September 24, 2019

Submitted Electronically
Ms. Vanessa A. Countryman
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Concept Release on Harmonization of Securities Offering Exemptions - File No. S7-08-19

Dear Ms. Countryman:

eShares, Inc. d/b/a Carta, Inc. ("Carta") appreciates the opportunity to comment on the Securities and Exchange Commission's ("SEC" or "Commission") Concept Release on the harmonization of securities offering exemptions (the "Release").[1]

Introduction
Carta was founded in 2012 to develop software to digitize paper stock certificates and manage capitalization tables for private companies. Carta recognized that private equity, including venture capital, was suffering from a paper crisis that rivaled the "Back Room Crisis" that crippled public equities markets in the late 1960's and early 1970's.[2] Rather than solving this crisis through centralization and share *immobilization* as was done in public equities, Carta developed a centralized registry of private asset ownership that simplified share *mobilization* through modern technology.

Since then, Carta has evolved into a multi-faceted financial technology company that helps issuers, investors, and employees manage and value equity ownership. Today, Carta has over 700 employees across 7 offices in 5 states, and an international office. Together we support over 800,000 security holders at more than 12,000 companies who manage over $575 billion in equity value across Carta's platform. We provide portfolio management and reporting tools for thousands of investors and employees, and provide valuation and fund administration services to hundreds of venture capital firms. This is just the beginning, as Carta drives forward to fulfill our mission to create more owners, reduce income inequality, and pull more wage-earners out of the debt stack and into the equity stack.

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[1] See Concept Release on Harmonization of Securities Offering Exemptions, Securities Act Release No. 10649 (June 18, 2019), https://www.sec.gov/rules/concept/2019/33-10649.pdf.
[2] See *Revolution on Wall Street: the Rise and Decline of the New York Stock Exchange*, Ch. 7, Marshall E. Blume, Jeremy J. Siegel & Dan Rottenberg (1993).

As the Commission itself has articulated in the Release, the capital markets are continually evolving. Advances in technology, new operating frameworks, and regulatory changes have accelerated the rate of evolution in recent years. However, the rules and regulations designed to protect investors and facilitate capital formation have not kept pace to reflect the growth and permanence of the private capital markets. The Release raises numerous important and timely questions that have significant implications for our markets. Carta believes *access* and *liquidity* are foundational pillars of fair, efficient, and orderly markets.

Our response first addresses the policy questions surrounding investor access to private markets, including the important questions regarding retail demand for exempt offerings raised by the Commission's Office of the Investor Advocate.[3] We then comment on secondary market liquidity, and the apparent need for a framework that supports the development of centralized market infrastructure.

Investor Access

The accredited investor rules restrict investor access to private markets based on rigid financial criteria that would benefit from refinement and reconsideration. In reconsidering the definition of "Accredited Investor", we recommend the Commission reference the policy goals of the rule. Per the Commission, the Accredited Investor rules are "intended to encompass those persons whose financial sophistication and ability to sustain the risk of loss of investment or ability to fend for themselves render the protections of the Securities Act's registration process unnecessary."[4] We view this as a two part analysis, with both financial sophistication *and* the ability to sustain losses being relevant considerations. The current rules are optimized for investor solvency and make assumptions about sophistication based on wealth and income. We believe wealth and income are often imprecise and incomplete proxies for sophistication.

Carta supports the recommendations outlined in the Accredited Investor Staff Report (2015)[5] to permit individuals with certain professional credentials to qualify as accredited investors. However, higher education and professional credentials are often correlated with income and net worth, and could perpetuate the existing limitation of access for large swaths of individuals who otherwise should be considered financially sophisticated.[6] Thus, Carta also recommends that the Commission explore a public Accredited Investor licensing program as an alternative

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[3] See letter from Rick A. Fleming, Investor Advocate, to Vanessa Countryman, Secretary, dated July 11, 2019, at 2-3, available at https://www.sec.gov/comments/s7-08-19/s70819-5800855-187067.pdf.

[4] *See* Amendments for Small and Additional Issues Exemptions under the Securities Act (Regulation A), Release No. 33-9741 (March 25, 2015) at note 146.

