MEMORANDUM

To: File Nos. S7-07-18, S7-08-18, S7-09-18

From: Division of Investment Management, Division of Trading and Markets

Re: Roundtable on September 20, 2018 Regarding Standards of Conduct for Investment Professionals

Date: October 30, 2018

On September 20, 2018, a roundtable at the Reginald F. Lewis Museum in Baltimore, MD was held. Approximately 50 individuals attended. The roundtable was intended to gather information from retail investors who will be directly impacted by the Commission’s rulemaking regarding standards of conduct for investment professionals.

Attached is the entire transcript of the Baltimore, MD roundtable discussions. The discussions at the roundtable were intended to be conversational, and the Chairman, Commissioners, and SEC staff provided summary descriptions of the Commission rulemakings. To the extent that any descriptions contained in the transcript deviate from the Commission’s proposed rule text and rulemaking releases, such descriptions do not supersede the proposed rule text and releases. In this regard, see proposed Form CRS Relationship Summary, Regulation Best Interest, and Interpretation.
THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISER/Broker-Dealer Roundtable

Your Relationship with Your Financial Professional and the Newly Proposed Best Interest Rule

Thursday, September 20, 2018

6:00 p.m.

Reginald F. Lewis Museum
Baltimore, Maryland
PARTICIPANTS:

COMMISSION PARTICIPANTS:

Jay Clayton, Chairman
Kara Stein, Commissioner
Robert Jackson, Commissioner
Elad Roisman, Commissioner
Lori Sockey, Director, SEC Office of Investor Education and Advocacy
Sarah ten Siethoff, Associate Director, SEC Division of Investment Management Rulemaking Office
Lourdes Gonzalez, Assistant Chief Counsel for Sales Practices, SEC Division of Trading and Markets

AUDIENCE PARTICIPANTS:

Audience Participant 1
Audience Participant 2
Audience Participant 3
Audience Participant 4
Audience Participant 5
Audience Participant 6
Audience Participant 7

AUDIENCE PARTICIPANTS(CONT.):

Audience Participant 8
Audience Participant 9
Audience Participant 10
Audience Participant 11
Audience Participant 12
Audience Participant 13
Audience Participant 14
Audience Participant 15
Audience Participant 16
Audience Participant 17
Audience Participant 18
Audience Participant 19
Audience Participant 20
Audience Participant 21
Audience Participant 22
Audience Participant 23
Audience Participant 24
Audience Participant 25

PARTICIPANTS(CONT.):

AUDIENCE PARTICIPANTS(CONT.):

Audience Participant 30
Audience Participant 31
Audience Participant 32
Audience Participant 33
Audience Participant 34
Audience Participant 35
Audience Participant 36
Audience Participant 37
Audience Participant 38
Audience Participant 39
Audience Participant 40
Audience Participant 41
Audience Participant 42
Audience Participant 43
Audience Participant 44
Audience Participant 45
Audience Participant 46
Audience Participant 47
Audience Participant 48
Audience Participant 49
Audience Participant 50

CONTENTS

PAGE

Welcome and Opening Remarks 6
Roundtable Discussion 14
Closing Remarks 61
ROUND TABLE HERE, AS ONE OF THE KEY VALUES OF THE CENTER IS
REGINALD F. LEWIS MUSEUM OF AFRICAN AMERICAN HISTORY AND
YOURSELVES.

I CONDUCT THAT INVESTMENT PROFESSIONALS OWE TO INVESTORS LIKE
TALK TO US ABOUT A VERY IMPORTANT ISSUE, THE STANDARD OF

AND I JUST WANTED TO SAY A LOT OF YOU I KNOW HAVE HAD A FULL DAY
WORKING HARD AT THIS AND I HOPE WE CAN ULTIMATELY SETTLE ON
WHAT YOU'RE PAYING FOR, JUST LIKE WHEN YOU'RE BUYING A
GALLON OF MILK?

SO I'M GLAD THAT OUR CHAIR, CHAIRMAN CLAYTON, IS
WORKING HARD AT THIS AND I HOPE WE CAN ULTIMATELY SETTLE ON
A SMART RULE THAT MAKES SENSE, FIRST AND FOREMOST, FOR YOU
AS INVESTORS. AND THAT'S WHAT WE NEED FROM YOU.

CHAIRMAN CLAYTON: Thank you. And, Lori, why
don't we start with you?

MS. SHOCK: I'm Lori Schock. I am the Director of
the Office of Investor Education and Advocacy. In addition
to maintaining a national outreach program for investor
education, we also have an Office of Investor Assistance.
So complaints and questions, give us a call, send us an
e-mail, we'll take your complaint or question any which way
you want to send it to us.

And we're happy to be here and talk about this
rulemaking, because it does impact investors. And I
appreciate you all taking the time to be here as well.

I do have one housekeeping issue. And that is, we
are not using mics, so please speak up. Also, this is
recorded, so we have a court reporter who is taking people's
comments and all. We will not attribute; that's why you
don't have last names on your tag cards. But we really do
want to have this and have this on the record. Thank you.

MS. GONZALEZ: I'm Lourdes Gonzalez. I have been
working on sales practice issues related to broker-dealers
for a long time. And we just want to make sure that what
we're proposing or the Commission is proposing is right or
how it can be improved upon.

MS. ten SIETHOFF: I'm Sarah ten Siethoff. I'm an
Associate Director in the Division of Investment Management.
And Lourdes and I spent a lot of time working on this
project together, including on this document that you have
in front of you.

This is a sample document for a form of a
relationship summary, that we put out as part of this
proposal for people to get a sense. This is something
that's supposed to be for you, to help you figure out what
kind of financial professional you want to use. So
hopefully we will hear a lot of good feedback from you
tonight on how we can make this better. Thanks.

CHAIRMAN CLAYTON: Great, thank you all.

Okay, let me get some preliminaries, then we will
got to you guys. So first rule of the road for tonight, if
you hear legal jargon and you say, 'Hey, I don't know what
that means,' raise your hand. Because it's our job to try
and explain that to you. And that's also a theme here. We
want to -- we want to produce a product when we write a rule
that puts you in a position where you don't get legal jargon
but you get information that makes sense.

To other legal points, this is an official meeting
of the Commission under our rules and regulations. That
means it's an open meeting. Lori referred to that. It's
being recorded. We are going to try and protect your last
names, so we use first names, but we have to record it. If
you don't want to have something be on the record, I suggest
you just be an observer. But we welcome your participation.

