Submitted Statement of Thomas J. Cavalier
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Butler, Wick and Co., Inc.
on behalf of the
Securities Industry Association

Before the
Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises of the House Financial Services Committee

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Chairman Baker, Representative Kanjorski and Members of the Subcommittee, I am Thomas Cavalier, Chairman, President and CEO of Butler, Wick and Co., Inc., a full service securities firm including trust and asset management services located in Youngstown, Ohio. I also serve on the Board of Directors of the Securities Industry Association ("SIA")[1]. I am submitting this statement on behalf of SIA and we appreciate this opportunity to present our views concerning Securities and Exchange Commission fees.

We believe it is critical that Congress examine the issue of Securities and Exchange Commission (SEC) fees because the facts and assumptions on which enactment of the current statutory fee structure was based have changed. Fees that were developed several years ago to fund the cost of regulating the securities markets now seriously exceed the government's cost of regulation to

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[1] The Securities Industry Association brings together the shared interests of more than 740 securities firms to accomplish common goals. SIA member-firms (including investment banks, broker-dealers, and mutual fund companies) are active in all U.S. and foreign markets and in all phases of corporate and public finance. The U.S. securities industry manages the accounts of approximately 50-million investors directly and tens of millions of investors indirectly through corporate, thrift, and pension plans. The industry generates in excess of $300 billion of revenues yearly in the U.S. economy and employs approximately 700,000 individuals.

such a degree that they constitute a drag on capital formation, and a special burden on every American investor.

RELIEF FOR INVESTORS

The U.S. securities markets serve as a strong engine for economic growth and job creation. The securities industry furnishes the seed capital for start-up companies, provides the liquidity that is essential to bringing investors into the market, harnesses investment for growth and expansion for the economy, and creates savings and investment vehicles for millions of Americans. Today, almost fifty percent of U.S. households own stock, directly or indirectly. By the end of this year, the number of individuals who own stock is likely to exceed 80 million.

In FY 2000 SEC fee collections exceeded $2.2 billion, $1.89 billion more than the $377 million SEC appropriation for FY 2000. That is more than six times the Commission's funding level. Fee collections are projected to exceed SEC appropriations by more than $2 billion in FY 2001. In fact, fee collections are projected to exceed the cost to run the commission by more than $2 billion for each year through FY 2005. If the current statutory fee collection continues American investors will shoulder the burden of more than $15 billion in these fees over the next five years. We do not believe it is in the interest of investors — or, the nation's capital markets — for these fees to so grossly surpass the regulatory costs incurred. These transaction fees drain capital from the private markets —

removing it at the very start of the capital-raising process — and divert it into the U.S. Treasury.

Why should the general public care? Aren't these fees being paid by Wall Street? Generally not. When brokerages charge an investor for selling shares, they generally pass on the SEC fees to the customers in transaction costs. In fact, most securities confirmations include a separate line item for the SEC transaction fee. Once this fee is reduced, investors will be able to see the savings immediately. The individual investor, not the broker, is paying the vast bulk of the transaction fees either directly or indirectly.

We know that our markets have been made better, and fairer, by the presence of a strong and effective Securities and Exchange Commission. And, because it is in our interest — and, more importantly, in the public interest — to have an effective SEC, SIA has always strongly supported full funding for the agency so that it can carry out its important investor protection mission. In the past, SIA has supported full funding for the SEC even at times when budget freezes and budget cuts were being pressed on all federal agencies. Any legislative proposal to reduce the excess fees charged to investors, the industry, and issuers should insure adequate funding for the SEC to carry out its important investor protection mandate.

BACKGROUND

Five years ago, the industry was asked to “step up to the plate” and pay additional fees in order to help Congress move to a more reliable funding mechanism for the SEC. We agreed to do so because we believed it was in the long-term interests of the securities markets. The fee structure adopted as part of the National Securities Markets Improvement Act of 1996 (“NSMIA”) for the first time assessed transaction fees on the Nasdaq markets. This provision was intended to establish parity between the fees assessed on exchange and Nasdaq markets. While it was expected that, as a result of these changes, the fees paid by investors and the industry would increase in the near term, the ultimate goal of NSMIA's fee provisions was to bring fees collected by the SEC more in line with the actual cost of running the agency.

At the time these provisions were enacted, no one anticipated the explosion of market activity that has taken place over the past several years and continues today. In particular, no one could have predicted the phenomenal influence that online investors would have on the equity markets.

