UNITED STATES SECURITIES AND EXCHANGE COMMISSION

ASSET MANAGEMENT ADVISORY

COMMITTEE MEETING

Held Remotely via WebEx

Monday, September 27, 2021

9:30 a.m.

Securities and Exchange Commission

100 F Street NE

Washington, D.C.

PARTICIPANTS:

Securities and Exchange Commission:
Gary Gensler, Chairman
Hester Peirce, Commissioner
Allison Herren Lee, Commissioner
Sarah Ten Siethoff, Acting
Director of Division of
Investment Management
Ed Bernard, Chairman

Panelists:
Karen Barr
Gail Bernstein
Theresa Hamacher
Steve Yadegari
Dave Carson
Russ Wermers (AMAC Member)

AMAC Members:
Ed Bernard, AMAC Committee Chairman
John Bajkowski
Jane Carten

PARTICIPANTS(CONT.):

AMAC Members(cont.):
Scot Draeger, Panel Moderator
Michael Durbin
Gilbert Garcia
Paul Greff
Richard Hall
Adeel Jivraj
Renee LaRoche-Morris
Susan McGee
Jeffrey Ptak
Erik Sirri
Aye Soe
Rama Subramaniam
John Suydam
Russ Wermers
Joe Savage

C O N T E N T S

C O N T E N T S(CONT.):

PROCEEDINGS

CHAIRMAN BERNARD: Thank you. Welcome to the SEC's Asset Management Advisory Committee. I'll call the meeting to order. It's September 27, 2021. I would note that we have a quorum. This is a virtual meeting on WebEx, and we've done a sound check to ensure that all members of the committee and the Commission can hear. If there are any problems, please send a chat to the meeting host.

As we open the meeting, I'd like to welcome Chairman Gensler and thank him and Commissioner Lee for joining us today. Chair Gensler, I think you wanted to make a few opening remarks.

CHAIR GENSLER: Thank you, Ed. Thank you for the Asset Management Advisory Committee. I appreciate all of your time and willingness to give us advice. Look forward to getting the reactions from today's discussion.

As is customary, I note that my remarks are my money and not the

Commission's or staff. I know that you're going to speak today about the topic Evolution of Advice subcommittees, actually going to speak about the rapidly changing technology and user experience and marketing providing the ability to give individual personalized advice and client service.

And so I just want to discuss one thing that's underlying all of these changes, and they are really exciting across our economy, but it's predicted data analytics. Maybe it's a little bit of my study of this stuff up at MIT, but I think it can bring a lot of economic inclusion and targeted marketing.

And we're living in a really transformational time, I believe maybe it's transformational as the internet itself three decades ago. Artificial intelligence, predictive data analytics, sometimes what's used as machine learning for shaping and reshaping many parts of our economy. Of course we know some of the debates going on right now in what

will be facing us over the next 10 and 15 years about the transition possibly to driverless cars, and policymakers are already thinking through how to keep passengers and pedestrians alike safe if and when these changes take further hold. They are already starting to see some of those debates.

Finance is not immune to these developments either, and here too policymakers I think must consider what rules of the road we need for modern technical markets and for the use of predictive data analytics. You see, new platforms can collect boundless amounts of data from customers or from the world around them. And with that data the steps we've taken wearing our fitness bands or Fitbits and so forth or the days of the week we buy pet food online or even the telematics inside of our automobile, they can tune their marketing to each of us differently.

So therefore, fintech platforms and the big incumbents and the tech companies

have new capabilities to tailor marketing and products to individual investors using predictive data analytics and other digital engagement practices. These technologies can bring increased efficiencies, greater access in finance; and in many cases too, though, these individualized features may encourage investors to invest in different products or change their investment strategy. So that's where I think there's a real interesting and important set of policy questions.

In the case of robo advisors and investment advisors, I question what are they doing within the predictive data analytics algorithms. Statistically speaking, for instance, they are not only maximizing for our returns as investors, but are saying maybe awesome maximizing for the revenues of the platform.

What about that inherent sort of tension of tuning the algorithms not only for us, but tuning the algorithms for them. In essence, predictive data analytics and other digital engagement practices including the prompts and the differential marketing are often designed in part, not wholly, but in part to increase the revenues, the data collection and the customer engagement.

So this raises a number of questions that I think for all of us to grapple with as a policy matter. How are investors protected in light of these potential conflict of interests that may exist when the engagement practices and the underlying data analytics, as I said, are optimizing not only for us and our returns but for the platforms, revenues, data collection and the like.

There's a related set of questions if the engagement practices are affecting investors' behavior, when is that nudging up against -- when is that a recommendation for investment advice.

Also how do these business models ensure for fairness and access of pricing and access. More specifically, this question arises when the underlying data

used in the analytic models reflects society's data with historical biases that may be proxies for protected characteristics like race and gender. We kind of can't get away from that, but how do we ensure that the digital analytics aren't just proxies for race and gender underneath.

Lastly, advances of predicted data analytics also could raise some system-wide issues when we apply new models, artificial intelligence, et cetera, across the capital markets, and it could lead to greater concentration of data sources if one place is about one place that you get all that fitness data or that one place you might get all the data on mortgage origination or something. Or herding or interconnectedness are potential issues for systemic risk.

So we're taking a look at these. We put out -- in late August the Commission published a request for public comment on the use of new and emerging technologies by financial industry firms.

I encourage those listening here if you want to weigh in. I think we have an open comment period through October 1.

Separately I've asked SEC staff to develop potential proposals with regard to cybersecurity risk governance. I know that's sort of separate than what you're doing right here, but we've asked for some recommendations on the fund side as well as on the issuer side. So asset managers as well as corporate issuers and see how we maybe can help address incident reporting and what I'll call cyberhygiene.

With that, Ed, I look forward to hearing more from your committees and turn it back to you.

CHAIRMAN BERNARD: Thank you very much indeed, Chairman Gensler.

Commissioner Peirce, have you been able to join us?

COMMISSIONER PEIRCE: Yes, can you hear me?

CHAIRMAN BERNARD: Yes, thank you. I think so you wanted to make a few remarks.

COMMISSIONER PEIRCE: Yes, and thanks to the rest of the committee and all the panelists today.

When former Commissioner -- when former Commission Chairman Jay Clayton announced the formal establishment of the AMAC nearly two years ago, he charged it with helping the Commission ensure that our regulatory approach to asset management meets the needs of retail investors and market participants at a time when the industry is evolving rapidly.

Over the next two years, the AMAC succeeded in addressing many of the pressing issues facing asset managers, and I for one profited from the work and contribution each of you have made.

Today's agenda is in keeping with AMAC's rule to inform the Commission on pertinent matters addressing asset managers and their clients. And I'm looking forward to hearing the presentations from the subcommittees on private investments and the Evolution of

Advice.

I'm especially interested, however, in the discussions on the small advisors and small funds subcommittee. Recognizing the important role that small advisors play in our markets and in the lives of clients needs to be a key consideration in policy formulation.

One way to show our appreciation for special challenges smaller advisors face is by taking the relatively simple step of amending our regulatory definition of just what a small advisor is for purposes of our regulatory analysis. Currently we define a small advisor as being a firm without the kind of management of less than 25 million.

As the presentation materials illustrate, almost 60 percent of advisors have assets under management of 100 million to a billion, and nearly 90 percent of all advisors have 50 or fewer nonclerical employees with a median number of just eight employees. Regardless of what our rule says, these

are small firms who feel keenly the cost of each additional regulatory requirement that the Commission imposes.

Small advisors provide a bridge to prosperity as they are engaged on a daily basis with retail investors in communities across the country, and it's incumbent upon us to do all we can to encourage their growth and lower barriers.

As I said above, I'm looking forward to hearing what the subcommittee -- what the subcommittees have to say, but I'm even more excited to listen to the discussions that will follow. Although I've not always agreed with AMAC's recommendations, I've always benefited from hearing dialogue. Thanks so much.

CHAIRMAN BERNARD: Thank you, Commissioner Peirce. And Commissioner Lee, I think you also wanted to make a comment?

COMMISSIONER LEE: Yes, thank you, Ed, and good morning and thanks to everyone for joining. I'm looking

forward to hearing from all the subcommittees today about the developments in your respective work streams, and I'm also especially interested to hear from today's panelists on the challenges and competitive issues confronting small advisors and small firms.

Before you get started, I'll just offer a few brief thoughts on today's topics.

First, the materials for today's discussion of small advisors and small funds offers an important reminder that the asset management community is largely comprised of small businesses. And that's an important context for us as we think about the regulatory and competitive impacts of our rule-makings.

Of course, small funds and advisors are critical to ensuring that investors have access to a diverse range of products and strategies and other services, so it's important to focus on ways to promote and sustain growth in this segment of the

market.

I was particularly interested in the materials relating to how both small advisors and small funds are navigating the challenges of competing against some very large firms. And a number of industry innovations like leveraging technology, utilizing efficient legal structures like turnkey series trusts and outsourcing back office functions to experienced vendors enable advisors to more readily scale operations, but they may present unique governance and compliance challenges relating to, among other things, supervision and fiduciary obligations.

So I look forward to the conversation about how advisors and funds are using these approaches, and I hope to hear whether there are ways that the Commission can facilitate small entities' ability to compete in this way while supporting core investor protections.

And next I want to thank the private investments subcommittee for a

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thorough and thoughtful report and recommendations. I think the topic of facilitating private market access to retail investors presents a number of difficult questions, several of which you've attempted to address head on, which I appreciate.

And, in particular, I appreciate the effort to compare numerous types of private funds to their nearest public market equivalents while also acknowledging, of course, these comparisons are quite complex.

And I also found very helpful the discussion of proposed design principles that are tailored to address many of the unique needs and challenges that retail investors would face with respect to the private markets.

The topic raises important questions regarding the ways in which our rules may continue to blur the lines between public and private markets and in doing so potentially undermine the benefits of public markets for retail

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investors and public companies alike.

As Chair Gensler recently described the basic bargain of our securities laws -- and I'm paraphrasing here -- as one in which investors get to decide whether and how to invest, but issuers must provide full and fair disclosure to inform those decisions.

So I believe that our regulatory approach should consider that bargain and ensure that when issuers get the benefits they seek, which is access to an ever expanding pool of investors' capital, they must keep up their end of that basic bargain by providing the disclosure that's necessary to inform and protect investors.

We must be mindful of the regulatory shift over the past few years that facilitate companies' decisions to stay private longer. In this dynamic, which has been promoted but not well explored by the Commission has fueled enormous growth in the private markets over the past couple of decades. And I think the approach cries out for careful

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analysis of the effect on public markets and retail investors.

So these are issues that I grapple with in evaluating whether and how the Commission should facilitate private companies' ability to access capital from retail investors. And I'll say that your report and recommendations are some of the most thoughtful and analytical that I've seen on the topic, and I encourage you to also consider addressing the ways in which these recommendations may bear on the important and growing imbalance between public and private markets.

So, again, thank you for all your work on these topics. The Commission and the public benefit greatly from your efforts, and I look forward to the conversation.

CHAIRMAN BERNARD: Thank you, Commissioner Lee, and thank you to the chair and all the Commissioners.

Now I'll turn to acting director of investment management Sarah ten Siethoff. Sarah, we're ever grateful for the support

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you provided us as well as your team, and I think you'd like to provide us some thoughts this morning as well.

MS. TEN SIETHOFF: Thank you, Ed.

So good morning to everyone and welcome to this meeting of the Asset Management Advisory Committee. Of course, like the others speaking before me, I'll remind you I'm just speaking on behalf of myself and not the Commission, the Commissioners or the staff.

Incredibly we're just about to enter the last quarter of 2021, and it's without surprise that the committee members are ready to share the great amount of work that they've accomplished since the committee last met. I understand today that the private investment subcommittee will present their recommendations after over a year of consideration.