[5] *See* Report on the Review of the Definition of "Accredited Investor" (Dec. 18, 2015) ("Accredited Investor Staff Report"), available at https://www.sec.gov/corpfin/reportspubs/special-studies/review-definition-of-accredited-investor-12-18-2015.pdf

[6] See Board of Governors of the Federal Reserve System, 2016 SCF Chartbook, https://www.federalreserve.gov/econres/files/BulletinCharts.pdf.

method of accreditation that can be overseen by FINRA or a new national securities association. For example, FINRA just created the [Securities Industry Essentials Exam (SIE)], which is the first FINRA license offered to the public that can be taken without being sponsored by a broker-dealer. Thus, a public licensing framework already exists. Carta believes an enhanced private market exam that covers the licensing requirements found in FINRA's series 7, 79, or 82 examinations would make for a useful test to objectively measure and validate sophistication. We believe such a program would facilitate the democratization of access to private markets. We believe that this alternative program should be available to all qualifying persons in the US, and should *not* be subject to educational or financial constraints that have the effect of exacerbating the damaging effects of income inequality across gender, race, ethnicity, and geography that impacts our nation today.

Carta also urges the Commission to consider a more progressive framework that enables wider participation in private markets without necessarily amending the Accredited Investor definition. We believe there are alternatives to promote such access without sacrificing investor protection, such as:

- Allowing any person to invest a portion of their net worth (e.g., 10%) in illiquid securities, considering the tracking of net worth is easily possible today through widely available software tools;
- Allowing any person to invest a portion of their net worth (e.g., 20%) in the securities of late-stage non-reporting companies; or
- Allowing any person to invest in illiquid securities through a registered broker-dealer that would need to develop meaningful suitability and due diligence standards for such customers.

Lastly, Carta believes an enhanced definition of Accredited Investor will help to ease the burden on issuers in managing compliance with Section 12(g) of the Securities Exchange Act of 1934 (the "Exchange Act"). In discussion with our customers and in the operation of Carta's core equity management platform, we recognize that many issuers are wary of triggering registration under Section 12(g), and in some cases withhold equity from critical stakeholders to avoid it. For example, as a private company, Airbnb is unable to give its 700,000+ hosts equity incentives for joining and strengthening their network and as a result, a large group of individuals in the US are effectively precluded from participating in the wealth creation that has accrued to private market investors. We believe the expansion of the definition of Accredited Investor is the first step to democratize access, and also believe that Section 12(g) should be holistically reviewed in light of the evolution of our modern economy, including the rise of the "gig-economy".

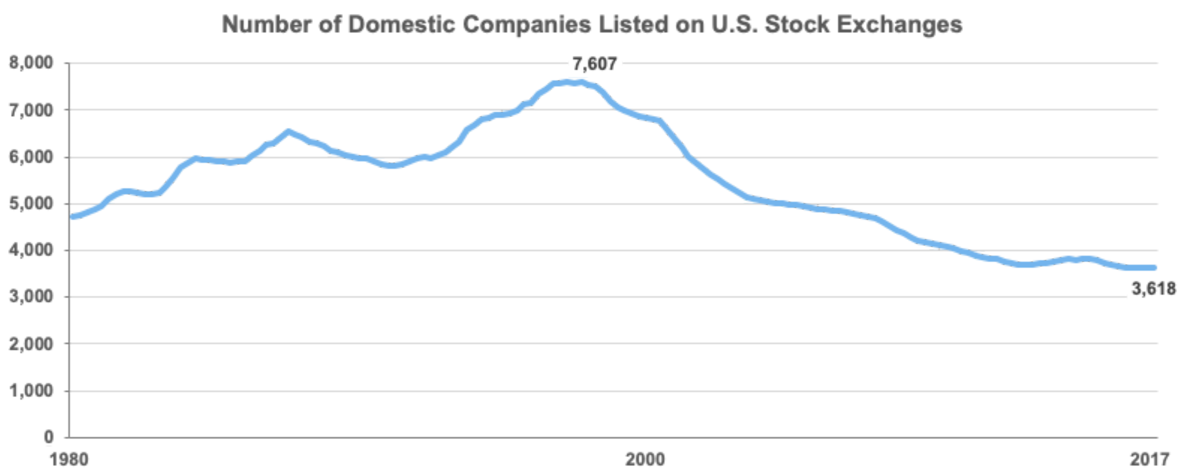
Retail demand for access to exempt offerings