They have obligations to service you. They can't put their
interests in front of you. They have to do due diligence.
They have to be capable of offering the advice. A number of
factors like that. And I don't think anyone up here thinks
the standard that applies today at law is where it should
be. One part of this.

Second part of it is, when you talk to them, when
you go and meet with an investment professional,
particularly in the first instance, say you're retiring and
you have a 403(b) or a 401(k) and now you're going to be
responsible for that investment and you say, 'I want some
help.' When you go to that person, they need to explain to
you who they are, how they are compensated, what obligations
they owe you. Right now, they kind of have to do that, but
we don't feel -- at least I don't feel -- and again I'm
speaking for myself here -- I don't feel that that
conversation is required to take place in as clear and
candid a way as it should. So that's the second part of it.

The third part of it is we have investment
advisers. And there's a lot of law around investment
advisers; and we're trying to clarify what the Commission's
view on that law is. Investment advisers are described as
having a fiduciary duty to their clients. That's a very
simple term. It's actually somewhat complicated, what it
means, in practice. And we're trying to explain that to the
I guess the problem that I really saw was there was a lot of advisers. I know the distinctions between these two very well. I've mentioned about education is, I saw from previous meetings in Denver, people advocate education with the investors. I say education, proper education with the finance professionals who actually are sticking these things in people's portfolios saying, hey, look, how much Google has risen. That rise comes from the exchange of money between investors; that does not come from Google, Google dividends, because they don't pay dividends.

You look ready to tell us, which leads me to believe it might be bad. (Laughter.)

AUDIENCE PARTICIPANT: I'll tell you, I actually worked in finance for over 10 years, hedge funds and also traded, and also worked for a bank. I left the industry because it was actually bad, but really more for the investors we served. And the problem I saw, and why I left the industry was, from a fundamental level, I read the transcripts from before about the education and communications and conducts of advisers. I know the distinctions between these two very well. I guess the problem that I really saw was there was no real way we could actually deliver what we were promising. Mainly because a lot of the stocks out there, Google, Amazon, Tesla, they have no monetary connection to the company.

I know the textbooks call it an equity instrument, but the reality is, these things do not have a monetary connection to the company. They never pay dividends. They never share profits with investors. The textbooks call it an equity instrument but, logically speaking, how can it be an equity instrument if a company never pays these investors, right?

So from a probabilistic standpoint -- because at the end of the day, investors invest to make money. They don't actually want to hold Google stocks forever and just enjoy the number rise and fall; they've got to get their money back. And if investors are ultimately contributing all the money and the only way they can -- the only foreseeable way they can get their money back is by selling it to another investor, that's a not a positive sum situation, I guess you could say.

And I just want to --

CHAIRMAN CLAYTON: I didn't know we were having finance class --

(Laughter.)

CHAIRMAN CLAYTON: I've got Jackson here, so I'm okay.

AUDIENCE PARTICIPANT: I just want an opinion about this, because I don't -- I don't want you to feel pressure to give me a definitive answer, because this catches a lot of academics off guard. One of the big parts I mentioned about education is, I saw from previous meetings in Denver, people advocate education with the investors. I say education, proper education with the finance professionals who actually are sticking these things in people's portfolios saying, hey, look, how much Google has risen. That rise comes from the exchange of money between investors; that does not come from Google, Google dividends, because they don't pay dividends.

And I just want to ask an opinion. I don't need a definitive answer. Because this catches a lot of people off guard. So that's all.

CHAIRMAN CLAYTON: Okay, you caught me off guard.

(Laughter.)

CHAIRMAN CLAYTON: So look, I'm not going to spend too much time on this.

What [Audience Participant] is saying is, you know, [Audience Participant] is making a point about non-dividend-paying stocks and stocks that rise in value because people think the company is growing and is going to pay. He's also saying that when you buy a stock, you're planning on selling it someday.

AUDIENCE PARTICIPANT: Correct.

CHAIRMAN CLAYTON: And when a stock doesn't pay a dividend, or an instrument doesn't give a return in cash, what you really are hoping for is somebody who believes it's worth more than you do at the time you're selling it.

AUDIENCE PARTICIPANT: Yes.

CHAIRMAN CLAYTON: That's part of investing. I'm not going to get into the sort of thing -- but a point we've heard from every one of these roundtables we've attended is that we're not educating our investors early enough. We're not educating people in high school and college. And that is coupled with the fact that we're all living longer, God willing, and more responsible for our own retirements. And, you know, we're not the Department of Education. But we get it.

Part of what I've learned and I think part of what my colleagues have learned from this, Lori is in the business of investor education, is we can't do enough of it. But I'm going to hold off on more esoteric discussions of intrinsic value.