I'm also looking forward to hearing an update from the new subcommittee on the Evolution of Advice.

As you may have seen, the

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Commission recently issued a request for comment on digital engagement practices, as Chair Gensler mentioned, and the Commission is focused on understanding better how the use of technology impacts clients receiving advice.

Specifically, the Commission is currently seeking to understand better the analytical tools and other technology used by investment advisors to develop and provide advice to clients.

The Commission is further interested in assessing the impact of digital engagement practices such as behavioral prompts, differential marketing and gamelike features on advisors' interactions with their clients. The subcommittee's input on these subjects and on this entire topic will be extremely valuable to the Commission and be a great contribution to our thoughts. I also expect the panel discussion on small advisors and small funds subcommittee to be very important.

I'd like to thank Chair Gensler and

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the commissioners for their patience today. I also want to thank you, Ed, for your leadership and all the subcommittee leaders and the committee members for your excellent contributions.

And then last but absolutely not least I would like to thank Christian Broadbent, Jay Williamson, Emily Rowland, Neil Lombardo and the other division staff who worked tirelessly to support this committee.

Thank you also to the division's managing executive office and the Commission's Office of Information Technology who always make these virtual meetings run smoothly.

And with that, Ed, I will turn it over to you and look forward to the discussion.

CHAIRMAN BERNARD: Thank you very much. Just a few quick AMAC updates for the group.

First I want to update you that our fellow AMAC member Ross Stevens has stepped down from the committee, and I

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wanted to offer our thanks to him for his participation and contribution.

Next is I believe -- in fact, I know you should all be aware because you've all received emails about it, our charter expires on November 4 of this year. You've already received timing for our final two meetings: one on October 28 and the other on November 3. Both will be considerably shorter than today's meeting, and due to our tight time frame we have very little flexibility and I hope you'll make every effort to make those times work.

I'm grateful for your tremendous efforts with me on the committee and what we've accomplished together and look forward to rolling up our collective sleeves to maximize the short time we have left together.

So turning to today's agenda, I'll let each subcommittee chair introduce their sessions. For now I'll just provide a brief overview of today. In our first session, as you've already heard, we'll

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discuss final recommendations to AMAC from the private investment subcommittee with the expectation of taking a vote for approval at the end of that discussion.

Then we'll have a relatively brief discussion led by the Evolution of Advice subcommittee to bring us up to date on the numerous discussions we've had on this topic over the last 18 months and talk about their approach in our remaining time.

After a break, the small advisors and small fund managers subcommittee will present a panel with a number of outside speakers from 11:45 to 1:45. At that point we can decide if we want a brief break or to continue directly into our usually lightning round to hear brief reactions of the day and get input from committee with quick remarks around the table. And with that we should wrap up about 2:15 or 2:30.

Before we turn to Rama to discuss the final report and recommendations for the private investment subcommittee, I'd like to, if you'll indulge me, remind the AMAC of a few thoughts I shared at our last meeting regarding final approval and recommendations.

First recall that all panel speakers and AMAC discussions led by the private investment subcommittee in our meetings are a part of the record of AMAC, any and all of which can serve as a reference for the Commission as and when it takes up work on these issues.

I believe that record is robust, thorough and balanced, encompassing voices from numerous points of view.

Second, I've participated as an ex officio member in most of the subcommittee meetings as well as the drafting of the final report and recommendations. As I've just noted, I believe strongly they've been thorough, balanced and inclusive in their work. They've also reached out to additional AMAC members to seek reactions and input.

And finally the SEC staff have also reviewed the drafts and provided technical

input, not to shape the recommendations of AMAC, which is independent, but rather to help the subcommittee convey its intended meaning as clearly and accurately as possible so it will be as useful as possible for the Commission's reference.

In our discussions of their recommendations today, you should, of course, raise any final questions or comments as part of the record. But I also hope we can minimize the temptation to engage in sentence-level editing of the recommendations at this late stage, and I'll ask for the vote on the recommendations as a whole.

Let's all remember that if and when the Commission elects to take up these issues for further action, there will be still more input, analysis and debate. I hope and expect our recommendations will be incorporated as part of that, but they're part of a process, as is the entire record created by all of our meetings.

I think the subcommittee with the

input in the form of AMAC has led great work on our behalf in a very complex area, and I hope you'll join me today endorsing their work and adopting it as the recommendations of AMAC.

So with that, just a very quick refresher on some housekeeping. We've done this numerous times, so I'll keep this brief. If you run into tech problems, please send a private chat to the meeting host. As usual, we'll manage our own status. When you're not speaking, please ensure you're muted. When you're ready to speak, don't forget to unmute, and please keep video on while we're live of the people.

I'll take a pause now to see if there's any questions before we get started. And seeing none, Rama, over to you.

RECOMMENDATIONS OF THE PRIVATE INVESTMENTS SUBCOMMITTEE

MR. SUBRAMANIAM: Thank you, Ed, and thank you to the Commission for providing us the opportunity to present

our final report and recommendations for private investments.

The private investment subcommittee was formed shortly after the first and only in-person AMAC meeting in January 2020. Following that meeting and particularly the presentations by some asset management industry experts, many AMAC members expressed an interest in considering increasing access to private investments by retail investors. The private investment subcommittee was thus formed.

Over the course of three further meetings in May, September and December 2020 and one meeting in March 2021, we have presented several work streams and most recently our interim report during the second meeting in 2021 in July.

By way of a short recap, in our May 2020 meeting the subcommittee provided its first update where we laid out our conclusions on our first work stream, macroeconomic supply and demand

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characteristics of the asset management industry, noting particularly on Michael Goldstein's initial presentation to the AMAC in January 2020.

We also discussed how we intended to fulfill our key guiding principle of recommending what is in the best interest of Main Street a/k/a retail investors, which would include balancing protection for the investor with the opportunity and access to a wider range of investments.

We also discussed our next two work streams. We were going to measure the full cycle returns from private investments, and we were going to understand the legal and regulatory landscape that governs individual investor access to private investments.

On measuring retailers, we surveyed prior academic research and engaged with the SEC Division of Economic Risk Analysis to help ensure our survey was complete. We found a few relevant studies but felt we needed to enhance our understanding of the returns on private investments.

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And given the lack of much data on returns from private investments, we started to seek out industry participants to analyze their return data, particularly Hamilton Lane and Cambridge Associates with long-term data from several asset classes.

In our September 2020 meeting we devoted the majority of the time to a lively panel hosted by Eric Siri, comprising two academics: Josh Lerner and Ludwig Phalippou as well as Cambridge Associates and Hamilton Lane to consider the returns from private entity.

We also returned to summarize the current regulatory landscape both in terms of what access the retail investors currently have to private investments and what are the main investor qualification thresholds for individuals to have access to a full range of private investments.

Lastly we began to share initial thoughts on our guiding principles which would be developed and refined over the coming months into our so-called design

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principles.

At our December 2020 meeting Eric Siri summarized the private equity returns work stream, and realizing that we have to think about other types of private investments, John Suydam provided a presentation that helped to provide a taxonomy of various private investments.

John also summarized what types of investments retail investors currently have access to along the liquidity spectrum.

And lastly, he provided some data on the percentage share of private investments held in the portfolios of various types of investors, including retail and high net worth investors, investors' pension funds, endowments and foundations, insurance companies and sovereign wealth funds.

Lastly, Joe Savage discussed some principles for wider access and asked for AMAC comment. These principles underpin the ongoing development of our so-called design principles.

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In our March 2021 meeting we presented our findings on the returns from two additional classes of private investments, private real estate and private debt, and we also discuss that due to the lack of public market comparables, we did not analyze the returns from real assets such as infrastructure as well as structured products and hedge funds any further.

We also provided AMAC a summary of the responses received by the SEC to question No. 155 of its concept release on harmonization of securities offerings in 2019. That question stated: What restriction should there be, if any, on the ability of closed end funds, including BDCs, to invest in private funds, including private equity funds and hedge funds and to offer their shares to retail investors.

Some of our specific final recommendations that we offer correspond closely to some of the suggestions in those comment letters. Joe Savage provided an update on the line principles criteria as well as discuss potential private investment access option for retail investors, including the use of registered investment companies, particularly closed end funds.

Lastly, in July 2021 we presented our interim report. Our final report is the culmination of the work I have summarized over the last 18 months or so. And while it's relatively lengthy at around 26 pages, we wanted the final report to be a stand-alone document that summarizes our observations, conclusions and recommendations.

Our observations focus on three areas and our relevant conclusions on those three areas are firstly, in relation to the macroeconomic and structural supply and demand factors impacting retail investors, we believe that the demand for investments and investment choices from retail investors and self-directed retirement accounts, which include 401(k)s, will continue to outpace GDP,

inflation and even the overall growth rate of the asset management industry. And these investors are largely limited to public market investments, primarily U.S. public equities.

On the supply side, we see a more concentrated public equity market due to a decline in the number of listed companies with companies staying private for longer and a concentration of very large companies, particularly in the technology industry.

Many of you will recall the example we gave of the top ten companies we gave in the S&P 500, accounting for more than one-third of the total index weight with the top five companies all being technology companies: Apple with a market cap of around 2.5 trillion, Microsoft 2.5 trillion, Google 1.5 trillion, Amazon 1.7 trillion and Facebook just under a trillion.

Companies six to ten, which include Berkshire Hathaway, Walmart and Mastercard, have a total market

capitalization in aggregate that is less than Apple.

Secondly we concluded that retail investors are precluded from accessing most private investments due to investor qualification requirements, including qualifications that apply to retail vehicles like closed end funds including ten integral intend to offer funds in some cases.

In particular, the SEC staff position requiring closed end funds that hold more than 15 percent of their assets in private funds to be offered only to accredited investors and the advisors act that requires advisors of close end funds which charged incentive fees can only offer them to qualified clients.

It is estimated that only around 13 percent of retail investors meet the accredited investor threshold, and likely less than 10 percent meet the qualified client threshold.

Lastly, we concluded that returns from the three private investment asset

classes were reviewed, namely, private equity, private debt and private real estate exhibit similar or higher returns than their public market equivalents.

However, we acknowledge that private investments are less liquid than public market investments, and the excess returns may be largely due to this illiquidity.

In addition, in the case of private equity, there's evidence of a higher disbursement of returns between private fund managers compared to public equity funds.

Our key general recommendations based on these conclusions are:

Firstly, we recommend that the SEC consider permitting retail investors access to a wider range of private investments.

Secondly, we recommend that wider access should be considered within the design principles we have developed that aim to balance the potential benefits to retail investors from wider access to private investments with sufficient investor protection. In particular, the design principles of chaperoned access and uniform disclosure are key to the balance we believe should be sought.

Lastly, we recommend that the SEC consider the current registered investment company framework to serve as the basis on which to achieve the balance sought by the design principles outlined.

In relation to specific recommendations, we recommend the SEC consider the removal of the 15 percent limitation on closed end funds investments and private funds unless offered only to accredited investors.

Investors in such funds already have the benefit of the registered investment company rules, including having an investment advisor, independent directors and extensive disclosure and reporting requirements.

Secondly, we recommend the SEC consider the removal of the qualified client requirements for closed end funds

that charge incentive fees for the same reasons as the removal of the so-called 15 percent limit.

We recommend the SEC consider facilitating closed end funds listing on public markets more easily. We believe removing the accredited investor and qualified client requirements will go a long way to achieving this, as secondary sales of securities issued by closed end funds could occur freely without needing to ensure the purchaser has any investment qualifications.

Listing could provide secondary market liquidity and help deal with the liquidity conundrum of private investments, that is that they are inherently illiquid.