The Commission has received numerous thoughtful comment letters putting forth ranging opinions and compelling data and analyses on the various topics covered in the Release. While we won't comment on each letter individually, we feel compelled to address a critical question raised in the letter submitted by the SEC's own Office of the Investors Advocate (the "IA Letter").

[7] Specifically, the IA Letter asks the Commission to "analyze whether the risk of easing the regulatory safeguards associated with exempt offerings, presumably at the cost of investor protection, would actually result in a countervailing benefit of significant capital formation." The IA Letter suggests that access to the private markets by non-accredited investors would have little effect on capital formation because the top ten percent of U.S. households by net worth (which includes most accredited investors) hold over 77% of the wealth in the US. The IA Letter further suggests that because non-accredited households are currently investing in stocks at such low rates, it may be unreasonable to expect that they will have a significant interest in exempt offerings.

Carta believes asset ownership is a critical component of narrowing the wealth distribution gap in the US and globally. We recommend the Commission approach its review of the regulatory framework not based on the way the world is, but instead design for the way the world ought to be. As we look to the future, the fact that 90% of US households are effectively shut out of private stock ownership by law, or that investors can't or don't have confidence to invest in the securities markets today, do not justify perpetuating the status quo, but should instead be a catalyst for change. Carta believes broader access to the private markets does not necessarily result in a corresponding decrease in investor protection. We endeavor to begin answering these important questions with an analysis of the first and second order effects stemming from the on-going transformation across the private and public capital markets in the US.

As the Commission is acutely aware, the number of public companies in the United States has been on a steady decline since 2000.[8] Very simply put, non-accredited investors have a shrinking pool of assets into which they can directly invest.[9]



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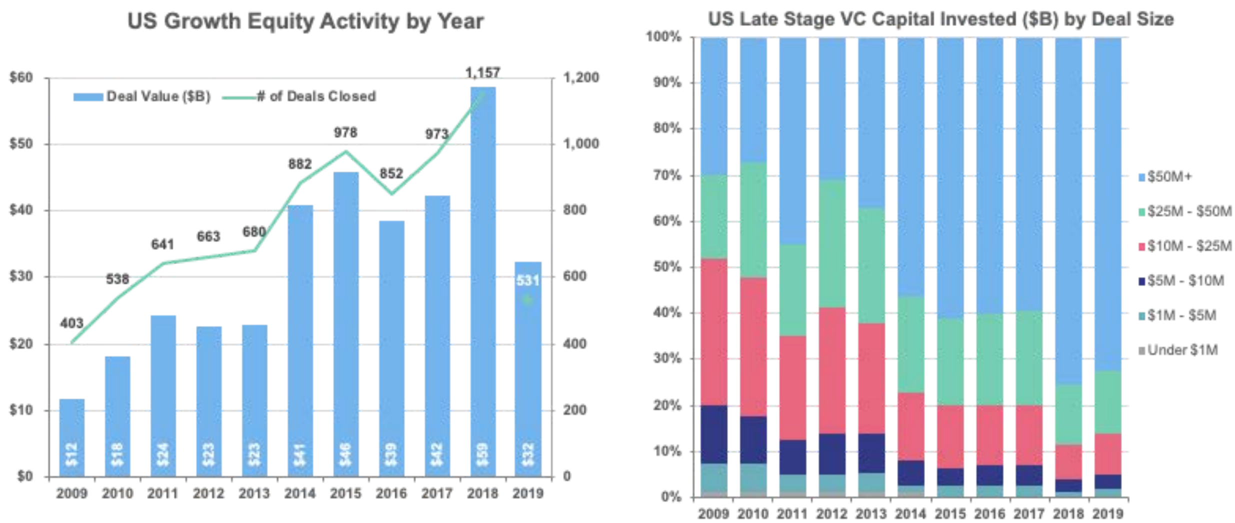
[7] See *supra* note 3.
[8] See *Where Have All the Public Companies Gone?* Bloomberg Opinion, (April 9, 2018), available at https://www.bloomberg.com/opinion/articles/2018-04-09/where-have-all-the-u-s-public-companies-gone.
[9] As an alternative, we have seen a large inflow of capital allocated to "passive" investing strategies, with indirect stock ownership through ETFs becoming increasingly popular.