Since the enactment of NSMIA in 1996, SEC appropriations have risen in an effort to give the SEC sufficient resources to oversee the markets and enforce the federal securities laws. However, the increase in transaction and other fees paid by investors, issuers, and the industry has far exceeded the increase in the cost of running the SEC. The following chart sets forth the fees collected by the SEC during fiscal years 1996-2000 and estimated fees to be collected during fiscal years 2001-2005 (including Section 6(b) fees, Section 31 fees, and other fees), compared with the amounts appropriated or requested to be appropriated to the SEC during these years (dollar amounts in millions):

Year	§6(b)	§31	Other	Total	SEC Budget
1996	$575	$134	$65	$774	$297.4
1997	653	274	63	990	305.4
1998	1,034	632	114	1,780	311.1
1999	941	668	148	1,759	338.9
2000	1102	1090	78	2270	377.0
2001*	1,024	1370	84	2478	422.8
2002*	980	1627	89	2696	—
2003*	953	1887	93	2933	—
2004*	912	2284	97	3293	—
2005*	958	2717	99	3774	—

* CBO estimate

In addition to our concerns about these fees as a drag on investment, we are concerned about the potential for these fees to jeopardize market liquidity. Although transaction volume and market valuations have increased, market maker and specialist revenue on these transactions has declined as a result of lower margins and technology investment to handle the ever-increasing volumes. The Section 31 transaction fee thus comprise an increasing share of gross trading revenues, even though the rate of the fee has remained constant. If left uncorrected, these fees will have a significant effect on the ability of market makers and specialists to commit capital to the market. We believe that our equity markets — much admired and envied throughout the world — would operate much less efficiently in the absence of market maker and specialist liquidity.

UNINTENDED RESULTS

This result certainly was not intended by Congress. When Congress adopted NSMIA's fee provisions, its intent was clear. The language of Section 6(b) states that the registration fees to be collected by the SEC under that section "are designed to recover the costs to the government of the securities registration process, and costs related to such process . . . ."[2] Similarly, the language of Section 31 states that the transaction fees to be collected by the SEC "are designed to recover the costs to the government of the supervision and regulation of securities markets and securities professionals and costs related to such supervision and regulation . . . ."[3] Unfortunately, the fees have far exceeded the cost of regulation. They divert resources which could be used more productively elsewhere in our economy; and they discourage capital investments in technology that could be used to make our equity markets more efficient and attractive to investors. This is real capital that could be used to fund new businesses, to build plants, to create jobs, and to add to the national wealth.

Furthermore, the transaction fee structure creates an uneven playing field. Congress expressly stated that extending the transaction fees to Nasdaq securities was intended to “provide more equal treatment of these organized

[2] Securities Act of 1933, Section 6(b)(1)
[3] Securities Exchange Act of 1934, Section 31(a)

markets, which are overseen by the Commission." However, when Congress extended the SEC transaction fees to Nasdaq trades, it failed to take into account the structure of the Nasdaq market. In the Nasdaq market, dealers frequently must trade as principals to maintain orderly markets and to provide liquidity to customers on demand. Although many of these dealer-to-dealer trades are being effectuated ultimately to fill a customer order, they are nevertheless subject to multiple fee assessments.

SEC PAY PARTIY

The SEC is losing top staff at an alarming rate to the private sector, as well as to other financial regulatory agencies that can offer better pay. Experienced and well-qualified regulators are critical to the long-term stability of our financial markets. By bringing SEC pay in line with other agencies, such as the Federal Reserve Board and the FDIC, we can be certain that talented professionals will continue to offer their skills and experience to the SEC. The SEC must be able to recruit and retain the best-qualified regulators this can be achieved by creating pay parity between the SEC and Federal financial regulators.

CONCLUSION

There may be some who believe that since the U.S. stock market has recently had a number of record years, investors, market makers, specialists and other market participants somehow can, or should, pay these fees. We have demonstrated that we are more than willing to pay the fair cost associated with regulation. But, it simply is not right to charge investors, issuers, and other market participants six times the cost of regulation. At a minimum, a burden of this size, with its potential to adversely affect the structure of the capital markets, should not be imposed inadvertently because of changed circumstances.

The securities industry is faced with a number of challenges currently and in the near future: converting and expanding quote capacity to accommodate decimalization; further reducing settlement time to T+1; ensuring that investors and issuers benefit from the explosion in technology and electronic commerce; and, meeting the competitive challenges of globalization. All of these challenges have required, and will continue to require, significant financial investment on our part, as well as the time and efforts of our most talented industry professionals. We intend to meet these challenges to maintain and enhance the international preeminence of our capital markets, to help fund the continued growth of the U.S. economy, and to ensure that investors and issuers have even more opportunities in the new century.

We appreciate the Subcommittee's recognition of the disparity between the fair cost of regulation and the costly burden of SEC fees. Legislation is needed to better align the amount of fees collected with the cost of regulation while ensuring the Commission has adequate funding. SIA has already publicly supported fee reduction legislation introduced by Senators Gramm and Schumer, S. 143, that contains pay parity for the SEC and preserves fee revenues from Nasdaq transactions as offsetting collections up to the latest CBO baseline numbers. S. 143 was unanimously approved by the Senate Banking Committee last week. We have confidence that Congress, once it reviews the facts, will make a decision that is in the interest of millions of investors. We are committed to working with you and this Committee to find such a solution.