We acknowledge that there is a potential of the closed end fund stock price trading substantially below the net asset value of the closed end fund. But we have this issue with REITs and some ETFs, particularly during times of market stress.

We note that chaperoned access via registered investment company and investment advisor structure will cause an additional layer of fees for retail investors compared to institutional investors. We therefore recommend that the SEC consider allowing large sponsors to play the role of investment advisor for cost efficiency reasons to closed end funds and to consider how conflicts of interest could be disclosed and managed.

We also recommend that the SEC consider whether chaperoned access may also be achieved by allowing closed end funds to only invest in approved private funds, which such approval status being based on things like the size and diversification of investments held by the private fund as well as potentially requiring at least a majority of the capital commitments to the underlying private fund to come from qualified purchases or other large institutional investors.

The SEC may even choose to go

further and consider whether such approved private funds could be invested into directly by retail investors without the need for the additional layer of an investment advisor to reduce the additional cost faced by retail investors.

We note that integral tender-offer funds may also be suited to deal with cash flow profile of investing in private funds, which have eight to ten-year life and where typically there's a drawdown phase during the build-up of the investment portfolio and then a liquidation phase as companies are sold.

As a result, we recommend that the SEC should consider providing these funds with additional flexibility, including allowing integral funds to have more flexibility with the initial investment period before the first repurchase and allow flexible repurchase dates based on the underlying liquidity of the funds' investment instead of a fixed schedule and also allowing the more flexible repurchases of a tender-offer fund in a similar manner to integral funds. In other words, aligning the Form N23 for integral funds with the form to requirements for tend to offer funds.

We recommend that the SEC consider standardized disclosure of fees, risks, fee terms and returns as well as perhaps liquidity constraints of private investments that retail investors have access to.

And lastly, we recommend that the SEC consider whether diversification requirements should be required for registered investment companies investing in private funds that retail investors have access to as an alternative to the SEC stock 15 percent limit rule.

These may include minimum fund size and other qualifying criteria for each private fund that a registered investment company is allowed to invest in; and registered investment companies could have a defined maximum exposure to any one particular private fund investor.

That concludes my summary of the

report. I wish to thank the other members of the subcommittee: Adeel Jivraj, Eric Siri, Joe Savage, John Bajkowski and John Suydam for all their work.

I also wish to thank Christian Broadbent and the SEC team for all their assistance and particularly Emily Rowland for her valuable comments through various drafts of this report.

Lastly, I wish to thank the chairman of the AMAC for providing valuable guidance through the process of identifying the work streams, ensuring an appropriate balance with deep analysis with getting the report actually completed and his patience with our overall process.

I will now turn it back to Ed for the formal vote on the report and its recommendations. Thank you.

CHAIRMAN BERNARD: Thank you very much, that's a very thorough summary. I agree with Commissioner Lee the report is superb. It's a very complex set of issues.

I've watched the group wrestle with

them for quite some time, and I too want to thank the entire group and particularly you, Rama, who have carried enormous loads since the last meeting to get this over the finish line working with your subcommittee members.

So with that, I'd like to open it up to the entire committee for any additional questions, comments before we get to a formal vote. And basically I'm in gallery view. I'm just looking for Gilbert.

MR. GARCIA: Thank you for that. Remind me or pinpoint, what safeguards are there for retail investors to be educated about how private equity or how they work. I mean, what will be the education components so they understand what they're investing in?

MR. SUBRAMANIAM: So I think, you know, in recommending the use of the registered investment company framework, I think it's around the disclosures that get mandated as part of that. Like what are the risks disclosures and what are

the other disclosures that required. So I think the key part of the education process.

CHAIRMAN BERNARD: Other questions or comments? Then can I just sort of see nodding heads if you're ready to vote? I'm seeing a lot of nodding heads.

So what I'm going to ask you to do is for everyone who is a voting member to come off of mute for just a moment and I will ask for ayes, nays and abstentions and we'll see where we are.

All those in favor -- so what we're voting for here is to take what we've read from the subcommittee and Rama's summary, and by approving this, it will become then the recommendation of AMAC to the Commission. So with that, would all in favor, please say aye. Any opposed please say nay. And any abstentions. Okay.

With that, we have unanimously ratified that. Thank you again to Rama, to John Bajkowski, to Adeel Jivraj, Joe Savage, Eric Siri and John Suydam. This work has been pretty remarkable.

Now we're ahead of schedule, and I think Mike is probably going to pick us up some time as well, but I'm going to turn to Mike Durbin to bring us up on work relating to the Evolution of Advice.

UPDATE FROM THE EVOLUTION OF ADVICE SUBCOMMITTEE

MR. DURBIN: Thank you, Ed. Good morning to everybody. Thank you to SEC, Commissioners and staff, my fellow evolution advice subcommittee members and the full AMAC membership for the chance to give what I do hope is a brief update on the state of the Evolution of Advice subcommittee. In fact, I thought Chairman Gensler captured the task at hand very well with his opening remarks. And so, hopefully this update dovetails naturally with those remarks.

With the approaching end date for our term as an AMAC has reminded us and the potential depth and breadth of the Evolution of Advice theme, it is quite broad and deep, as a subcommittee we've been endeavoring to draw our work because of that looming end date for all of us to

a productive close by the end of October. And in that process we seek to leave Commission, if the AMAC agrees, with a set of reflections regarding the rapidly developing state of the data and technology that is being brought to bear by our broad industry participants each and every day in service to individual customers ultimately.

And we applaud the Commission's clear focus on this topic already. As mentioned right off the top by Chair Gensler on August 27, the SEC published a request for information on the digital engagement practices or DEPs, of broker/dealers and investment advisors.

Entry participants, in fact, consumers are invited to respond to that RFI by October 1, which is just the end of this week.

The move reflects what we think is a healthy focus on the pace of change being brought to the industry due to the rapidly evolving availability of data and the technologies being used to augment the

engagement of any customers by so many industry participants.

That rapidly evolving availability of data and technology is the theme that we seized on as an AMAC and an AMAC subcommittee, and we prioritized it such in AMAC over a year ago.

So as reviewed in the materials that accompanied today's agenda -- and I'll do my hardy best to show it here without being too disruptive, hopefully you can see that -- we set out to survey this very broad landscape of capabilities as we sought in fact to narrow our focus as an AMAC to something that we felt was important and certainly potentially actionable for consideration ultimately by the Commission.

So consistent with our approach to other topics that we've taken up as an AMAC, we turned to industry participants and experts to help us in pursuit of education and, again, refining and narrowing the scope for the subcommittee's work.

I will not go through all this in detail, don't worry, but on July 16 of 2020 we clearly prioritized data; data being what we view as the feedstock of the technology and customer engagement innovation that is under way. You'll recall that we heard from panelists who are experts in the aggregation of consumer financial data and the utilization of such data for client-facing applications such as building a financial plan, rebalancing an individual's portfolio of holdings or calculating portfolio performance, et cetera.

Latter sessions and discussions you see here as summarized focused on personalization, which we see as the application of increasingly robust data sets regarding customers and the technologies which use that data to serve customers on an increasingly personalized basis.

Now, personalization can come in many forms, many venues, many interactions, and they include but certainly are not limited to anticipating the basis of a customer's service inquiry to their financial services provider, increasingly predicting why is Mike Durbin calling in to ask a question of my service provider.

To things like personalizing a portfolio for tax efficiency, optimized around the tax situation in which I might find myself as the head of household. Or investing a portfolio consistent with a customer's values across environmental, social and/or governance issues.

We believe the evolution of customer engagement based on data and technology has benefited customers as industry participants are able to provide an informative, intuitive and, yes, increasingly personal customer experience.

Now, the explosive growth of customer engagement, particularly in equity and options trading earlier this calendar year, has stirred industry participants and regulators alike to review the complicated ecosystem that is

brought to bear in the acquisition, onboarding, trading and investing of ongoing servicing of individual customers, given that a substantial amount of that spike in customer activity earlier this calendar year was, in fact, from first-time or relatively inexperienced savers and investors.

And, again, while we applaud the Commission's pursuit of information and perspective via the RFI issued in late August, we may caution the SEC against moving to impose additional regulatory restrictions that could hamper the ability of broker/dealers and investment advisors to pursue technological innovations that enhance the customer experience and encourage productive investor behaviors and instead, focus on the interactions that do not fall within an existing and clear regulatory framework.

Existing regulatory frameworks that govern the conduct of broker/dealers and investment advisors have shown resilience in the face of industry change over many

years. To that end -- I'll skip ahead, sorry for the scrolling, bear with me -- to that end as an AMAC subcommittee and with the help of industry experts, we seek to use the balance of our short time together in order to assemble a reasonable but robust spectrum of the application of data and technology for the purpose of providing increasingly personalized solutions to customers.

Such a spectrum will seek to array instances of personalization that, again, range from personal service interactions up to and including clearly personalized and prescriptive investment advice.

Then we will seek to align the current regulatory -- primary regulatory frameworks governing broker/dealers and investment advisors with that spectrum, and in that process potentially identify areas where clarity from the SEC may be warranted.

At this stage we do not believe a new regulatory structure should be imposed solely because interactions are being

conducted increasingly digitally. Rather, the SEC could pursue additional enforcement action within the existing regulatory frameworks governing IAs and BDs against those employing practices that involve questionable behavior or reveal conflicted arrangements not properly managed or disclosed.

So with that, I want to thank all of you for your consideration of this scope of our remaining time together on this topic, and, Ed, I welcome any comments or questions from the group.

CHAIRMAN BERNARD: Can you give us the screen back?

Obviously as the term I used earlier, we're in a hurry up offense here, thank you, Mike, that was a terrific summary. And I think the group has done a nice job homing in on some important areas that we think we have time to add some value to in our remaining time together building on the work that's been done over 18 months.

But with that, I would welcome

quickly any comments, questions that you have for Mike and the subcommittee to guide that work over the next month.

Just looking for hands here. Looks like you laid it out pretty clearly. Everybody is good to go. So final call for questions. Rama?

MR. SUBRAMANIAM: Not so much a question, just a comment. I think this is a hugely interesting and important area. We're a very data-driven firm ourselves and we see just a massive growth in computing power and data analytics and not just -- you know, this is just one example of lots of things that are happening to us that is personalized, right or attempted to be personalized.

So there's a benefit to that and, but there's also obviously new issues that crop up. So I think that the plan you have with the time we have is the right one, and I'm really interested to see how you segment the various types of, you know, use of technology. To me that's

like a really important first step and then matching up the rules. I think it's a great approach, a very interesting topic. It's a difficult topic as well. But I'm glad we're taking it on. It's definitely time.

CHAIRMAN BERNARD: If I can just add to that, I agree with Rama's comment. And I think you framed this well, Mike. There's sort of a challenge of finding the right balance between allowing innovation to occur which could be extraordinarily beneficial to investors most importantly and to the industry that serves them while at the same time ensuring the necessary protections are in place.

I was going to say this is a particularly challenging area to do that because of the pace of innovation, but, frankly, I dare say, the Commission would say most areas of regulation is pretty difficult to find that balance. So I don't want to overstep there.

But I think the way you all have

taken, even though we have a relatively brief time, you know, one of the things I would remind the group that the value of an advisory committee like AMAC is to bring senior leaders from the industry together for dialogue in addition to what they already get in the form of letters back and forth, basically requests for comments, comment letters coming in and so forth.

And I think what you planned to do is to essentially frame the issue and here is a way to think about these questions, perhaps a continuum from sort of the clearly okay to the clearly not okay and the gray in between, I think even in the limited time we have remaining with the insight that will come from this group I think will be enormously valuable. So I'm grateful to you for taking it on and distilling it in that way.