AUDIENCE PARTICIPANT: I've thought deeply about that, too. But I was only going to add that really the missed education I see is not really on your end, it's actually the professors. I've talked to finance professors,
including CNBC. They say, oh, look how much money you --
that's not money. That is an imaginary value that comes
from the exchange of money, which is fundamentally different
from traceable money people can hide under their mattresses.
So this is -- the real missed education, missed
communication is at the academic and media level, who keep
saying, oh, look at you, you tweeted this, Elon, and now you
just made $2 billion. He didn't make $2 billion. $2
billion doesn't appear out of nowhere. It's a finite thing,
where we have measure and loads and --
CHAIRMAN CLAYTON: A famous investor said, don't
congratulate me for buying a company, congratulate me for
selling it.
Who wants to talk about their experience and how
we could improve it?
AUDIENCE PARTICIPANT: I will. But I'm afraid I'm
going to look like an idiot if I describe it. But I just
wanted to say, last year I retired from Hopkins and I was in
a 403 program. And when I retired, all of a sudden --
you're going to figure out how old I am, too -- all of a
sudden, there's the requirement of a distribution there.
And then I had to decide what to do with all this -- not all
this, but some money that was coming in.
And I started looking at counselors and I didn't
realize how complicated the whole process was. I didn't
realize there were two different levels and all this. And I
eventually figured it out and I figured, why couldn't
everybody have the best interests at heart? Why couldn't it
all be the fiduciary standard?
And, I mean, that's what we assume anyway. We
assume everybody there has the best -- it's like a doctor or
a lawyer. You assume when you go to a financial person,
they have your best interest at heart. And I was kind of
surprised that didn't happen. Because now, as you know, as
you just alluded to, more and more people are using those
different mechanisms and there's more money available than
we've had before.
My father had a pension so he didn't have those
kind of decisions. I had to make these decisions and my
family. And I just wanted to know I had the best person
available for that.
And that's why I really appreciate you having this
hearing, by the way.
CHAIRMAN CLAYTON: Let me say, and I don't want to
monopolize the conversation here, we've got lots of smart
people here. But I fundamentally believe that a person in
your position who is going out and seeking advice on a
significant life event like rolling over their 403(b) or
rolling over their 401(k), it's reasonable for you to expect
that that person is not -- how do I say -- they're not
trying to skin you. Or that you're not sitting on an even
playing field where you have to, you know, watch your wallet
the whole time.
You want to know that they have an obligation not
to put their interests ahead of yours. And that's clear to
me. And that wasn't -- that may not be the way the law is
today, which you researched and found out. And that's where
I am. In that conversation, that person can't put their
interests ahead of yours.
But I want to let my -- I will say one more thing.
I think that point is critical in our society. Because it's
a lot of money. It's all the money you had from, you know,
retirement savings when you left your job. That's a pretty
critical point for us to regulate.
AUDIENCE PARTICIPANT: Can I add one quick point
to that? I was in the Maryland legislature, and we always
got bills on making sure financial information was included
in classrooms. We found that most kids can't balance a
checkbook when they graduate from high school. So financial
literacy is a real issue for us, too.
CHAIRMAN CLAYTON: I was helping and failing my
kids with their algebra homework just Sunday afternoon.
Well, I obviously failed your test. But I was shocked that
there were no financial problems. You know, none of the
problems had to deal with balancing your checkbook or
whatnot.

But let me -- there's a lot that you've said that
I want to give my colleagues to react to if they want to.
Or we can move on.
COMMISSIONER STEIN: This is a big topic. I mean,
at the end of the day, I think we're trying to figure out
maybe how we can change the law. Right? It might be asking
Congress to change the law or writing our rules differently.
I think from my perspective, you should be able to
trust that adviser and you should know that they're not
directing you to a certain investment because they're going
to make more money, you know, off of directing you to that
investment. So I am pretty clear about where I am on that.
I think if any of you in the room have had an
experience where if you only had a certain piece of
information or you had understood the role of that adviser
better, would it have made a difference?
AUDIENCE PARTICIPANT: So I have a 401(k) and a
403(b) from -- that I worked 26 years and put money in. And
I worked for the government. And so when I left there,
seven years ago, I called that plan and I said, you know,
"Tell me what you think I should do with it, because I'm at
another job and I'll be putting money in and getting 401(k)
and 403(b) with another company." And they said, "Oh, just
leave it here.
You know, I didn't know what to ask. Just leave it here. And so not that that wasn't the best possible solution, but they didn't give me like any data to say, well, this is why you should leave it here. Or if you did X, you might get something, you know, 10 years from now when you know, I'm 58 years old. When I left there, I was 52 or 51. And, you know, now I'm looking at 70, you know, straight down the barrel. And, you know, I don't know if I made the best choice by leaving it there. It's very complicated.

I did look at your form. And not that these folks needed disciplinary action but I was like curious about the question 8. You want us to ask them, do you or your firm have a disciplinary history for what type of conduct? I mean, how -- why should they tell me that and is there a list that I can call?

CHAIRMAN CLAYTON: Very good question. Yes. The answer -- so we have lots of tools. We need people to get to them more. But let me flip it over to Lori on some of the tools we have to help you.

MS. SHOCK: Investor.gov. That's the -- everyone has a smartphone here. Put in investor.gov. You can do a background check. And, [Audience Participant], I hope you did a background check when you went with your financial person.

AUDIENCE PARTICIPANT: I will now.

COMMISSIONER JACKSON: You said something I want to point out, which I think is very important. You said, why should they tell me if they have a bad disciplinary history? They're not allowed to lie to you when they pitch you investment advice. And that's one of the important things about getting questions and putting it on the table for these guys. That's why we're trying to get you to ask the questions. Because once you ask them, they can't lie to you in connection with taking your money.

And you are entitled to answers to all of these questions, and many more, by the way. Which is why Lori's right, to go to investor.gov. They have a whole worksheet there of things you're entitled to ask and get answers to, and you should feel comfortable asking those questions. You're entitled to the answers.

AUDIENCE PARTICIPANT: I will just say that I tried to read the rule. It was over 400 pages long. I was going to print it and bring it and sit it there. So, I mean, this is very complicated stuff. Just want you to know.

AUDIENCE PARTICIPANT: I have a question about the database.

CHAIRMAN CLAYTON: If you wait, we'll come back to you.

AUDIENCE PARTICIPANT: Okay.

AUDIENCE PARTICIPANT: I'd like to ask the Commissioners, how informative is the securities arbitration process that deals with concrete cases? How informative is that to your rulemaking process, or to your enforcement actions? I think there are some serious glitches that it's not informative. It will not produce enforcement actions when it should because of the way the -- the courts defer to the arbitrator's award. You don't have to have a reason to award. And the best source of information as to how the law and the practices of a broker-dealer or investment adviser...
have on the -- the impact it has on the individual customer
or client is in the concrete case, in the dispute.

So I would like to know, is the Commission looking
at that? Is the Commission trying to open up that avenue of
education for itself?

CHAIRMAN CLAYTON: I'm going to go to Lourdes in a
minute, but I just want to repeat what is a terrific
question. Because words are fine. Like, we can write a
bunch of words. What do they mean in practice? And what we
are trying to do, and it's a great point, is what are the
types of harm that we're trying to prevent?

And what you're saying is, if we knew more about
arbitration cases where people have been wronged, we could
write a better rule. Correct.

Two other areas we're looking at is we have people
who inspect investment advisers, and FINRA has people who
inspect broker-dealers. Trying to arm them with better
tools to inspect for bad behavior is also part of our
rulemaking.

But with that, Lourdes, let me have you respond
directly to the question.

MS. GONZALEZ: So one of the things that we do at
the SEC is we approve the arbitration rules that FINRA
dispute resolution has. We also -- and that's a long
process. It isn't like they file a rule with us and we just
approve it and that's the end of it. You know, we've had
some rules where we've worked with them for years, frankly,
before the rule was approved.