Carta believes that the rise of growth equity and late-stage venture investing in recent years has transformed the boundaries between our public and private capital markets.[10] As a result, sums of capital historically reserved for the public markets are now allocated in the private markets. The first order effects of this phenomenon include larger funding rounds that create lengthy runways for companies to stay private longer. For example, the median age of IPOs was 11 years between 2001 and 2018, up from 8 years between 1990-1998.[11]



Growth equity investments continue to trend towards new highs, and late-stage VC deals continue to get larger. Source: [2Q 2019 PitchBook-NVCA Venture Monitor]

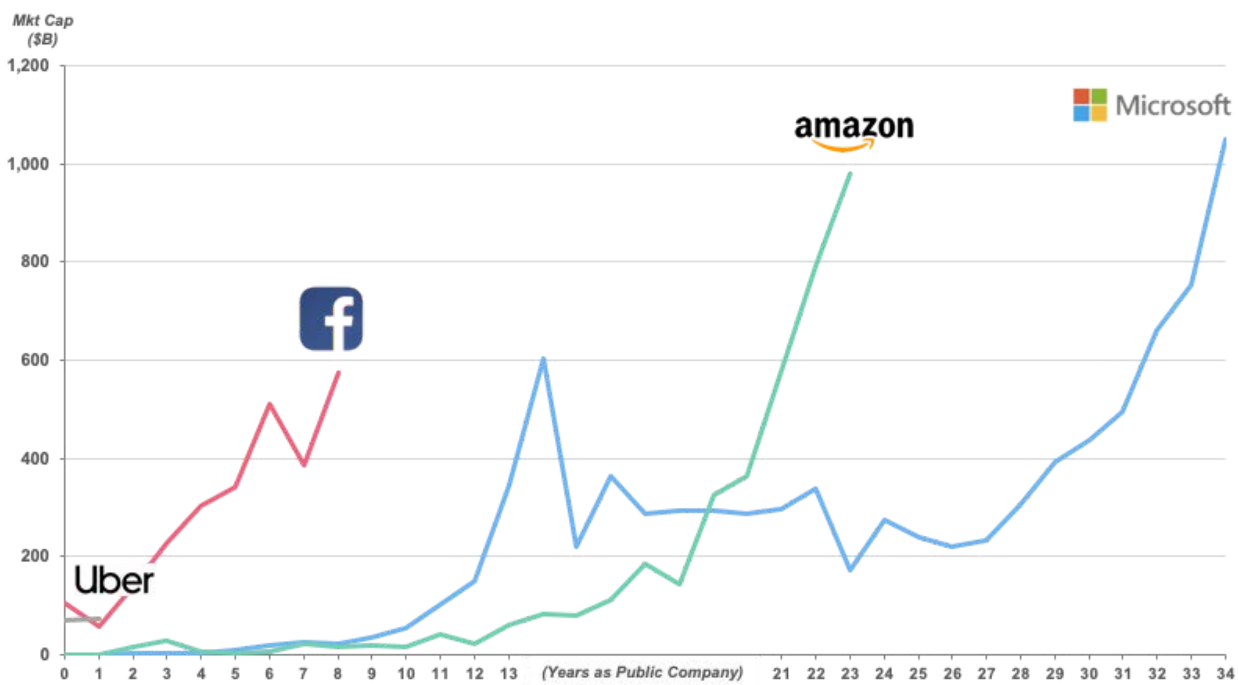
These trends have ushered in a series of second order effects, the most relevant being that alpha has migrated to the private capital markets. The following case studies illustrate this point.