So with that, unless there's other comments. So this has happened to us once before. We are well ahead of schedule. Our next panel is Scot Draeger and the

small advisor and small fund subcommittee. Again, in our hurry-up offense mode we put together a very substantive panel of six speakers. It's scheduled for 11:45 to 12:45. I'm sorry, to 1:45. And I dare say everyone can understand that we can't quickly email six differently -- well, five external speakers and Russ Wermers a committee member and say can you please change your schedule.

So we are now going to take an extended break until 11:45. As far as those who are viewing in public, there will be a holding screen on SEC.gov, and we hope you'll rejoin us at 11:45.

For committee members, I think for technology purposes I would encourage you to keep this link open and just turn off your camera and mute. If for some reason you need to log off -- and what I was going to say is if you stay connected, I would say at about 11:40, please come back and make sure everything is good and then we'll open up and start the panel. If you need to log off, maybe come back about

11:30. Make sure you get back in, we have no technology difficulties.

And in the meantime we'll give you a little time to catch up on your day jobs which since we already draw so much time away from it we'll let you catch up a little on your day jobs and we'll see everybody back here on the committee between 11:30 and 11:40, and for the public we'll turn this back on at 11:45.

So with that, any other questions about that housekeeping or will I see everybody at the appointed time? It looks like we're good. We'll see everybody after an extended break, thanks.

(BREAK)

CHAIRMAN BERNARD: Let's get started again. It's 11:45. Welcome back to the Asset Management Advisory Committee after a somewhat extended break.

At this point Scot Draeger, who is chairman of the Small Advisors and Small Funds Subcommittee will introduce today's panel and discussion. As I hand off to

Scot, I'd like to personally offer my sincere thanks to all my speakers for making time today for sharing your insights with us. We're very, very grateful.

I think, Scot, I know you're going to go through logistics. I think we're going to have the speakers speak first and save questions for the end, so my only note to committee members would be as questions or comments arise in your mind you might want to make a brief note of it so that we can pick all that up at the end.

With that, Scot, over to you.

UPDATE FROM THE SMALL ADVISERS AND SMALL FUNDS SUBCOMMITTEE AND PANEL DISCUSSION

MR. DRAEGER: Really appreciate the opportunity here as others. I want to thank Chair Gensler, the Commissioners and the SEC staff, particularly Sarah ten Siethoff and Christian Broadbent and Jay Williamson for all the support leading into today as well as Ed's guidance and all the members of the

subcommittee for their work leading up to this point which subcommittee includes Susan McGee, Jane Carton, Russ Wermers, Rene LaRoche Morris and myself.

Finally I want to thank each of the presenters that have agreed to share their time and perspectives with the AMAC and Commission today. We have six speakers who will cover a diverse scope of perspectives on matters impacting the segment of the investment advisory and fund communities that consider themselves small businesses.

I will introduce each of the speakers just before they present, and as Ed said, for efficiency we are going to have all the presenters share their perspectives and then leave some time for questions and answers at the end of all the presentations.

In our first segment we are fortunate to have Karen Barr and Gail Bernstein, the CEO and general counsel respectively, of the Investment Advisors Association. As long-time leaders of the

IAA, they meet regularly with industry members, and they are truly in tune with current perspectives, challenges and pain points for the typical asset management firm.

With that knowledge, Karen, Gail and the entire team at the IAA serve as a very critical educational resource for industry members in the context of operational, compliance and business policy.

The IAA puts out an annual report each year that provides the most comprehensive data set available on the shape and evolution of our industry, and as we heard, some of the SEC Commissioners themselves who were referencing some of that data this morning.

Karen and Gail will calibrate our collective focus today by sharing some information about the shape of our industry, which really emphasizes that it's largely an industry of small businesses, and they will also share what they consider to be the most universal pain points of small businesses in our industry at this point.

So with that, I'm going to turn it over to Gail and Karen, and thank you, once again to both of you for your thoughts today, and after they finish I will introduce the next speaker.

MS. BARR: Well, thank you for that kind introduction, Scot, and thank you for inviting us to this panel. Thank you to Ed, the subcommittee, Chair Gensler and SEC staff for focusing on issues related to smaller advisors. And thank you to Commissioner Lee, Commissioner Peirce for your comments this morning recognizing the importance of balance and how to promote and sustain this important community of advisors.

As Scot mentioned, I'm Karen Barr, president and CEO of the Investment Advisor Association. I'm joined by our general counsel, Gail Bernstein.

The IAA is the leading trade association advancing the interest of fiduciary investment advisor firms. Our

members range from the large global asset managers to the small firms that make up the vast majority of our industry in all shapes and sizes in between. We appreciate the opportunity to provide data and perspectives today.

I'm going to spend a few minutes providing data on the industry and a few thoughts on the business environment for smaller advisors. Gail will speak to some of the regulatory considerations for the industry.

As Scot mentioned, the IAA and NRS publish a report every year doing a deep dive into the recent form ADV data. We've been doing this for 20 years. Most firms file by March 31 based on the 12/31 prior year data so that the data is for last year.

The link is on our website as well as the underlying data files, and I encourage everyone to dig in. I'm not going to go into all of these slides in detail in the interest of time, but I will just give as a top line note that our

industry continues to grow with assets, clients and employees hitting all-time highs.

These types of statistics get all the headlines, and people assume that our industry is made up of big players, but you need to peel back the onion. And when you do, you see that the vast majority of these advisors are small businesses. As of April 2021, there were 13,880 SEC registered investment advisor firms. And you can see that there's a definite barbell effect here. The majority of firms, almost 10,000, manage $1 billion dollars or less in assets, and 88.5 percent manage less than 5 billion. The top 185 firms managed almost two-thirds of the total industry assets.

When you look at employees, the picture is even more stark. More than eight in ten have fewer than 50 nonclerical employees, and more than 8,000 firms have ten or fewer employees. And, in fact, the median number of employees is eight, as was mentioned this morning.

Those numbers, that eight, those ten or fewer need to include leadership, often the owner of the firm, client-facing personnel, investment, operations, compliance. They wear a lot of hats. These are small businesses by any measure.

The larger firms are obviously larger employers. Smaller advisors account for a large proportion of employees relative to the assets that they manage, and they account for solid employment growth.

The next few slides underscore that the next few advisors are truly a Main Street profession. More than 80 percent of SEC-registered advisors only have one or two offices.

I'm going to acknowledge that things might be changing with the new normal on remote, but this is the data as of now. Advisors are in all 50 states, D.C. and Puerto Rico. They're not just located in New York or California, but they are spread throughout the country.

60 percent of investment advisors

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have at least one client who is an individual. We drilled down into those who specialize in managing money for individuals. Advisors that manage money primarily for individuals are likely to be small businesses. On average those firms have nine employees, two offices and under 400 million in AUM.

So here is the upshot. Small businesses are the backbone of the investment advisor community. A typical or median advisor has eight employees serving primarily individuals and family. The vast majority have 50 or fewer employees and under a few billion AUM.

This typical SEC registrant has challenges and opportunities that are dramatically different from the relatively small number of large firms out there. And they often have very different business models and investment strategies from global institutional firms.

We encourage the SEC to consider these unique challenges and the operational realities faced by the typical

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advisor firm and to evaluate the cumulative impact on policy decisions on their businesses and their ability to serve the investing public.

Today's business environment rewards scalability and effectively requires substantial fixed investments in infrastructure, technology, personnel and systems across all aspects of the business in order for a business to remain viable.

It's very difficult for smaller advisors to determine how much is reasonable or enough when it comes to the expenditure of resources. Not only to stay relevant and to do the business that they're hired to do by their clients, but to keep up with very serious global challenges like cybersecurity, and Gail will talk about that a little bit later.

Small firms cannot scale up effectively, so they need to outsource an ever-increasing number of functions ranging from operations, marketing, recordkeeping, data analysis and management, cyber, help with proxy voting,

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compliance, even the trading function. Some are even outsourcing investment management and using models.

These are only a few of the functions that today are outsourced. And with each outsourcing agreement, smaller advisors are expected to have the resources to conduct due diligence and manage their third-party service providers.

In addition to not being able to scale internally, smaller firms also face challenges in competing with financial services. For example, a lot of third parties such as fintech providers, research providers, they'll only do business with firms above a certain size, or they'll only provide a certain level of service to firms of a certain size, and that really freezes smaller advisors out.

All of this leads to an increase in mergers and acquisitions activity, which is really picking up, consolidation activity and other kinds of affiliations.

There are some other business

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practices that have a negative impact on smaller advisors, and I'm going to turn it to Gail to start us off with some of those.

MS. BERNSTEIN: Thank you, Karen. And thank you to the committee for inviting me to join today's discussion.

I'm going to start with an issue that we've heard about for years and have been hearing about even more lately, and that is CUSIP licensing fees. CUSIPs are assigned to new securities by the CUSIP Services Bureau, which is operated by Standard & Poors.

Use of CUSIPs is prevalent in our market. It is used to identify most financial instruments, and they're also embedded in numerous SEC regulations. They are used for trading, clearance and settlement, regulatory reporting and internal data management, to name just a few things.

Because of the ubiquity, S&P effectively has a monopoly on security identifiers and it charges licensing fees for virtually any use of CUSIPs, whether direct or indirect and regardless of the purpose of the use, including by our understanding a firm's keeping a record of securities in its own database owned on behalf of its clients.

We understand from our members that S&P's efforts to obtain these licensing fees for use of CUSIPs by advisors have become increasingly assertive recently. We hear of S&P threatening to freeze an advisor's ability even to maintain CUSIPs in its internal database unless it pays a fee as determined by Standard & Poors.

S&P is also apparently increasingly requiring that it be given access to advisors' databases so that it can directly order the use of CUSIPs. In fact, we understand that S&P is now conditioning its agreements with service providers that offer advisors data management services on those providers, essentially, forcing their end user clients to pay the S&P fee in order to access and manage their own data.

This is a problem across the board for advisors, and it's particularly expensive for smaller advisors that rely so heavily on third-party vendors, which we'll hear about a lot today.

We think that this is something that the Commission really ought to take into account as it considers how much burden there is on the ability of smaller advisors to remedy businesses and serve the investing public.

We think that the Commission should work with the Federal Trade Commission and, if appropriate, also with the Justice Department to initiate a review of Standard & Poors' licensing practices and to consider whether requiring the use of license identification numbers in regulatory filing poses potential liability, creates antitrust issues with respect to use fees or is otherwise problematic, particularly for smaller firms.

It might be worth mentioning here that in 2011 the European Commission

issued a decision in which it reached a preliminary view that Standard & Poors was imposing unfair prices for both direct and indirect use of identification numbers that are based on CUSIPs within the European economic area.

The decision resulted in S&P's commitment not to charge fees at all to indirect users of these numbers, including advisors, but in the EEA and also that it would unbundle its pricing to direct users like issuers.

Although this commitment expired in 2017, we heard that S&P continues to adhere to it in full in the EA, but interestingly, no longer in the UK following Brexit.

I just want to point out that it's not just CUSIP that's the problem for smaller advisors. There are concerns about similarly aggressive pricing coming up in the context of benchmark providers. The more well-known index providers also have virtual monopolies of the most common benchmarks, and we hear from our members

that fees for their use are increasing unreasonably as well. We think the Commission should consider benchmark licensing issues as well.

We move now to some regulatory considerations for smaller advisors. And I'd like to really ask the Commission to keep some of these things in mind as it considers its approach to smaller advisors.

Karen has spent some time talking about what a small advisor looks like in the industry landscape from the data point of view. I'd like to focus on what it looks like for purposes of the SEC's regulation.

Commissioner Peirce touched on this point at the beginning of the day, and it's worth repeating. Federal agencies are required by the Regulatory Flexibility Act to analyze the economic impact of proposed regulations when there's likely to be a significant impact on a substantial number of small entities, and it's supposed to explore regulatory alternatives for reducing the impact.

