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Address by Congressman John E. Moss

JOHN E. MOSS: For over twenty years, Congressman Moss has represented the Third Congressional District of California. He serves on the Interstate and Foreign Commerce Committee and the Government Operations Committee as well as on several subcommittees. He is chairman of the Subcommittee on Commerce and Finance of the Committee on Interstate and Foreign Commerce, which has legislative responsibility for securities matters in the House of Representatives. Mr. Moss also is chairman of the Foreign Operations and Government Information Subcommittee of the Government Operations Committee.

HON. JOHN E. MOSS: I think in a way that we are making excellent time in some directions, but we may be lost. I am not certain, in Bob Ackerman's words, whether I constitute part of that real world or part of the unreal portion of it. But I have the strong feeling, even after a day of congressional sessions, that the world in which I must live and work is very real, and very troubled, and very chaotic. We hope somehow that we are going to calm things down and bring order out of the troubles of the moment.

I welcome this opportunity to be with you today to take part in this "Symposium on Regional Stock Exchanges in a Central Market System." I have to quarrel somewhat with that title. The term "regional exchange" always has seemed somewhat parochial to me, since it is used to denote any stock exchange located outside of New York City, a very, very large region indeed. The Securities Exchange Act of 1934 makes no distinction between stock exchanges located in New York City and those located elsewhere, referring to them all as national securities exchanges. I like to view

the New York Stock Exchange as a national securities exchange located in an eastern region.

The term "central market system" is also troublesome in that, in some people's minds, it conjures up one single stock market. H.R. 5050 deliberately does not use that phrase, but instead uses "national market system," a term the Senate promptly joined us in using in S. 2519, their National Securities Market System Act of 1974. Indeed, the decision to use the phrase "national market system" is probably the only decision in the entire course of the committee's consideration of H.R. 5050 in which the sole dissenting member of my subcommittee and I agreed. While I can appreciate Don Farrar's preference for the phrase "central market system," since he coined it while director of the SEC's Institutional Investor Study, I am hoping to persuade him to change over to our formulation.

Whatever you call the system that is now evolving, it is certainly different from that which we have had to date. This symposium asks the question, "What will be the role of national securities exchanges located outside of New York in that evolving system?"

To answer that question, it might be helpful to look at the functions those exchanges have performed in the past, and those which they might perform in the future. In the past, those exchanges have provided a market for shares of companies located in the geographical area in which the exchanges are located. They also have provided a market for securities that were listed on other exchanges or that were subject to unlisted trading privileges. A third function they have performed of late is to provide a vehicle for avoiding the fixed minimum commission rate system.

H.R. 5050 will have an impact on those functions in two ways: (1) The legislation probably will include a provision to allow unlisted trading in securities, now traded in the over-the-counter market, as requested by the National and Midwest Stock exchanges. Although H.R. 5050 does not now contain such a provision, S. 2519 does, and I know of no member on the House side who objects to that provision, so long as such unlisted trading may not be used by an exchange to deny exchange members the right to make a market in the security or to execute transactions in that security otherwise than on an exchange. (2) H.R. 5050 will eliminate fixed rates on and after May 1, 1975.

To the extent that national securities exchanges have existed outside of New York as a means of avoiding fixed rates, that reason for their existence will disappear. Whether those exchanges can continue to survive in a competitive rate environment will depend, I believe, on prompt action by the SEC in implementing the national market system concept and in their ability to compete.

The consolidated transactional reporting system is now operating on a pilot basis and should be made permanent at the conclusion of the eighteen-week pilot phase without any further delay. That transactional reporting mechanism, as it is proposed to be structured, with one tape reporting all transactions in securities listed on the New York Stock Exchange, wherever executed, and the other tape reporting all other transactions, is certainly not ideal. But it is a beginning. Eventually, the information reported on those two tapes should be divided on the basis of equalizing the volume reported on each and not on the basis of the market center where the securities may be listed.

What needs to be done now is to get the composite quotation system in operation.

Commissioner John Evans delivered a speech to the Boston Stock Exchange in May of this year in which he said, "In my opinion, the composite quote system is essential to the survival of the regional exchanges in an era of competitive commission rates." He indicated his belief that the Securities and Exchange Commission would decide, "within the next two or three weeks," on how to proceed with its Rule 17a-14, which calls for the creation of the composite quotation system. However, it was not until three months later, in August of this year, that the commission published a revised Rule 17a-14 for comment. That rule has not yet been adopted in final form. That simply is too slow a pace. To the extent that the commission has been timid, because of questions raised concerning its authority to create a composite quotation system, those arguments will be laid to rest by the enactment of H.R. 5050. In addition, there are those who suggest that the SEC should take no action in this area until all other questions concerning the national market system have been resolved. The SEC has taken the position, however, that the system is evolutionary rather than revolutionary and that the commission should proceed in an orderly, step-by-step fashion, resolving questions as they arise. I believe this is the proper approach. The SEC should continue to push down the road that leads to the national market system. I think that their belief is shared by my colleagues in the House. We intend to follow the actions of the SEC closely to ensure that they continue to move in that direction.