- Let us consider the lifecycle of Amazon, relative to a recent public market entrant, Uber. In May of 1997, Amazon raised $54M in its IPO at a $438M valuation, after raising $108M in private capital. In 2018, Uber raised $8B in its IPO at an $82B valuation, after raising approximately $28B in private capital. Amazon was a public company for 14 years before reaching Uber's IPO valuation. Investors in Amazon's IPO would have earned over 2,000 times their initial investment in Amazon had they sold in recent years. For Uber to offer public market investors a comparable return, the company would need

[10] Growth equity and late-stage venture are similar strategies that exist between traditional private equity buyout, which focuses on companies with strong cash flow or profitability, and venture capital, which typically invest in riskier start-ups that are early in the growth cycle. As one would expect, early-stage venture funds exhibit a higher risk reward dynamic than growth equity or late stage investing, where capital impairment levels are relatively low.
[11] Note, the median age at IPO between 1999 and 2000 at the height of the market was 5 years. See data from Professor Jay Ritter and the Warrington School of business, available at https://site.warrington.ufl.edu/ritter/files/2019/04/IPOs2018Tech-Stock.pdf.

to grow to approximately $157T in market capitalization, which is nearly two times the global GDP in 2018.[12]

- Facebook offers another insightful anecdote that demonstrates the importance of broader access to private markets. Similar to Uber, Facebook raised $16B in its IPO at a $104B valuation after raising over $2.6B in private capital. Based on reports around the time of Facebook's IPO, we estimate that a $1,000 investment in Facebook in 2004 would have been worth over $2M on the date of its IPO, whereas an investment in Facebook's IPO would have returned around three times an investor's initial investment if sold in recent years.



Carta believes these case studies support our position that broader access to the private capital markets is critical to address the wealth gap in the US and globally. One often cited criticism against broader access is the high rate of capital impairment experienced by venture investors. The return profile in the venture industry undoubtably follows a power law, which we summarily describe as the phenomenon of extraordinary businesses capturing substantially more value than ordinary ones. Carta agrees that, considering the risk/return profile of venture as an asset class, broad and unrestricted access poses a number of policy concerns. However, we believe a reasonable, measured expansion of access to private markets is essential to begin closing the wealth gap. We also believe these criticisms miss the vast expanse that make up the private capital markets. Private equity extends well beyond the confines of high-tech VC backed companies. In fact, venture strategies typically represent only a 3-5% allocation of a private

[12] See data on global GDP from the world bank, available at https://data.worldbank.org/indicator/ny.gdp.mktp.cd.

equity investor's overall portfolio. Carta believes democratizing access to private markets is to democratize private equity more generally, which as an asset class greatly outperforms the world and US public equity markets over the long term.[13]

Over the long term, private equity has outperformed world and U.S. public equity

Exhibit 1: Private Equity Time-Weighted Performance vs. MSCI World and S&P 500

	Years			
	5	10	15	20
Burgiss Private Equity Composite (%)	13.8	8.9	13.3	13.1
MSCI World (%)	11.6	4.8	9.6	6.1
Premium (%)	**2.2**	**4.1**	**3.7**	**7.0**
S&P 500 (%)	14.2	7.4	10.0	7.0
Premium (%)	**(0.4)**	**1.5**	**3.3**	**6.1**

Source: Burgiss, FactSet; data as of September 30, 2017

The private equity asset class results are sourced from the Burgiss Manager Universe and represent the pooled time-weighted returns that are net to investors, calculated using the Modified Dietz methodology

Secondary Markets

As the Commission states in the Release, "secondary market liquidity is a key concern of investors and may have a significant impact on an issuer's choices with respect to capital raising . . . an investor's willingness to participate in an exempt offering and the price he or she would be willing to pay may depend on the investor's assessment of whether, when, and on what terms the security can be resold." Carta agrees with the Commision and believes that a lack of secondary market liquidity in private markets has a direct effect on capital formation.