Now, for purposes of this analysis, as Commissioner Peirce pointed out, the SEC views a small entity as an advisor that has less than $25 million in assets under management. As you all know, the threshold for SEC registration in almost all cases is 100 million in AUM. So despite the very clear data that Karen has gone through today indicating that the vast majority of advisors are small businesses by any measure, the SEC's rate fix analysis is not taken into account at all.

We believe that it's time for the Commission to increase the AUM threshold to more realistically capture the actual universe of small advisors, but we also think that it's imperative that the Commission update its definition of small entity to provide for more meaningful alternative metrics to AUM, such as, for example, the number of advisors and employees.

Because regulatory compliance

depends on financial and human resources, using an AUM-based test is the only measure we think is missing the true burdens of regulation on advisors.

Separately, we strongly recommend that the Commission use the growing amount of data at its disposal to tailor regulations and its exam program more appropriately for smaller advisors. The Commission has done so in other context, and it should do so in this one as well.

For example, small public companies under the Exchange Act reporting rules are not a scale disclosure or reporting. It's also worth noting that an SBA, Small Business Administration study, pointed to agencies that do this in the scope and compliance requirements for small business as well, including independent agencies. So that's worth taking a look at as well.

Also something that Scot mentioned is about considering the cumulative impact of regulations and compliance's expectations. It's important for the Commission, we believe, not to look at its

regulatory requirements but to consider the cumulative impact of all of its regulations and compliance expectations on its registrants. It may well be that an advisor has the personnel and resources to comply with a given regulation when looked at by itself, but when all the requirements and expectations are viewed as a whole, it's often an overwhelming challenge for advisors.

We think that the Commission should periodically take a step back and look at the whole regulatory landscape, the whole picture, and we also think that it should apply in rule of reason to its imposition of additional requirements and expectations on these small businesses.

We also think that it's important for the Commission to do a retrospective review of existing requirements on a periodic basis to determine whether they are still effectively serving their objectives.

Moving to some specific regulatory challenges, in the time I have left I

would like to touch on just a couple. I'll briefly speak to the use of proxy advisory firms, the limited access of smaller firms to the bond markets, and I'll end with cybersecurity and data privacy.

So first use of proxy advisory firms. Proxy voting is an important part of stock ownership, and we don't think that the SEC should make it more difficult for advisors to engage in proxy voting or to use proxy advisory firms when the advisors decide to vote proxies on behalf of their clients.

Basically advisors should not be the collateral damage in a broader political battle. Smaller advisors of those proxies on behalf of the clients use proxy advisory firms not just for voting but for a variety of services, including voting mechanics, data tracking and aggregation and workman management.

Without these services, they would, simply put, not be able to vote proxies at all.

The SEC issued guidance for advisors' use of proxy advisory firms in 2019 and again in 2020. Although both sets of guidance are framed as guidance and not as rules, this is another example of the cumulative impact of regulatory expectations.

Our members tend to view guidance as a requirement that needs to be integrated into their compliance programs, and the SEC examiners certainly look to guidance as part of their examination process.

This all just serves to make the use of proxy advisory firms more difficult and more expensive for smaller advisors. We believe that the SEC should take approach that is more tailored to smaller firms when developing guidance, and it should provide an opportunity for notice and comment so that it can hear from firms about the likely impact of guidance on them.

Let me turn now to what is an increasingly limited access to small

advisors to the bond market. Many small advisors believe that it is in their clients' best interest to pull the portfolio of individual bonds rather than to seek exposure to fixed income markets through bond firms. The intent is often to hold bonds to maturity and not to actively trade them, but more and more fixed income issuers are opting to rely on the Rule 144A process for bond issuance rather than going through the more expensive and burdensome public offering process.

Only qualified institutional buyers can purchase 144A bonds, and 144A bonds now outnumber registered issues both in number and in volume, and they currently make up more than half of the high yield bond market.

In an increasing number of cases, these bonds are only offered on what they call a 144A-for-life basis, meaning that they are never registered and thus never available for purchase by non-QUIBs.

Smaller advisors that are pursuing

fixed income strategies are being significantly disadvantaged by the increasing lack of availability of bond offerings.

These SMA clients are not QUIBs. They are not allowed to access these high-quality corporate mini-bond issues.

And this means individually investors are in a position of having to overpay for the limited inventory of available in the secondary market when the new issues are flipped.

We suggest that the Commission consider expanding the QIB definition to include investors that receive discretionary investment advice from SEC registered advisors. The advisors would have to manage over 100 million in securities of unaffiliated issuers, which would be consistent with other categories of QUIBs.

At a minimum, we ask that the Commission and staff study this issue to consider the practical realities and how

to level the playing field for access to quality new issue bonds by smaller advisors who want to hold bonds directly on behalf of their individual clients.

I want to wrap up by calling on the Commission in the cybersecurity and data privacy area to work with other federal financial regulators on a uniform national approach to cybersecurity and data privacy regulations in order to create consistency and reduce complexity.

Federal coordination and explicit preemption of the growing patchwork of state regulation in these areas are both overdue.

Implementation of compliance challenges for all advisors but for smaller advisors in particular are only growing in this area. Chair Gensler mentioned this morning that he has asked the staff to develop a proposal on cyberhygiene and cyberrisk governance.

We ask in this context as well that the Commission tailor its expectations to the size and resources of an advisor's business, because while one size absolutely cannot fit all here.

With that, I'd like to thank you again for including the IAA in this very important conversation. Karen and I and the entire IAA staff stand ready to act as a resource for the committee and for the Commission and to stay engaged as you continue to grapple with the many challenges that we're talking about today. Thank you very much for having us.

CHAIRMAN BERNARD: Karen and Gail, that was really terrific and I'm sure greatly appreciated by all of the AMAC members and the commissioners and staff. Thank you so much.

And also, Gail, great job staying on target with time and Karen as well. You left me one minute, which is perfect to introduce our next speaker.

So Mr. Hamacher, our next speaker, is the chair of the Morningstar fund board, and while Morningstar is obviously a very big firm, in totality the proprietary fund complex is in its early

stages.

As Morningstar Fund's board share, Theresa will share the perspective of a fund director for a small but growing fund complex focusing on the governance's, operational and compliance stress point for fund directors of complexes that have reasonable resource constraints.

In addition to serving as chair of the Morningstar Fund board, Theresa has served as the chief investment officer of a variety of reputable advisory firms and fund shops, and she has also served as the president of NICSA, a nonprofit that has worked with the advisory industry to develop operational best practices for advisors and bonds.

Her experiences are colored by all of those past roles that she served in, and so I'm very grateful to have Theresa here to share her perspective.

And with that, Theresa, take it away.

MS. HAMACHER: Thank you for having me here today. I also want to

thank the commission for their attention to issues affecting smaller fund complexes.

As Scot mentioned, I am the chair of the Morningstar Fund's trust board. And why that's relevant, as Scot mentioned, is that we're a fairly new fund family. We began operating almost three years ago now. I got involved about a year before the launch, but Morningstar has been talking about this project for some time.

But I think what's most relevant is that we're one of the few fund families that has launched outside the Series Trust format in recent years, certainly one of the few that I know. And I think that lack of new entrants is something that's worth some attention.

So anyway, it would seem that Morningstar would be a natural for launching a fund family. The company is obviously very familiar with the fund business. They have a recognized brand name with both industry professionals and

investors. They also have a significant investment management operation with a base of assets ready to be moved into the funds. But this, the fund launch still continued out to be a massive project involving significant investment on Morningstar's part, investment in both people and technology.

I think the Morningstar experience is important because it illustrates the difficulties new entrants have if they are to be positioned to challenge the very large firms that now account for a growing part of the industry.

The Series Trust format is certainly very useful for smaller firms that are looking for a cost-effective way to enter the retail market, and you'll be hearing more about that format later in the panel.

But if mutual fund firms are to be successful and hope to move into the larger fund category, they'll need to think about setting up their own independent fund family the same way that

Morningstar did.

Obviously, one of the key factors generating cost for the fund family is regulation. I hate to admit it, but I've been in the mutual fund business for almost 40 years now, and so I've seen the regulatory regime become much more sophisticated over those years. I understand the reasons that regulations have been put in place.

But the thing is, at the firms that I've been involved with before, the accumulation of regulation has been very gradual. But it gave me a very different perspective to be involved with a startup where all of that regulation is laid on at once. And you become much more aware of the weight of it combined.

A very good -- I also became much more aware of the fact that regulations are one size fits all working with a smaller fund family. A very good example of that is the SEC's relatively recent liquidity rule.

As a smaller fund family, the

Morningstar Funds benefited from a slightly longer phase-in period, but once we started having to fully comply with the regulation, we had to comply on essentially the same terms as much larger fund groups, even though we don't pose any big picture risk.

After three years of operation, we have $5 billion in assets and are generally investing in highly liquid securities. But we still had to hire a third-party vendor to provide reporting at the cost of over $150,000 per year.

And although the derivatives rule which is going into effect next year will impose a similar cost on us, we will need to hire an outside vendor to do the required fact testing, stress testing and bar analysis, and we may need to hire a third party to fulfill the derivatives risk manager role.

I think the SEC should take a closer look at the cost burden of this rule for smaller fund complexes. As currently written, the fund puts us on the

board in a difficult position. We can avoid the compliance burden by keeping our derivatives use very limited at less than 10 percent notional exposure. Or we incur the full costs of complying with the regime that would allow us to have up to 200 percent exposure as measured by Barr, and there's no alternative in the middle.

So for fixed income funds which tend to have notional exposure somewhere between 10 percent and 30 percent as a small asset base, there's a very significant tradeoff, which wouldn't be the case for a larger fund complex.

I do hope the SEC will take another look at this and perhaps consider extending the compliance date for smaller fund complexes in order to do so.

And here I'll make a pitch for fund directors. I think that some level of board oversight could be a more cost-effective alternative to some of these outside vendor solutions.

Another point I'm going to echo Gail and Karen on this, I've heard the

suggestion of periodically having DERA review the overall burden of regulation, and I think that makes a lot of sense. In general, maybe getting away from a rule-by-rule assessment to an overall assessment of the regulations could help with smaller fund complexes.

So regulation is one thing, but I think that vendor oversight is another issue to focus on. Here I think the issue is that it's not just the fund industry itself that has consolidated, but all of the vendors to the fund industry have consolidated maybe even to a greater extent.

As the result, as the board member of a smaller fund family, I find that overseeing -- we're overseeing enormous service providers. Now, there's clearly value to the process, and as directors we need to be aware of the issues that are involved, things like cybersecurity.

But our ability to drive change in a vendor or even to change vendors is limited. Vendor oversight is costly. In

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my opinion, the heavy reliance on due diligence questionnaires is the big driver of that cost.

The DBQ regime is pretty inefficient, and I think it would be worthwhile focusing on how to simplify that regime. I don't have the perfect answer, but some things to think about would be more standardization of the questionnaire regime. There has been some movement in that direction, the FICA questionnaire from the ICI, for instance, for subtransfer agency arrangements, and I understand that the ICI is also working on a compliance due diligence questionnaire, but there could be more.

One question I always have is it's a small thing, but why does every board have its own 15(c) questionnaire and every board have its own conflict questionnaire. My fellow directors are rolling their eyes as I say this. It's one of my pet peeves. So standardizing DBQs is one answer.

Another approach would be to impose some minimum standards on key vendors. I

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won't even attempt to spell that out here. I know the experts on my board could probably give you some more specific suggestions. But I think the general concept is worth thinking about.