Prompt action by the SEC will ensure that a mechanism exists by which all exchanges can compete with each other and with persons who make markets in listed securities in over-the-counter markets. It will then be up to each to use its abilities and ingenuity to compete successfully. With respect to the exchanges that are the subject of this symposium, if they can make markets that are equal to or better than their competitors, they should be able to attract business to their particular exchange.

It would seem to me that the first priority of such exchanges would be to increase the amount of capital on their floor. Some of them have taken steps in

that direction by bringing to their floor firms experienced in making markets in listed securities in the over-the-counter market, or by bringing to the floor, as specialists, institutions such as insurance companies. In addition to increasing the amount of capital on the floor, they may be able to attract business by being a marketplace for a different or unique kind of security, such as options. I expect creative minds can devise other ways to attract business. For example, I have recently received a copy of a brochure put out by the Midwest Stock Exchange concerning their "quote and trade network," which is clearly designed to induce investors to think about and use the Midwest Stock Exchange as a central component of the national market system.

National securities exchanges located outside of New York may also be able to attract business based on services they offer in the clearance and settlement area. H.R. 5050 directs the creation of a national clearance and settlement system. The purpose of that system is to allow brokers to perform the clearance and settlement function in the geographic area in which they are located rather than shipping certificates and money back and forth across the continent. Stock exchanges and their affiliated clearing corporations and securities depositories are a logical focal point for the performance of the clearing function. It has been suggested that what is needed is one entity to perform all clearance and settlement. But what the Congress envisions, I believe, is one *system*, not one *entity*, performing the clearing and settlement function. Many of the innovations and improvements in clearance and settlement have come about because there are competing entities that perform this service. Our committee believes strongly in competition, and sees a national system under the direction of the Securities and Exchange Commission which will have within it many competing entities.

While your program does not address the question of the role of the stock exchange as a regulatory organization in the national market system, I will exercise my prerogative and briefly mention that topic. There is unnecessary duplication of regulation in the securities industry. The subcommittee continuously hears from your members that they are visited one week by one exchange examiner, the next week by another exchange examiner, the next by the NASD examiner, and finally by the SEC examiner. Your members point out that in addition to causing disruption to their business, they are paying the costs of all those examinations. H.R. 5050 authorizes the SEC to allocate the regulatory responsibility with respect to persons that belong to more than one securities regulatory organization. Thus, the commission could allocate to the exchanges the regulation of exchange facilities, and allocate to the NASD the remaining regulatory responsibility. This might prove to be a more logical and less costly form of regulation than now exists.

The time ahead is certainly one of challenge. My subcommittee and its staff stand ready to assist you in any way we can in meeting this challenge. I have confidence in your ability, as competitors, to weather the challenge and to

help forge a strong secondary market for equity securities within the United States.

And now I want to say a few words about the current spate of activity in Washington, D.C., by the Securities Industries Association and others who are at this moment deeply committed to trying to kill H.R. 5050. Rarely have I seen such shortsightedness exhibited by a responsible group as that displayed by this effort now under way. And I intend to serve notice that I am doing everything I can to counter that, and I intend not to go down without a vigorous battle, and I am not unarmed in that battle. I hear rumors, which I cannot believe and will not believe, that this effort is also being joined by the New York Stock Exchange. I have the solemn word of the chairman of the board of the New York Stock Exchange that while they will fight for changes in the law, they will not fight to keep it from being considered in this Congress. And I accept that word as the bond of a gentleman I have known for a long time.

Let me tell you what might happen should this bill not be enacted this year. There are ninety-two new members in Congress. The Congress, for the first time, will start on December 2 to organize the new Congress. We are not going to be tied up for endless months while we organize and get under way. No, we will be ready to move along about the fifteenth day of January toward legislating. There have been extensive hearings on this legislation. No person in this room, and no person in the securities industry, can say they were denied an opportunity to have their views considered and considered with great and reflective care. If this effort of four years should be stopped in this Congress, I can assure you, it will be reintroduced promptly in the next one. And some of the compromises which I have agreed to, and which my colleagues have agreed to, in order to effect the fine tuning and balance that is contained in this legislation, we might not be as ready or willing to make at that time. There will be a different band of troops, and they might well decide to march to a different tune. To those intent upon stopping this, I say stop and think, and think carefully. You might buy a few months and you might reap a whirlwind of a type not wanted. The committee is not going to lose interest. The SEC is not going to lose interest. The Treasury is not going to lose interest. No, and neither is Justice going to lose interest. I think it is time that we go ahead with what reflects careful, responsible compromise. The number of the bill H.R. 5050 reflects the spirit contained in the legislation itself.