We also review the complaints. So if somebody has
been in arbitration and they don't like the outcome, they
may complain to the SEC. And eventually it will make it to
the -- it goes to the exam folks; eventually it makes it to
my desk or to Lori's group. Makes it to my desk, and we
review it. And really, for programmatic reasons, is the
arbitration system working?

We also meet with the industry a couple times a
year. Petitioners on both sides of arbitration will go to
New York or they will come down to D.C., and we talk to them
about the arbitration program. And so we have -- and we
oversee, most importantly, the FINRA arbitration process.
So examiners will go in there, they will review, you know, a
particular aspect of arbitration, and then they will come to
us in the Division and we'll have a conversation. We'll
review the exam report; we will have a conversation about if
it's working or not.

We have a pretty good sense of the cases in
arbitration that are going through arbitration because of
our interaction with FINRA. We also have quarterly
complaint calls with the SROs, with FINRA and the exchanges,
to find out what the complaints are that are coming in,
because brokers have to report on the complaints that they
receive. So we get aggregate data. We can see spikes in
complaints or the nature of complaints or, you know, a
product, a firm, et cetera.

AUDIENCE PARTICIPANT: I hope you're going to look
at the complaint that I made yesterday to the Commission,
which was an egregious case of a broker working himself into
an inheritance of an estate, where the 78-year-old woman
with no spouse or children had dementia and there was a
failure -- and we have been trying to communicate with
FINRA, the Maryland insurance and securities people and the
SEC for over a year. And there was absolutely no
involvement.

I also think, as a former staffer, when I was on
the Staff way back when, when an individual customer came
in, when an investor was vulnerable, there was an immediate
rush to try to get to the bottom of it, to find out, to deal
with the individual customer. I don't see that in the Staff
today, I don't see that in the state securities regulators.
And I also think there has to be better communication
between the different regulators.

In our case, the arbitration panel said that there
was a serious failure of compliance and supervision, but
they did nothing about it. And then the Maryland regulator
said, oh, you had a full opportunity to litigate. So one
passed off on the other. Nothing got done.

And there has to be better communication and
coordination between the different regulators. And there
has to be a better emphasis on, when an individual investor
comes in, the most important thing is to listen to that
investor and to get to the bottom of his case and his story.

CHAIRMAN CLAYTON: So let me respond to a couple
things. Because I agree with a lot of what you're saying.
So no law or rule or whatever we're doing here is good
unless you can enforce it, right? Again, it's just words on
a page unless you enforce it. And if somebody doesn't
follow what they're supposed to do, if somebody takes
advantage of someone who is, you know, not -- no longer has
their faculties, we should be able to catch them. We have
to catch them. It's not just can we; we should.

So in that regard, we've actually recognized that.
We formed a retail strategy task force recently at the SEC
to go after more of these cases. We also recognize, and
Lori's group is on this, that our investor base has changed.
The demographics are such that we have more older
investors, who are more susceptible to these types of
situations. Sometimes, government is slow to change, but we
recognize this. And I think you're -- that's why we're
here. You're right to say, "Hey, you guys have got to do a
better job in this area."
to very clear about exactly what we expect from these
finance professionals in order to change the cultural issues
you're describing. I certainly agree with you.

CHAIRMAN CLAYTON: Let me -- I'm going to segue
Commissioner Jackson's comment with a little bit of filling
it in. I think there are some places we can be clear, and
there are some places you have to have principles. I think
that's -- that's how I view the world. You can't have a
5,000-page rulebook where you have to do this in that
situation.

One of the areas that it's now clear to me,
talking to people like you, that we should say, "You can't
do that" -- and again, I'm only speaking for myself -- "You
can't do that" -- are high-pressure sales contests.

Somebody is calling you. You just left, you know, you're
rolling over your 401(k), and they say, "You've got to get
into this," you know. And what's behind that is, if they
give you into it by September 30, they get a big bonus.

I don't think you can have that kind of
compensation structure and easily say you're putting, you
know -- you're not putting your interests ahead of the
clients'. And so for me, high-pressure, product-specific
sales contests are something we can specifically say, not so
much.

But if there's other activity that you've

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AUDIENCE PARTICIPANT: May I comment just briefly
on your fiduciary duty standard?

CHAIRMAN CLAYTON: I think you have a right to do
that.

AUDIENCE PARTICIPANT: Well, thank you. And I
view it as a privilege and an opportunity to be here, and I
applaud your work as a former staffer to continue a
wonderful tradition of the Commission for many, many years.

I don't think the best interest standard really
means anything. I think when you look at fiduciary duty and
you look at changing the mindset of people in the industry
from sales to professionalism, you have to think in terms of
two aspects. One, promulgate textually clear rules, which
comes from pragmatic experience and learning from
experience. And that's why I mentioned the arbitration
process as a tremendous, informative tool for rulemaking and
enforcement.

And then the other aspect of it is, with respect
to fiduciary duty and concepts such as just and equitable
principles of trade and the Ezra Weiss shingle theory, these
concepts apply in the interstices of the law, where you
don't really have a specific rule that applies.

But what you need to do in those circumstances is
to get people to internalize -- people in the industry to
internalize not only the specific, textually clear standards

Page 30

Page 31

Page 32

Page 33
serve a lot of purposes. There are a lot of ADV Part IIIs that are 150 pages long.

So I think, per [Audience Participant]'s comment of she looked up our rule and it was 400 pages and she wasn't going to plow through all of it, and I get that, and a link a lot of investors, they're not going to plow through all of it.

It's there for people who want to read it, it has a lot of good information. But I think our belief is that we should be doing a better job of giving investors something short, simple, so that when [Audience Participant] says, I need a financial professional, what are the three or four things I should be focusing on and what are the handful of questions I should be asking and get an answer to?

And so I think the ADV has its role and it provides good information. But it's not for that purpose. And we really think it's important that when people are looking for a professional, that they have useful information that helps them ask the right questions and make that decision.

So this may not have everything in it that people want, and that's why we're here. We'd love to how to hear your feedback about how we can help you better. But we don't think those documents are designed for that purpose.

And I think that's a great starting point to make people feel comfortable in that conversation and feel more comfortable kind of asking the little bit more uncomfortable questions.

But I think ultimately what we're trying to find out from folks here is, would something like this help? Is it clear enough for you to understand the relationship we have? And if not, what other things would you like to know?