So to summarize, I see the need for more tailored regulation for smaller fund families and more standardization in vendor oversight. I hope that the AMAC will think about both. I think that both are critical in not just reducing unnecessary costs for shareholders, for the shareholders that I represent, but also in helping to ensure that the fund industry remains dynamic and innovative.

And thank you for your time.

CHAIRMAN BERNARD: Thank you, Theresa. That was terrific, and I know the whole committee appreciates the fund director perspective. And I'm sure for some of those on the committee who serve as fund directors, some of your points also resonated heavily.

We're a little ahead of schedule, which is great. So next I'm very pleased

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to introduce Steve Yadegari. Steve, in addition to his past life at the Commission, Steve has been the chief operating officer, general counsel and chief compliance officer, among other things, for Cramer Rosenthal for almost the last two decades.

During this time Steve has led operations, technology, legal and compliance efforts of an investment advisory firm that was able to manage very profitable growth from a small firm serving a very narrow set of client bases, mostly with measured accounts to a sizeable firm serving a broad international client base served through separate accounts, mutual funds, UCITs and private funds.

During that growth, Steve has provided strategic oversight and planning for the firm, including the launch of new products such as UCITs in Europe and private funds here in the United States, both markets that were unfamiliar to the firm at the time.

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As well, Steve has provided oversight of domestic and foreign third-party service providers and their relationships with the U.S. and foreign regulatory bodies.

He's also considered to have some special expertise in the design and implementation of investing class cybersecurity and other set of programs that are calibrated for small firms that have a geographically diverse footprint.

Steve is going to share his perspective on the operating challenges of a small firm that from his experiences he can share with us and particularly those who seek to offer services on a cross-border basis.

So with that, I'm going to turn it over to you, Steve, and thank you so much for your perspective.

MR. YADEGARI: Good afternoon, everyone. And Scot, thank you very much for that kind of introduction. I will try to live up to the characteristics you've bestowed upon me.

I'm very pleased to be with each of you here this afternoon, and let me join my colleagues in thanking Chairman, Commissioners and staff as well as Ed and Scot for your leadership and my co-presenters time today to present and discuss some of these important issues.

I also have a presentation here that I will share with each of you, and to build on Scot's comments, the topics I've been asked to address specifically include a little bit deeper dive into outsourcing considerations. I think Karen and Gail did a wonderful job framing some of the issues that many of us in the industry are dealing with today.

I'll speak briefly on some topics related to vendor management which would build on some of Theresa's comments. And then finally I'll spend a few minutes just discussing how smaller advisors, smaller mutual fund complexes and firms are thinking about cross-border and share some perspectives regarding our firm's launch into the UCITs area.

Outsourcing is something that has become not only an increasing trend, it's just become a part of everyday life for smaller advisors. And you've seen many more managers relying on outsourcing today on a number of different areas, and the numbers are increasing, both by way of the number of advisors and firms that are looking at outsourcing options, but also as well the areas that are up for review in terms of outsourcing.

And this move really began before the COVID-19 pandemic, but what's interesting about the COVID pandemic is I believe it's given firms a little bit more confidence in terms of their ability to work with outside parties, vendors and further reevaluate areas of business that may make sense in terms of outsourcing.

I think the industry has done very well during the pandemic to continue providing excellent service to clients. I think business continuity plans scored very, very well during the time period, and it's giving folks the initiative to

think about other ways in which they may be able to work remotely, both internally within their own firms, but also by working with outside partners.

And there have been some studies that have been done to, I think, demonstrate this point. This is one by HFS Research, which pulled numbers in the industry about operational strategies coming out of the pandemic, and you'll see a few important things here, which highlight reasons for which people are today thinking about outsourcing. 71 percent here cited reduction in head count as being important.

One of the things we've heard already is about pressure on fees and costs for managers, so 82 percent are looking at it as a means in which firms can reduce costs effectively and appropriately.

And then also with respect to digital engagement practices, you see that 94 percent of firms are looking at outsourcing as just one way in which it

can potentially deliver greater digital experiences to clients.

I think for many firms, particularly smaller ones, this does not necessarily mean replacing the investment advice function, but rather enhancing the client experience. And many firms, smaller firms, are in the early days of thinking about that particular issue, whereas I think some of our larger counterparts have professionals who are designated to this area and even teams that are working to advance their digital efforts and potentially even provide investment advice through that platform.

Another, just one more study I'll show you demonstrates, I think, here that there is decreasing resistance to this idea of outsourcing, and you'll see that 89 percent of firms are considering at least outsourcing parts of their program to third parties for assistance.

It's operational areas in particular that this study had focused on. But, again, it's the effort to enhance client experience, enhance resiliency and lower costs as a means that is encouraging firms to look at these types of options.

To Scott's point, I've been in my seat with my current firm for some time now since 2005. When I started, there was a real sense that ownership was important. We really thought that it was vital for us to have control over the various aspects of our business, including operations and technology and compliance and cybersecurity as that was just basically in its infancy back then.

When you fast forward to today, the questions being asked are really around what should be outsourcing, and to Karen's point earlier, essentially everything is on the table. And what's driving this as much as anything else are cost considerations, fee compression.

Firms that are not thinking about outsourcing options are having a very difficult time today, given the pressure on margins and fees that we are all experiencing in the industry. It is just

a natural part of the evolution of our industry. I think a lot of firms have recognized that, but it's something that we have to take into account and pay very close attention to it, because the alternative is making managing a business very difficult.

The economics are getting increasingly put under pressure, and what you're seeing is a much greater degree of merger and acquisition activity. Smaller firms are having a harder time surviving. They are being approached by larger firms, and back in March of 2018 a former division director Dalia Blass made this observation and in comments noticed that the downward trend in fees may lead to less access to small and medium size advisors because they're having a tough time surviving and meeting the scale and ability of larger advisors and therefore they are either being acquired or they are simply going out of business, unfortunately.

And a much more recent study this

past June by E&Y has found that it is becoming more difficult for many asset managers, particularly small and medium firms, to survive in our current form. And the same study cited that over the next five years we should see the change of the pace of change accelerate quite a bit, and ties back into the ability to scale your business as it grows, as you think about moving into different areas.

And, in addition, technology considerations where many years ago may have been feasible to manage the technology function at our firms, but with technology changing so rapidly and the needs to keep up to speed with some of these developments vital, it's challenging for a smaller advisor to handle all of these items on their own. And by working with an outsource provider who is investing back into the business does give us the ability to leverage that technology and provide the same client experience that maybe we're seeing at some of our larger counterparts and would be simply

unable to do without that assistance.

So with outsourcing come some important considerations. You may outsource one of the areas or multiple areas of your business, but for the advisor and for the fund family the responsibility and oversight continues to remain with the advisor and with the fund.

So for funds board involvement is very important. Theresa spoke to this a few minutes ago. Participation, inclusion, support of your board, something that's very important, it's been something important for us. We engage with them frequently to discuss some of these topics.

Firms will sometimes utilize outside consultants to assist them. For smaller firms it simply may not be the internal expertise to understand how to seriously consider outsourcing options and some advice could be hopeful.

However, we must guard against potential conflicts of interest and understand where these consultants are coming from and relationships that they may have to try to promote one group over another.

And the way in which advisors can deal with these various issues is through a rigorous due diligence process, which is very important in terms of identifying the right potential group to work with in any of these areas.

So we might begin with an RFP process where we collect certain information and level set, identify the appropriate candidates; and as we move through the process and the selections are made, ongoing due diligence becomes very important to ensure or continue in getting the quality of service that's expected and that any of the risk considerations that might -- may involve a particular provider are being adequately addressed as well.

And this topic really ties neatly into the concept of vendor management as well. You'll see there's quite a few factors here which a firm has to take into account. I spoke a moment ago about the

selection process. And I'll attempt to unpack a few of these in just a minute or two.

But as we're thinking about working with our vendors and the services that they're providing, some vendors will get very involved in different areas of your business. For example, if you're working with a vendor that might be handling your entire operations area or a significant part of it, it's very important that there be a level of communication that really goes beyond just working with a vendor as a mere service provider, but they understand your business and that there's the daily type of communication so that you're able to oversee what's happening on a day-to-day basis.

And with that comes an understanding of what the duty of care is for a vendor to the advisor, the type of oversight responsibility being exercised by an advisor so we may spend time looking at things like the service level agreements and reporting requirements if

an issue were to arise, when will we find out about it. What's considered to be a material issue, what is the escalation policy. How are we going to have a level of comfort that we understand what's taking place with respect to our different areas that are being handled by a particular vendor.

And then other areas that become important would be term, the termination, how one might be able to end an agreement. And if an agreement isn't going or a vendor relationship is not proceeding as you may have hoped, what can you do about it other than terminating the agreement. What would be your alternative thought as to how your information data and security will then move to potentially another vendor or if you need to bring it back in-house and renewal terms.

When looking at vendors, it's very easy to get enamored with the way in which they can help a business, but for advisors it's very important also to think about what are some of the other areas that may

become important or if an issue arises.

Many of these things may fall out of scope out of an initial agreement and therefore lead to a cost that advisors haven't simply contemplated and to make it a much more burdensome proposition than when you first imagined and when you first began your engagement.

And then critically important in this area would be cybersecurity. Understanding not only the topic that's been thrown around here today, cyberhygiene, but also incident reporting in this particular area.

And as I had mentioned earlier, when you're working with vendors, advisors really want to think about how much the vendor is investing back into the business, especially if you're relying on a vendor for some of its technological capabilities. That's one of the areas that advisors can see the most value is leveraging that technology and having assurances that some of the money is being put back into developing and enhancing technology and that it's available to all clients and to the advisor as it's being deployed becomes very important.

And finally, I'll just touch upon some considerations when thinking about cross-border distribution and moving into foreign markets. For many smaller advisors, there is the allure of opportunity to move into international markets, and a question arises as to how to best approach those opportunities.

There is tremendous time and cost that's involved in considering a launch in a foreign market, and sometimes advisors are just faced with the prospect of putting in that time and effort but wondering if the assets will follow.

So there are a number of marketing firms that have emerged in the foreign marketplace to assist smaller advisors with entertaining and considering opportunities that may exist in foreign markets, for their particular style of investment management. They could be very helpful and serve as an important resource

in identifying some of those opportunities.

Also, service providers in some of the foreign markets, some of which may be serving an advisor in a domestic capacity, also could be a terrific resource in terms of identifying markets that may make sense for a particular advisor and its style of investment management and the ability to attract assets from that marketplace.

So thought has to be given to where to domicile the type of structure that may be appropriate and what the different distribution opportunities may entail once a decision is made to launch a particular product.

And for our firm and as mentioned, we launched a UCIT more than ten years ago now, and it has been a successful part of our firm's business practices over the last decade. And the UCITS has become a very interesting area for many U.S. managers. There's unquestionably a U.S., European appetite for U.S. managers, and it seems to continue to grow.

The continent is moving toward a single market. The UCITS structure has really benefited from that move, and as you can see from the slide, more than $11 trillion now exists in the European UCITS marketplace. So many U.S. managers are looking at this as an opportunity to raise new assets.

There are broad distribution capabilities through a so-called passporting feature which allows you to domicile your UCITS fund in one market, but then so-called passport into other markets.

So as an example, we domiciled our UCIT in Dublin, and through that product we've been able to enter other European markets by meeting their particular requirements. So it's not as simple as showing up at a border and getting your passport stamped, unfortunately. Each foreign market will have its particular requirements, and some of them can be very costly and onerous. However, it does save you the requirement of creating a new fund

structure in each jurisdiction. And that can be very helpful to managers, particularly smaller ones that are trying to find an entranceway into the European marketplace.

