves just such a purpose. In any event, the advantage of a collegial body, such as the Commission, is that each Commissioner is entitled to form his own opinions and to state them if he deems that advisable . Whether or not I am inclined to agree with Commissioner Evans on the merits of Rule 394 at this juncture, I could not prevent him from expressing his views even if I wanted to do so.

I appreciate your advising me of your views concerning S. 249 and its effect on New York Stock Exchange Rule 394. You may be assured that, collectively, our decision upon review of Rule 394 will reflect "judicious propriety and unbiased rule making" in the best traditions of the Commission.

Sincerely,

Ray Garrett, Jr.
Chairman