For example, rational private market investors are forced to apply meaningful illiquidity discounts on private market investments that increase the cost of capital for private issuers. Experts estimate these discounts can range between 20% and 30% of market value.[14] Assuming an efficient liquid market for private securities could reduce the illiquidity discount applied to private market investments by half, an additional $290 to $435 billion dollars could have been invested into the private markets in 2018 alone.[15]

Moreover, secondary markets serve to allow investors to diversify risk and manage portfolio exposure as their investments mature. Today, many investors are effectively forced to hold private investments for increasingly long periods of time which has a direct effect on liquidity. Many pensions, endowments, and other institutional investors participating in the private markets in search of greater returns for their stakeholders are often funding periodic short-term

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[13] See JP Morgan Asset Management, *Investing in private equity, essentials for achieving enhanced private equity returns, (*February 2018) available at https://am.jpmorgan.com/blobcontent/1383531120699/83456/PI_PE_INVESTING.pdf

[14] See *The Cost of Illiquidity*, Aswath Damodaran available at http://people.stern.nyu.edu/adamodar/pdfiles/country/illiquidity.pdf

[15] See Release at 16, estimating that approximately $2.9 trillion was raised through exempt offering channels.

obligations from their liquid portfolios. The use of cash and liquid assets to fund short-term obligations ultimately has the effect of increasing the percentage of their aggregate portfolio that is invested in illiquid assets. As the Commission recognized, "an investor's inability to divest prior investments due to illiquidity may prevent the investor from reallocating capital to the next investment opportunity, thereby limiting the capital available to the next business."[16]

Carta believes liquidity is a critical component of investor protection. We recognize that the foundational tenets of the exempt offering framework partially stem from the idea that some investors are "able to fend for themselves" and therefore don't need the protections afforded by registration.[17] However, we believe that consistent with the Commission's core mission of investor protection, all investors should be afforded a fair, efficient, and orderly secondary market in which to liquidate positions.

As the Commission considers expanding access to private markets, including for the retail investment community, the importance of fostering a private secondary market becomes increasingly critical as liquidity is an effective risk and portfolio management tool. Yet, it is important to recognize that the retail investor is already exposed to the private stock of non-reporting companies through employee stock plans and equity awards that have become a *de facto* requirement for accepting employment with a venture backed company. Today, shares issued by private companies pursuant to employee stock plans typically make up approximately 10% of shares outstanding. For highly or even moderately successful companies, stock based compensation often makes up the majority of an employee's net worth. Sound investment principles teach us that a well diversified portfolio can mitigate the risk of capital impairment, yet most employees are forced to hold virtually all of their net worth in a single asset in part because there is no liquid or orderly market in which to transact.

In 2018, registered offerings accounted for $1.4T of new capital compared to approximately $2.9T that was raised through exempt offering channels.[18] Compare that with secondary market volume, where an estimated $75B-$100B changed hands in the private markets in 2018, representing less than the average *daily* notional value traded in US public equities. While the private markets are less liquid by design, the orders of magnitude between these figures demonstrate in part that private equity currently lacks sufficient centralized market infrastructure.

Secondary trading platforms have emerged in recent years in response to the increasing demand for liquidity from employees and early investors, but many of these trading platforms are driven by high-touch sales desks of broker-dealers that are chasing high margin trades in illiquid securities. Despite the proliferation of broker offerings and trading venues, the costs to

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[16] See the Release at 193-194, citing the ACSEC Secondary Market Liquidity Recommendation; 2014, 2015, and 2017 Forum Reports.
[17] See *SEC v. Ralston Purina*, 346 U.S. 119 (1953).
[18] See *supra* note 11.

trade remain high partially due to a fragmented regulatory framework.[19] Because the Commission has rightfully used federal preemption of state law sparingly in the federal regulatory framework for secondary transactions, individual state securities law (or "Blue Sky" laws) create 50 disparate securities law frameworks that private market investors and issuers have to navigate. However, in 2015, the FAST Act introduced a new registration exemption for private resales of securities by adding Section 4(a)(7) to the Securities Act that preempts state Blue Sky laws. Based on conversations with market participants, Section 4(a)(7) has not been widely leveraged primarily as a result of the disclosures required for reliance on the exemption. However, Carta believes that, consistent with the spirit of the federal securities laws, the availability of secondary liquidity should bear a rational relationship with the level of disclosure available for investors to make informed investment decisions. As the Commission considers extending federal preemption of state Blue Sky laws to additional exemptions, such as Section 4(a)(1) or Rule 144, Carta believes the Commission should carefully consider the delicate balance between the burden of disclosure on issuers and investors, and the utility to investors in the context of secondary market transactions.