The regulations around UCITS have really come from both specific rules, but more recently have largely been relying upon guidance and directives. In the case of Ireland they come from the Central Bank of Ireland, which publishes numerous consultation papers, so-called Dear CEO and also provides other guidance through regular correspondence with managers just to share their thoughts as to what might be some of the issues of the day and their expectations of managers in dealing with those types of issues. For example, cybersecurity.

When managers are thinking about where to begin foreign fund domicile considerations, often you might see a client actually express a preference for one reason or another. It could be that the client itself, you have a major client who has experience in a particular jurisdiction. But short of that, there are a number of other considerations that will come into play, and I think some of the key ones would be the reputation of the domicile.

So there's probably two principal ones for UCITS that come to mind for most managers. But then advisors will also look at -- the regulator will think about their particular distribution strategy. Some areas may more lend themselves to one product or location than another.

And then if they have experience with current service providers with expertise, they may be able to leverage that experience. And things like native language and convenience can also be important factors for some advisors, particularly smaller ones where really every issue becomes more important than our larger counterparts.

Finally, the structure in the UCITS framework, many years ago the self-managed company was really the primary and only

way that many funds were organizing where an advisor here in the U.S. would create a company in the foreign jurisdiction, and that company would then manage the entire fund and its operations. Today many smaller advisors are moving into a more shared management company model, and there's been a push by the regulatory authorities for smaller advisors to move into that area by instilling requirements such as residency requirements for folks who are serving as directors of these companies. And accordingly, you really don't have much of an alternative and it's becoming more difficult for U.S. managers to stay in a self-managed container.

Just like U.S. mutual funds, there's a board of directors that's ultimately responsible for the operations of the fund, the UCITS, and many of these directors will look to delegate certain areas of responsibility to third parties to assist.

And you'll see there's also a depository bank in the UCITS framework,

which is very similar to the U.S. mutual fund custodian function and has a separate layer of oversight function to ensure that things are -- everything is meeting regulatory requirements with direct reporting to the board as well as the regulators as issues may come up.

And governance, CP has, I think, consultation papers and there was one about four or five years ago that set forth the framework for UCITS structure, and it really does touch upon the various areas that are expected of board members in this area, including a requirement that directors think about and rationalize the amount of time that they're spending with each individual board engagement, a review of the organization's effectiveness, and then other areas that would be important to the governance of the fund with direct reporting again to the regulators.

So it's been an area under some review for the last few years, but there's been enhanced regulation in this area. Much of it has been done through this type

of guidance rather than formal rule-making.

And then I'll just conclude with distribution. So there's some similarities in UCITS framework as you'll see with the U.S. registered investment companies where you have a prospectus and supplement. There's also a document called the KIID, a key investor information document which provides a much shorter summary of the fund, its product and also includes a risk reward indicator which will be higher if you're involved in more exotic investments, derivatives and so forth.

And as I mentioned, one of the key features is the passport which allows sales of the fund in multiple jurisdictions, but it is quite an undertaking because each jurisdiction has the ability to impose its own peculiar requirements which may include translation, the hiring of a paying agent and the meeting of certain requirements that individual jurisdiction will require in return for the privilege of selling into that marketplace.

It's another area that's been getting review, and the European regulators are thinking about some privatization in this area, but it continues to be an area where each individual location will have a fair amount of autonomy in terms of making its decisions.

So I'll leave it there, Scot, and I'll thank you very much and turn it back to you.

MR. DRAEGER: Thank you, Steve. That was really terrific and fascinating about all it would take, including the courage of the small firm to start a cross-border offering with a product or a small service, but that was really great. I suspect you'll get some questions.

So next I'm excited to introduce Dave Carson, who has served as president of Ultimus Series Trust of mutual funds and Unified Series Trust of Funds. Dave has more than 30 years of experience in

the fund industry including as a fund director, trustee, chief operating officer, chief compliance officer, auditor strategist, head of marketing distribution, just about every role someone could perform. And relevant to our committee, all really for small advisors and funds of all types.

And so Dave has a great perspective. He's going to share that perspective on the evolution of outsourcing, kind of continuing on that theme that Steve started in our industry and where specifically outsourcing has strengthened or weakened economies of scale, internal controls, fund board independence and investor protection within this segment.

He's going to use the multiple Series Trust platform as an example for some of his perspectives and offerings. And I think that that is a good space because there's so much outsourcing that goes on there, his group in particular that Ultimus provides outsourcing

opportunities I know and manage account platforms chief investment officer, legal admin, transfer agency, hopefully all accounting treasury services. Just about anything that a fund does.

So the scope and quality of his perspectives on the pain points for small firms is broad and deep, and he has a great perspective on the benefits and drawbacks of outsourcing in particular. So with that, Dave, I'll turn it over to you, and I thank you in advance.

MR. CARSON: Thank you, Scot. I appreciate that.

As Scot said, I am Dave Carson. I want to say thank you to Chair Gensler and your fellow commissioners. Also SEC staff and Ed, Scot and AMAC members for this opportunity to speak today. Thank you very much.

Scot did a great job introducing me. If you don't know Ultimus Fund Solutions where I've been for almost nine years now, Ultimus serves over 450 advisors in registered and private funds,

over 300 billion in assets. We've grown from three men in a ten-by-ten office, who had the idea of providing exemplary service, to now 750 employees.

Given our background, we are very fond of the kinds of small firms that Karen and Gail spoke to eloquently. We are or consider ourselves a boutique service firm with industrial strength. Interestingly, while our focus is primarily on the smaller end of the spectrum, we do have clients in all 4 of the AUM segments that Karen and Gail identified in their presentation.

And all four segments are represented by advisors that have funds in multi Series Trusts. Sometimes those are also described as umbrella trusts. Series trust is the shorthand that I'll be using today. Take a couple of words out of the definition.

So with that, I am moving on to show first the structure for Series Trusts. As Theresa mentioned, it could be a fairly daunting task for an advisor to offer a proprietary trust, organize their trust. This is actually a high-level chart. There are lower level service providers behind almost every box that's showing on this slide, so there definitely are a lot of moving pieces in organizing a trust.

The beauty for a smaller or even mid-sized advisor if he chooses to offer their funds through the Series Trust model is some of these services, other than being investment manager, Ultimus or another series trust sponsor can provide, even the services that are in the orange coloring are services that a sponsor like an Ultimus typically will source.

So it makes for essentially one-stop shopping for an advisor who is thinking about launching a mutual fund, which simplifies their access to the marketplace. But at the same time, it also provides a governance framework which certainly with people of Theresa's background and experience an advisor certainly can source.

But that's one more opportunity to potentially stumble when you're organizing a fund structure or offering investments. And, again, that's something that the Series Trust sponsor often is able to provide.

I do want to mention that some commenters have posited that Series Trusts are more risky than proprietary trusts for a single advisor. We believe that Series Trusts are not inherently more risky; in fact, can offer some significant benefits. The least of which is that Series Trusts align well with the mission of the Securities and Exchange Commission.

Mutual funds which are offered through Series Trusts or not facilitate risk management for investors with rigorous regulatory framework, compliance policies and procedure programs that are mandated by law and by SEC regulation.

Series Trusts allow smaller asset managers to offer innovative investment strategies while accessing established compliance programs and -- and this is

very important -- experienced trustees.

We believe that the offering of the strategies for small and midsized asset managers supports capital formation, and my fellow presenters have all discussed today. Smaller strategies can efficiently and profitably invest in the securities smaller issuers in a scale that may not be effective for larger asset managers.

Supporting that, the governance structure of Series Trust including having established boards and compliance programs can support Congress' goals in providing risk management for investors while facilitating capital formation.

And lastly, Series Trusts tend to have established relationships with broker/dealers and other market participants supporting the securities trading operations of asset managers as well as access that asset gathering.

Now, are there quite a few benefits, in our view, for asset managers that stem from the Series Trust structure. First in my list, not necessarily first in

order priority, is time to market. As you noticed on the flow chart of the Series Trust structure, there are many different services that have to be sourced in offering a mutual fund structure.

Because the Series Trust eliminates the need to organize a trust and can significantly reduce the amount of effort involved in sourcing the other services that go into providing a mutual fund, the structure can save two to three months in time compared to starting a proprietary trust.

As you'll see on the slide later, even in the Series Trust structure it can take four to five months to go from an advisor deciding to move ahead with the Series Trust to actually having the trust in operation. And that four- to five-month time frame does not include getting access to various intermediary platforms which is almost a necessity today.

So it's a time-intensive process going from idea to operation to actually asset gathering. Being able to save two to three months is certainly a significant benefit.

It also cuts down on the asset manager's administrative burden. One of the key benefits we believe from the Series Trust structure is it allows the asset manager to have all aspects of the trust supported by people who are engaged in the 1940 Investment Company Act business full-time. If an advisor is organizing and providing all these services on its own, especially in the smaller and even mid-tier firms, very likely those people supporting the mutual fund wear other hats as well and may not be fully up to date on aspects of the '40 Act as an established administrator can be.

Organizational costs are another benefit to the Series Trust structure. An asset manager in the Series Trust doesn't have to create and file state trust documents. They don't have to obtain a seat on it. They don't have to establish

insurance coverage. And even state Blue Sky registrations, at least in some states, may already be in place at the trust level. So that's one more hurdle that the asset manager can avoid.

I will also mention under the Time and Effort category while many asset managers in Series Trust are smaller firms, it's not just the small boutique asset managers. Some mid-size firms prefer the structure simply because they don't want to spend resources on an effort that is core to the administrator but likely an ancillary function of the asset manager.

I think you saw that in Steve's presentation just before I started that with all the pressures on asset managers, there's significant need to look at building in efficiencies.

More benefits from the Series Trust structure for asset managers are quality control. The experienced administrator has professionals focused full time on fund securities, legal services,

accounting, financial administration, regulatory compliance, statutory distribution, and the list goes on.

And my fellow trustees and people like Theresa probably would say this is a key benefit of the Series Trust structure. Series Trust boards are comprised of intelligent women and men who are experts in relevant areas, and we think this is a significant benefit independent of the asset manager. Going along with that independence, in all of the Series Trusts that Ultimus sponsors, the board chairs are independent. That prompts trustees to focus on the need to minimize risk for shareholders and asset managers.

Certainly another important need that the industry is increasing its focus on is diversity. We certainly are striving for diversity among our staff. The boards that we work with are increasing their focus on diversity. But because of the advantages of Series Trust, they also make it easier for that smaller boutique and diverse asset manager to

access the space.

I'm pleased that I'm getting at this point to work with several women-owned firms as well as several firms that are owned and managed by people of color. Those are both developments that I'd say even ten years ago there would have been a very small number of such firms being able to provide access to strategies through mutual funds, and certainly there's plenty of research that shows that when you have people with diverse perspectives, investors benefit.

Speaking of investor benefits, many of the benefits that help advisors with funds also enure to shareholders, so organizational and operational costs tend to be at least somewhat lower in the Series Trust structure. There tends to be easier -- I won't say easy, but easier access to financial intermediaries. The investors benefit from the expertise of the trustees and certainly again benefit from having independent chairs providing services to them.

The chart I'm showing now shows the timeline for launching a fund in a Series Trust. Conceivably it could happen within four months; more realistically we have various back-and-forth with boards with advisors and so forth, it's more like a five-month timeline.

By way of comparison, if everything works well for an advisor that is organizing its own proprietary trust, that's probably at least eight months. And it's not unusual for an advisor organizing its own trust to take a year more from the point where it starts going through, starts moving towards offering mutual funds to having them actually available operationally.

One of the things that every Series Trust organization maybe includes are review of the investment advisory agreement, reviewing the advisor's responses to the 15(c) questionnaires. I agree with Theresa if those could be standardized I think that's better for everybody in the industry, but at the very

least the boards are very focused on assuring that the agreement with the advisor is arm's length and that there are benefits to the investors from the proposing agreements.