AUDIENCE PARTICIPANT: All right.

I have a question. Well, a comment actually.

It seems like the common thing that I'm hearing is an understanding of -- first, let me say, I have an appreciation for what the SEC does in terms of the rulemaking and writing that. Let me say that first.

But I think it would be an advantage to the SEC and the common mom and pop person to have a plain language campaign. I mean, this woman here said she -- it's 450 pages. Like, I know you guys do a wonderful job. But if I am Jane Doe the consumer, how am I supposed to interpret those rules and regulations? Thankfully, I'm in a place where I can ask. But there are a lot of people who don't know what to do with their retirement, don't -- I mean, they just don't. And they're not going to come to or look for the regulatory aspect of things to figure that out.

So I really believe very strongly that we should
consider a plain language campaign. At least that's what I'm calling it. But you want people to understand what you're giving them. You can give them all the information you want but if they don't understand it, then what's the point?

CHAIRMAN CLAYTON: Let me ask you a question. Because I think after -- this is our seventh, eighth roundtable. This is the fifth one that I've moderated. I can't tell you how right you are. One thing we're thinking about is a video. What I'd like to know is, if we did -- I don't want it to be too long. If things are too long, people don't watch them. But if we did a three, four, five-minute video --

AUDIENCE PARTICIPANT: Two or three.

CHAIRMAN CLAYTON: -- two or three --

(Laughter.)

AUDIENCE PARTICIPANT: It's the bid/ask --

CHAIRMAN CLAYTON: But if we did a two-minute video and really pushed it out there on the questions you should ask your investment professional, the types of investment -- we're thinking about doing that. Is that something we should put our resources into?

AUDIENCE PARTICIPANT: I think that could be excellent. And really, you could have a series of videos.

You could have snippets. Like this gentleman said, two to three minutes, depending on what the topic is. Because you're not going to capture everything in two to three minutes. But at least if there's a series of topics, people can go and choose that and listen for those two or three minutes.

CHAIRMAN CLAYTON: Thank you.

AUDIENCE PARTICIPANT: One of the things, kind of going with the plain language campaign, is the forms that you're talking about creating in this plain language, have something where you can compare when I go from adviser to adviser, professional to professional.

One of the things that has just recently happened in the restaurant industry or food is that they put calories on everything -- to my dismay.

(Laughter.)

AUDIENCE PARTICIPANT: The thing is that you are now making an educated choice. So when you are looking at the first thing on the menu versus the last thing on the menu, you can make that decision. There's an equalizer across the board.

So if there are questions -- and also taking into consideration some cultural engagements, there are some people who are not comfortable asking a person in a professional position "How much money do you make, how much money are you making?" that is -- for many people, that is very disquieting.

So if you have a form that everybody gets that, you know, the investment adviser or broker-dealer or whomever has in there, this is the range of fees no matter what we're talking about. I can take this sheet of paper with me when I go to the next person and I can compare, you know, is the turkey burger worse than the hamburger?

AUDIENCE PARTICIPANT: Depends on if you put the bleu cheese on it.

(Laughter.)

AUDIENCE PARTICIPANT: But it changes the dynamic, because you have something that you can compare.

CHAIRMAN CLAYTON: So I know you are going to have somebody here who's going to be like, "Yeah."

COMMISSIONER STEIN: I've been suggesting that.

(Laughter.)

CHAIRMAN CLAYTON: And the ability to scrape the data so there are all sorts of great comparisons. We want to move toward that.

One -- I just want to be honest. One challenge we have is there are so many different types of products and services, it's difficult to create one form that captures them all. But my objective over time is to get there, so that -- but for certain types, we can already do the comparison.

But I can't tell people, you know, you're not allowed to price things this way or that way. That's a pretty heavy -- but I agree with you and want to drive things toward that result.

AUDIENCE PARTICIPANT: Can we keep a database for investor losses? Sorry.

AUDIENCE PARTICIPANT: So to the point about the different products and things like that, and I absolutely understand about the variability and the changes and what products at what broker-dealer you're going to get because of the things they do in the background as well. But similar to -- something I understand, the way that lending happens, there are those boxes across the top, so at least it is something. And I'm not suggesting that it will be the end all, be all, the level of accuracy within whatever margin of error. But it's something that I can take from this broker-dealer and put to another broker-dealer or investment adviser and just have a basis for comparison. Again, the calorie counts are not going to be accurate but they give you something to look for, too.

CHAIRMAN CLAYTON: I know we all agree with you. And the benefit of that -- I'll let Sarah answer, but the benefit of that we've already had in the mutual fund industry in terms of costs and, hey, this one is this and I
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COMMISSIONER JACKSON: And there's another reason, you're right, if I can just quickly add, Commissioner Stein has really been pushing very effectively on this for a long time. And another reason you're right, if you think about what happened when we forced people to put calories on the menu, they start thinking about what they're serving. They asked themselves the question. They have to write down, here is what we're going to have to tell people this is what we're feeding them. And they start thinking a little bit more seriously about the products that they're putting on the table.

Another benefit also in the mutual fund space and here, too, I think, would be people have to write down, here's what we make, here's how we make it. Is that the way we want to do that? And that's a very healthy set of questions for here is what we're going to have to tell people this is what we're making. So I think it's something we should be working on.

Audience Participant: So, you know, think about Wall Street Reform Bill, we were able to do some of that in people in the finance space to be asking each other. What would happen if the calories were disclosed and people realized this actually — I don't own a piece of that company, I can only get my money out through another investor. I don't think anyone knows that; I didn't.

AUDIENCE PARTICIPANT: Google Class C shares — these things make $400 billion of market cap, they don't pay dividends, they don't have voting rights, Google doesn't back the value. So people are literally trading in an imaginary Google ticker, where they're not going to get any money from Google, they're not allowed to have a say. And they're saying, oh, well, I'll trade it for $1,200. You know, it's kind of -- I don't even know why that exists, personally. But this happened way before your watch, but from a logical level, how on earth did that even come about?

CHAIRMAN CLAYTON: There are more issues than we're dealing with tonight.

(Laughter.)

CHAIRMAN CLAYTON: Yes.