Conclusion

We conclude with a powerful quote from the great modern economist Thomas Picketty, which describes the power and importance of capital ownership in the debate around wealth disparity. Picketty analyzed the rate of return on capital assets versus the growth rate of income since antiquity, and found the rate of return on capital was always at least 10 to 20 times greater. Picketty argues that "this fact is to a large extent the very foundation of society itself: it is what allowed a class of owners to devote themselves to something greater than their own subsistence."[20] It is against this backdrop that Carta applauds the Commission for actively reconsidering the regulatory framework governing our private markets, and urges consideration of a measured expansion of *access* and *liquidity* to one of the most valuable asset classes in the world.

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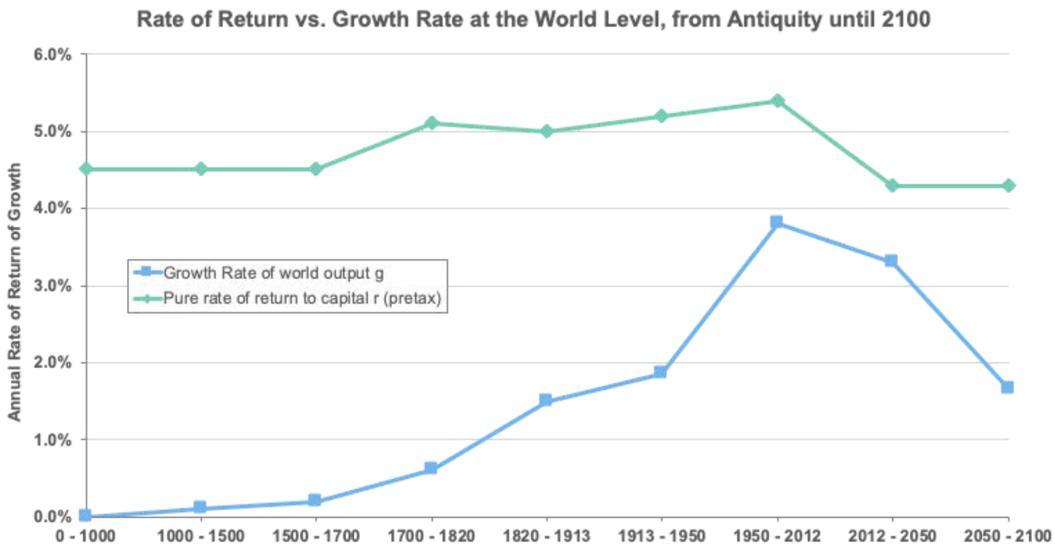
[19] For example, EquityZen's fee schedule currently discloses a scaled fee for investors ranging between 3% and 5% of invested capital. In addition to investor fees, selling shareholders are charged an undisclosed and presumably negotiated placement fee. Furthermore, EquityZen notes that for shareholders there may be additional costs associated with completing a sale that are not imposed by or paid to EquityZen including a legal opinion and or a transfer fee, ranging between $1,000 and $3,000 each. Based on conversations with shareholders and investors, we believe EquityZen's fee schedule to be representative of many of the existing brokerage and platform providers.

[20] See Thomas Picketty, *Capital in the 21st century* at 353.



We appreciate the opportunity to submit these comments and stand ready to answer any questions you may have as a result of this submission.

Sincerely,

Henry S. Ward	Adrian Facini	Andres J. Trujillo, Esq.
CEO	*VP of Product*	*Director of Product*