AUDIENCE PARTICIPANT: I'm a pension trustee for a small 403(b). And a lot of my friends are retiring. I hope to do that soon, too. But one of the things that we get asked — and you may not be the people who regulate this and forgive me if I'm incorrect — I think the broker-dealer questions are good — I think the investment adviser questions are good. What do we tell people who are thinking about going
into annuities? I have an opinion about it but what I --
what we find is that we have people who are retiring who
have managed to amass a right amount of money. They're
scared crapless, they don't know what to do. And somebody
talks them into putting it into an annuity.

Could we have any information about that or where
would we --

CHAIRMAN CLAYTON: So here -- the question is --
and thank you for being a trustee. Because it's a big
responsibility.

AUDIENCE PARTICIPANT: It's huge.

CHAIRMAN CLAYTON: No, it is. And sometimes
thankless.

So the question is, there are products that can be
complicated. Let me try and frame it. Some of them are
annuities. In particular, variable annuities. A variable
annuity is you give an insurance company a bunch of money,
they promise you an income stream, I'm going to pay you
something a month, and we're going to invest some of your
money in equities, maybe mutual funds, and you might get a
return on that. Lori, have I got it right?

MS. SHOCK: Sounds good. I would say it's a
mutual fund with an insurance wrapper.

CHAIRMAN CLAYTON: Sounds good to me. Anyway, you
get two things, you get an equity investment and what is

just a promise of payment.

These are complicated instruments and they often
include complicated fees. And one of the questions is, does
a retail investor adequately understand those? I'm pleased
to say that, not as part of this because we can't solve
everything, but we're looking and Sarah's group is looking
closely at putting the calories on the menu for annuities so
people have an ability to --

MS. ten SIETHOFF: We're looking at doing a very
summary type of disclosure document. Again, because people
don't like to read a couple hundred pages to try and piece
through these products, that explains in very simple terms
the key features and risks. So that again, they go in armed
with here are the key risks that I want to ask about and the
key features that I should look at to say is this the right
investment for me. So stay tuned.

CHAIRMAN CLAYTON: Stay tuned.

AUDIENCE PARTICIPANT: Hi, I'm [Audience Participant].

I have two things.

One, I'll start with a story about my parents, and
then I have a civics-oriented question.

So my parents, my dad has recently retired and
they have sought an investment adviser, who they have found.
They went to a library, at a library, and talked with him
afterwards and have since started a relationship with him.

They decided that they like him. I'm just a little bit
wary.

He has suggested to my parents that he is a
conservative adviser and that he's advising them to roll
into my dad's TSP, to roll that into an annuity. It's a
fixed annuity. This is something that I like, oh, my
goodness, what are you doing? Because they're 60 and in 30
years from now, they're going to be getting half of what
they think they're getting now. I don't think that they
realize that. This scares the bejesus out of me because I'm
their son, I'm going to be paying for them at some point in
time for their care.

CHAIRMAN CLAYTON: The fact that you feel that
responsibility is good for them, right?

AUDIENCE PARTICIPANT: So I sympathize and I share
the concern of how can I help them? I'm the financial
person in the household. And so they come to me asking
questions a lot. I have invested some of their money into
various stocks of various types over the years. But they
come to me for advice. What do I do? Where do I go?

CHAIRMAN CLAYTON: I'm going to go to Lori,
because Lori has tools on how to explain and analyze
annuities. And we'll also follow up with you. I want your
civics lesson, too. But maybe give a quick --

MS. SHOCK: Sure. And so again, investor.gov. We
also have printed brochures on variable annuities. And the
other thing is -- I'm a big believer in diversification.

And so putting everything into one product is never, you
know, sound advice. So that should give some pause.

Make sure you also do this background check that I
talked about. Find out, because the person may be only
registered as an insurance agent, because fixed annuities
are insurance products only. They don't fall under our
jurisdiction. But just -- I think there's a lot more
homework that needs to be done before making that decision.

Also, for those of you who are affiliated with the
federal government, the Thrift Savings Plan has incredibly
low fees. And that's money that stays in your pocket, not
someone else's pocket. So make sure your -- that should be
part of the equation as well.

MS. ten SIETHOFF: And that -- I just want to
recommend, I mean, the materials on variable annuities, it's
just a couple pages long. It tells you all the key risks to
be diligent about and, really, anybody could read it --

AUDIENCE PARTICIPANT: In the current low interest
rate environment, in the future -- it's just something that
makes me cautious.

So moving to the civics part then real fast, I get
brochures or I get -- because I own stock, I get things in
the mail asking me to vote on my stock. I'm happy to vote
on my stock. I enjoy voting. I vote frequently. I like
to try to help. And they've been able to help investors
out of the Boca Raton office in Florida. And they are very
regulator that we oversee, FINRA. If you Google it, I think
it's like Senior Help Line or something like that. It's run
done recently. We have some rules that say, hey, when
you've got to fill it fast or you've got to do this fast. Including when somebody says,
hey, sell that for me.
We've changed that rule to say, you know what?
You don't need to do it fast if you have a sense that
there's diminished capacity. Let's have a chance to
investigate that. But we are looking to that. Lourdes?
MS. GONZALEZ: So we have, at the SEC, have worked
for a long time on senior issues. It's funny, I have gone
to a lot of conferences on these issues and everybody has a
story about something going wrong, including in my husband's
family, by the way, so we all feel this deeply, where the --
also is a senior or impaired or in some way vulnerable? And

CHAIRMAN CLAYTON: So voting, again, not the
subject for tonight. But, no, you raise it. Voting has
gotten more complicated because many stocks are held through
intermediaries or in funds and whathnot and we, just like we
are looking at the variable annuity disclosure and trying to
bring the calorie count to that, we're looking at voting.
So I don't have a solution for you tonight, but
we're looking at it. Including the question you asked.
AUDIENCE PARTICIPANT: There are investors that
you can educate -- or can't educate, and they don't have the
capability, but they have the money. When does independent
oversight kick in, in respect to an investor who, let's say,
is a senior or impaired or in some way vulnerable? And

CHAIRMAN CLAYTON: Let me say one thing that we've
done recently. We have some rules that say, hey, when
somebody makes an order, you've got to fill it fast or
you've got to do this fast. Including when somebody says,
hey, sell that for me.

We've changed that rule to say, you know what?

You don't need to do it fast if you have a sense that
there's diminished capacity. Let's have a chance to
investigate that. But we are looking to that. Lourdes?

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for a long time on senior issues. It's funny, I have gone
to a lot of conferences on these issues and everybody has a
story about something going wrong, including in my husband's
family, by the way, so we all feel this deeply, where the --
in our case, it was the hairdresser who took advantage of an
elderly aunt and now owns a house.

But I have two points to make. One is there's a
very good senior help line that is run by a securities
regulator that we oversee, FINRA. If you Google it, I think
it's like Senior Help Line or something like that. It's run
out of the Boca Raton office in Florida. And they are very
good about following up with firms, with the investors, and
really try to help. And they've been able to help investors

get money back. It's a great service that they're doing.
Don't have to do it but people at FINRA really care.

The second point is there's a new rule for broker-
dealers that want to take advantage of it with respect to
erlier financial exploitation. If they believe an elderly
investor is being taken advantage of, they can follow
certain procedures and delay disbursement of the funds for a
certain period of time. It's a brief period of time but
it's like a pause. And the reason for that is because time
is the enemy of the thief. That's the impetus of that rule.
It's kicked in and brokers are -- some brokers are using it.

And the other part of the rule is broker-dealers
are required to try to obtain from a customer a trusted
contact. Before there's a problem, the customer can give a
trusted contact. If there's some issue that you see with
me, you can call my daughter. [Redacted]. So I urge people to
consider that and take advantage of it.

AUDIENCE PARTICIPANT: Two things. First of all,
I think it's good that the form requires disclosure of
disciplinary issues. The problem is, there just isn't
enough resources to police the number of actors out there.
There are those actors that are bad actors that do things
intentionally. And then unfortunately, there's a whole lot
of people out there selling stuff that they really don't
understand what they're selling. And I think that's a

bigger problem.

It's interesting to me that there are a number of
professional designations that include with them an
obligation, an ethical obligation that if you're a member of
that profession, you have an obligation to report
misconduct. We don't have that with registered reps or
people in the securities industry. And that's interesting
to me.

If you're a CFA, you have an ethical obligation to
report CPAs or misconduct that you see. If you're an
attorney, you have ethical obligations to report
inappropriate conduct on the part of another attorney.
So it's impossible for the regulators at the state
or federal level to police everything. And the most
vulnerable people are the individuals. And there's just too
many small salespeople meeting one on one with the most
vulnerable people. And we need another solution to dealing
with that problem.

But secondly, to your point of sale disclosure
form, from my own investor experience, one of the biggest
challenges in understanding the difference between a broker-
dealer and an investment adviser is understanding that the
person sitting across the table from me may make the exact
same recommendation to me and a hundred other customers that
they see. And you can ask them to disclose how much money
they're making. But what I don't understand as an investor
when I'm sitting there is that this guy always recommends
these products.

So I would add to your -- your disclosure form not
just what -- how much of the $1,000 do I invest, but what do
you typically recommend to an investor like me who comes to
you with $10,000? Is it always these companies' products
and why? Is that really the best product for me or is it
just that your approved product menu only has 50 products on
it and so that's what you're going to recommend to
everybody? Because the investors don't see the BDs'
approved product menu.

And if the answer is, "I always recommend these,"
that tells me that I may be sitting across from a registered
rep who sells wrap accounts as opposed to a fiduciary that
is really looking at my personal situation and evaluating it
and making a recommendation.

CHAIRMAN CLAYTON: So I think your comments are
great, and appreciate it. And I want to say that -- I always
have to be careful when I say these things because I can't
-- like I said, I can't write a rule that's 500 pages and

says you have to do X, Y and Z. But to calorie count, and things
that I like -- so, I would like it. And let me be
absolutely clear, I don't know if this can be
required -- I don't know if we can drive

the behavior this way -- but I would like it if
when you went in to see a broker-dealer or investment
professional, and you had five different types of people.
You had Lourdes, me, somebody who is 25, somebody who is 70,
with different types of profiles, and you said, hey, run
these five profiles through your, you know, recommendation
machine. If what comes out of that is the same thing for
all five of those people, that recommendation machine is not
worth a whole lot, which is what you're saying.

And, you know, one of the things that I think we
should think about when we sort of say, hey, are you
discharging your obligation is that kind of, hey, show me
how you're doing it. Do your policies and procedures -- you
know, lawyers talk about policies and procedures. When we
test them, do they work? I don't know, what does everybody
think about that? You know, there are all sorts of
different types of people. Do you want to pass this through
your procedures? If you come up with the same thing for
everybody, I don't know, it tells me something.

Let me go to people who haven't yet --

AUDIENCE PARTICIPANT: I have a similar comment,
actually, two comments. I think, you know, the questions
generally are good. And maybe this is really the same
comment. You know, sort of, what are your risks? What are
your goals? Are really key, because I can tell you my

husband and I have joint accounts and are completely
different investors. And I -- we have a financial adviser
who I'm happy with, and I am because she asks us that.

My concern on some of these in costs, cost is --
clearly, you want the money to work for you and not for
someone else. But I had to force my husband to go to a
financial adviser because I don't feel comfortable that I'm
making the right decisions, and our adviser, we're very
happy with her. But my husband just wanted to do the
investing himself. And we're now in an account and we did
go through all these, what are the fees, where are they

And I came -- and my feeling was, I don't care
what I'm paying within reason. But when I look at the
differential, and we looked at sort of like a, you know,
standard mutual fund or an index. And I looked at sort of
over the last five years what was the increase and what
would it have been, versus an advisory account we're in now,
and we're paying more for that advisory account but the
results are better.

So, you know, it's more -- it's not just the fees.

And my concern about the sole focus -- and I know you're not
focusing solely on fees, but by doing that of course you
want to get the most cost efficient. But cost efficient may

not be the lowest cost.

CHAIRMAN CLAYTON: The lowest cost may not be the
best.

AUDIENCE PARTICIPANT: Right.

CHAIRMAN CLAYTON: That's one of the hard things
you have to deal with.

AUDIENCE PARTICIPANT: And the second question,
really, just dovetails on annuities. And again, my husband
and I are very different. And we are now near retirement.

And so our broker is, you know, saying we actually --
because I did have to pay for my mom in her later years, and
so I'm absolutely fixed on I want to make sure that I have
enough in retirement. And, you know, they'll come back and
the models will say, well, 85 percent chance. I'm like,
that's not good enough for me.

So we're now looking at having -- you know,
looking at, okay, what do you think your monthly expenses
would be, and buying an annuity. And I had to ask about
that because the broker, it's not generally on their menu.
Because they actually said, it's more expensive. I'm like,
well, yeah, it's more expensive but then I'm guaranteed that
I'm not going to run out of that money. So --

CHAIRMAN CLAYTON: As Lori was saying, not
everything but sometimes something in a different type of
product makes sense.
I think Commissioner Roisman said, going to financial roundtable inviting more of that demographic to participate tremendous help. And then possibly even suggesting a most of my peers don't have that. So that could be huge and fortunate, where I have a profession that explains that but more clear for someone in that age group. Because I'm them and I do think that it does need to be a little bit it needs to be even clearer and easier for the 25-year-old. And the harder the moment is, the overwhelming moment. And the harder the moment is, the clearer it needs to be. And I think you're right, sir, to point out that it needs to be even clearer and easier for the 25-year-old. Because God help me if I had made any important financial decisions when I was 25 years old. (Laughter.)
in conversations like this so that you do have that
awareness going forward on how you approach the future.

CHAIRMAN CLAYTON: Let me ask each of my
commissioners if they have any final comments, any thoughts?

COMMISSIONER ROISMAN: I think this was incredibly
helpful. This is, obviously, my first one and I really
appreciate kind of the candor and dialogue between us. I
think, you know, ultimately what we're trying to do is
produce a rule that helps everyone. And incorporating your
comments is ultimately the goal, so that we have the best
possible rule.

It sounds to me like people want to be able to
make an informed decision. And part of that is feeling
comfortable in the relationship they have.

COMMISSIONER JACKSON: I agree with Commissioner
Roisman. I want to say that I hope you all consider -- one
thing you've heard from us, I hope, is that we understand
that this is just the start of this conversation. None of
us up here thinks that we're at a perfect place or that
we're going to a perfect place. We need to continue to hear
from all of you.

So the one thing I would suggest is, if you found
it helpful at all or useful to be here in front of us and
got to ask us questions, keep giving us this feedback. We
have on the website places where you can reach out to us,
and I was used to writing things on 20 pages --
that would take a long time. But someone asked me to write something on one page
and I did it.

I think it varied from person to person, right? So that's
what's interesting to me is people

That's interesting to me is people

that relationship summary. Here are other, you know, places you can go for information.

And I also -- I like what we were talking about on
the plain language, you know, issue. And I think it's
always a problem for government and lawyers. We all,
actually, happen to be lawyers. And I remember the first
time I -- someone asked me to write something on one page
and I was used to writing things on 20 pages --

(Laughter.)

COMMISSIONER STEIN: -- and it was so hard.

Because it's much harder to write the one page than the 20.

And I think I really liked what you were saying
about the interstices. Is thinking about -- and we're
talking about this idea of should there be a basic
relationship that undergirds all of the words that you can
count on? You know, we can call it fiduciary duty, we can
call it a best interest standard. But like your doctor or
your lawyer or certain other professionals, you know, are we
going to say there's some certain basic professional duty
you have to not harm people? And I think that's
undergirding all of this, too.

You know, there are going to be rules. Rules are
going to change. But I think what's tricky in this area is
a lot of people do get intimidated and think that person
must know because I don't know. And they project on them
wisdom that they might or might not have. And I think they
project upon them that they, of course, care about my best
interest when they might be trying to win the contest to go
to Jamaica next month. So doing whatever we can to make
that clear, I think.

I think what's been interesting to me is people
spend a lot more time picking out doctors than they do
financial professionals. And it's like what can we do to
make people understand you need to do just as much research?

That's not something you just go because they went to
high school with you, right? Or they're nice, right? And
you met them at the library.

So I think that also undergirds -- I'm sort of
hearing that, you know, also.

Go ahead.

AUDIENCE PARTICIPANT: Two quick things. I wanted
to ask you how, because you made a point on this, how driven
do you think the compensation is in terms of how it affects
the professionalism and the practices of the investment
adviser and broker?

And then the second thing I wanted to suggest is,
I'm a lawyer. I'm an officer of the court. And that means
that not only am I an officer of the court in the court but
I take the law with me outside. And I think you have to
have a concept so the financial service professional could
feel that he's a very important component in terms of our
economy, whether he's in one firm or another firm or he's an
adviser or a broker, et cetera, et cetera. And that's the
time to launch professionalism.

COMMISSIONER STEIN: And I just quickly -- I
think it varies from person to person, right? So that's
hard to answer. If someone is a broker-dealer and they
treat you with the utmost respect and always put your needs, you know, ahead of theirs. And you could have an investment adviser who is also just trying to make a lot of money, right? So I think it's -- you know, this is a -- this goes back. And you could do that with lawyers and doctors, too, right? It's that same issue.

But I think part of this is how do we give you some of the information you need to do that research and find that person who is going to help you make pretty major decisions about your nest egg or your life savings? And it might not just be this relationship summary. If you think of some good ideas about what you wish was out there, write us. Write the commissioners. We would love to hear your ideas about what would help you.

MS. ten SIETHOFF: Actually, can I have one quick plug on that point from Commissioner Stein? I think each of you got a little card, a little like postcard size thing that has the website address. We've done a Tell Us page on the website, and that, you can go -- for those who didn't get a comment in here that they would like to share, there's a little web-fillable form so you can go in, type in your feedback, click submit and it goes straight to us. So that has the form for this project. It has it for another investor experience project we're working on for mutual funds and those kinds of disclosures. When we do our variable annuity summary document, it will have one for that. So this is a great page if you guys can keep that in mind. You can keep giving us feedback.

CHAIRMAN CLAYTON: Let me just see if, Lori or Lourdes, any final comments?

MS. SHOCK: I appreciate you taking the time to be here. We really do thank you.

CHAIRMAN CLAYTON: Let me just try and wrap up and say how much we all appreciate this feedback. This has mattered, okay? My thoughts, and I know my colleagues' thoughts, on how we're going to go forward, and to Commissioner Stein's comments, you know, this is -- what we're doing here is not the end. Markets change, demographics change, people change. We're not going to get it perfect. We're going to keep looking at it. This is important.

But what we have heard has changed our approach, okay? We talked about the video tonight. We understand that the forms, the communication has to be not for somebody who has been investing for 10, 15, 20 years but for somebody who is getting into the game. We've learned through this process that there are certain critical times when you're rolling over from when you have a trustee to when you don't. You know, when you're getting older and, you know, what other things can we do?