Equally important, I think, in that organizational board meeting is the review by the board and by the trust ECO of the compliance, policies and procedures of that advisor.

So, again, why Series Trust? We believe that they definitely align with the SEC mission. We believe that the government structures facilitate risk management for asset managers and investors, and as I've mentioned, they are both cost and time effective.

And then one more thing I wanted to mention going along with a couple of points that Karen and Gail mentioned earlier today. CUSIP fees are definitely a concern. They also mention benchmark fees. In the mutual fund world the use of benchmarks are mandated by the Commission, and I understand the reasons for those.

But just as they discussed with the S&P, the CUSIP bureau fees, index fees from the main stream providers have risen significantly in the last three years, and it's not unusual for a fund to have to bear the cost of paying those fees at two or even three levels, depending on the service providers that they're working with.

The other point that Karen and Gail raised that I also want to underline, the QIB division, we think that there would be significant benefit for that to adhere to the advisor and not to the individual investor. Just as discretionary investors are relying on the advisor, the same thing is true in the mutual fund world.

We've had experience with multiple advisors who manage five to $10 billion of assets, but offering a specialized fixed income fund structure we're unable to provide the depth of the strategy they like to provide because the fund, according to the rule, has to be a QIB. And until they can get to the point of

100 million in assets, the fund doesn't meet the definition, and often that's a chicken and egg problem as well for funds.

So with that, I want to thank you for your time today. It has definitely been a pleasure. And Scot, I will hand things over back to you.

MR. DRAEGER: Thank you, Dave. That's terrific, a great overview for those AMAC members who may be less involved in the fund industry or with fund startups. I think that would be particularly educational. So thank you very much, Dave.

So our final speaker today, I'm glad to announce, is our very own AMAC member, Russ Wermers. Russ is going to be presenting on the impact of technology and big data on the economies of scale for small advisors and small funds.

Russ is not new to financial policies analysis as it applies to the fund and advisor industry and, in fact, his expertise in that space is one of the reasons why he was recruited for the AMAC.

Russ serves as the dean, dean's chair of finance, the chair of the Department of Finance and the director of Center for Financial Policy at the Smith School of Business at University of Maryland. And he's widely accepted as an expert on financial policy in our industry.

With that, Russ, I'm going to give thanks in advance and turn it over to you.

MR. WERMERS: Thank you, Scot. Your accolades have only set me up for underperformance here, to put it in the nomenclature that we understand so well.

So thank you so much for the ability to talk and the opportunity to talk about this particular topic. And I might say at the outset here that this is the most exploratory talk that you'll have heard today. We haven't had time to deliberate on this particular topic on the effect of technology and big data on big versus small asset managers, but it's something that I think is worth talking about in the future.

And I'd like to set out some thoughts here. So I'm not going to have any specific recommendations since this is exploratory surgery, if you will. We're going to just see what is under the hood and see, you know, get people thinking about this because I think it's a really tough topic.

I think it was also appropriate that Chair Gensler, some of the first words that he spoke this morning as he introduced us graciously were artificial intelligence, predictive analytics, machine learning and digital analytics. Obviously Chair Gensler has a huge interest in these topics and that is right squarely in the bulls-eye of what I'm going to be talking about are those types of things. So let me go into presentation mode.

Okay. Now, so one thing that I think piques our interest in what is going to happen as technology and big data become bigger and bigger aspects of being an asset manager, and I might even say

that investment management is becoming a data science, some of you might say investment management already is a data science, with a little bit of human input added, you know, depending on your point of view. So can we draw experience from the data science, the peer data science providers or the computing providers: Apple, IBM, Google, Amazon.

We heard earlier today that Apple is 2.1 trillion was it, equity value, market equity value company. So the big guys are dominating in big data. And amazon, you know, we can call it a data science company, not a book seller anymore.

So will asset management go the same route as this and will the big guys dominate to the detriment of small innovation and small management companies as well as small investment advisors and financial advisors and the like. Those are also a target or an interesting topic here.

So let me talk about an interesting

theory model that I think speaks to this, that I found, Dugast and Foucault, I think they built a realistic model of some of the tradeoffs that were existing in computer power data abundance. And they focus this on its effect on competition in the asset management industry. They don't have specific, I guess, predictions about whether this will increase economies of scale or decrease economies of scale in the industry, but they do bring some interesting thoughts.

So okay. So their assumptions are really not too difficult to understand. And so let me start with greater computing power. Okay.

So a fun little quiz for the people in the audience here is when was the IBM PC introduced. I know it was 1981, but I didn't know it was August 12, 1981, until I quizzed Google this morning. August 12, 1981. Almost 40 years ago to the day. Right.

And so why do I bring that up? Well, one estimate of the power of computers is that computers for the same dollar that costs can process 100,000 times the data that they could when the IBM PC was introduced.

Now, that's been 40 years and maybe that seems like a long time and ten to the fifth, you may think that's not that surprising for 40 years, but it's growing exponential now. So in a couple years it will be ten to the sixth times. A million times the power.

So computing power is obviously costly, you know, for the latest and greatest, but for FLOP, I guess, for a floating point operation it's decreasing at the rate of Moore's law as predicted. It never seems to end.

There's also a ton more data out there. We can call this the needle in the haystack problem. There's more data. There are a lot of data analyzers, and in Chair Gensler's words predictive analytics that are being undertaken now.

For example, I talked to a friend of mine, Walter Taket, who is an expert in

machine learning and artificial intelligence as it applies to asset management. Walter told me that some data analytics, some data analysts are using whenever I go to the local Starbucks and my cell phone senses the wi-fi available even if I don't log into that wi-fi, that data could be transmitted to a central location because I had given consent last time I used that data.

So you can imagine me driving around town doing certain things shopping and so on and hitting, you know, the Home Depot, the Starbucks, the what have you wi-fis and somebody being able to track me.

Now, this brings up data concerns and data privacy concerns, but I'm taking the opposite tack here is how far it typically can be taken to exploit information. Obviously, active managers are going to respond to changes in computing power and the abundance of data.

So the key take-aways from this theory model is that increases in

computing power might increase the average alpha set managers depending on how low cost those increases in computing power are.

And, in other words, more needles in the haystack are going to be located. That information on the wi-fis that I trip as I go through town buying certain things is certainly useful information that could be harvested more quickly than waiting for Home Depot or Starbucks to post their latest revenue forecasts or earnings forecast, sales forecasts.

So certainly there's more things that could be harvested, but more data can also mean that it's hard to find the best data, the useful data. So maybe a bigger haystack with similar level needles, probably a better way to put this is a bigger haystack with more needles, but not proportionately more needles. So this can bring a tougher chore in terms of looking alpha.

How do these two affect -- these two forces affect economies of scale?

It's hard to say. If computing power is low cost enough, it may actually even the playing field for small providers, for small investment managers, for small financial advisors and so on. But if the latest and greatest power is always ten times the price of just the next second generation down there, there may be advantages that scale brings to this situation.

One kind of interesting factoid here, Brogaard and Zareei in an academic paper used genetic algorithm approach to find that just to use 10 NYSE/AMEX volatility assets over a 40-year sample takes 459 days to find the optimum trading rules. This is for an i7 Intel CPU which is what I have on my Microsoft notebook here. It isn't using the latest and greatest, but it shows you what was state of the art ten years ago is not state of the art today.

So there are a lot of areas that I could talk about, and it's a big topic in terms of technology changes. One of the areas is again, going back to the notice Foucault paper, collection of raw data. Who is collecting it and who is controlling this data.

I always think that EDGAR and the SEC's movement toward making EDGAR more machine friendly has made the playing field a lot more level for smaller advisors and smaller investors, and I applaud them for that.

But the big guys are now going after data that is available from satellite imaging, from, like I said, wi-fi tracking, from cell phone tracking, from ship, tracking of container ships; and there's no shortage of companies now that engage in this type of exercise and sell information such as Orbital Insight does GL locating using all kind of different approaches including using satellites and wi-fis and so on.

There is increased technology in the form of data mining and interpretation. We all know that. There is -- there are new machine learning

algorithms coming out every day. There's artificial intelligence, boosted progressions, random forests.

And these are the things that fall under the category of increased -- what I call increased computing power. Both the hardware and the software are what I consider computing power increases, and we see increases in both of those. And we see that the best and the brightest are now commanding in terms of human beings as well as machines are now commanding very high premiums over the second best out there.

One thing that is I guess a bit bracing here is that asset managers with less than $100 billion in AUM are being the biggest outflows. That's consistent with but not conclusory proof that technology changes and changes in scale economies are driving this, but it seems to be concerning that perhaps the middle sized investment managers and financial advisors and maybe many of the small ones as well are going out of business because

they just can't keep up with the technology.

Think about giving financial advice, financial engines now oversees trillions of dollars and they have algorithmized, if that's a word, many different aspects of the investment recommendation process. You can see how many -- thinking about how many investment advisory shops that financial engines has potentially put out of business, you know. Where is this going to end.

From the SEC's point of view, I think this is going to bring some very, you know, tough questions about how to ensure compliance. Rob Jackson, former Commissioner of the SEC, published a paper that showed that the SEC was inadvertently posting information by FTP access seconds before they posted on their website, and then some investors were able to capitalize on this few seconds, a few minutes of extra time.

My own paper with coauthors show that SAC Capital has repeatedly used FOIA

requests to get information on the efficacy of new pharmaceuticals. Supposedly public information, FOIA is about making everything public, but SAC Capital just attempted to get it faster than others did.

How does all this come down, all these environmental, I guess, forces come to -- what is the impact on asset management on economies of scale? I don't have the answer, as I said, but I think there are some interesting questions and factors here that build into this or that factor into this question.

One is the hiring, leveraging and retention of human capital tend to be asset managers and investment advisors retain their best and brightest human capital. That may be something that actually goes in the direction of this economy of scale.

Secondly, as I say with the concentration of best human capital could lead to spinoffs and this could force large companies to have to adopt performance-based profit sharing and to share profits with their managers or to outsource a lot of things.

Let me talk just a second about outsourcing too. A lot of things are being outsourced. In a recent Oliver Wyman/Morgan Stanley, what they call a blue paper, they thought -- their opinion is that the biggest threat to asset managers, especially active managers, is the outsourcing of distribution. They repeat this again and again in their blue paper.

They think that at some point, you know, as we know, distribution is important for asset managers to build loyalty and to build brand awareness and things like that and to retain clients. As that is outsourced, that may actually work for or against large asset managers, depending on whether the distributors in the future, whether that's the Amazons or the Googles or whomever that is, depending on if they're trying to exert monopoly profits by charging high prices and thus

freezing out the smaller asset managers and smaller investment advisors.

So yeah, I think the last one is -- the last one on this list is how long until almost all fundamental analysis techniques are spanned by human-assisted machine-learning techniques. This is not just a silly question. When I teach quantitative portfolio management to my students, I tell them you're finance students who have some knowledge of Python and I'm going to teach you how to do back-testing, but it's important that you're a human being because you will understand the behaviors of other human beings.

That's true today. I'm not sure if 20 years from now that I'll be able to say the same thing. Will machines and human-assisted machine learning be able to exploit misbehaviors of other human beings more quickly than a well-educated person? Good question.

I talked about decentralization again. It could be either way.

Distribution is a worry, of course, but also the economies of scale and generating factor returns; Blackrock is certainly becoming dominant, in my opinion, in generating factor returns for a very cheap price. Distribution could go the same way.

Some of the separation that we know about between providing data and providing alpha may commoditize the industry. This could cause a -- as it probably should, may cause active management to focus only on alpha, and alpha will become tougher and tougher to find as more and more systematic signals become commoditized by the Blackrocks of the world.

So let me stop there. Where do I think this is going to end up? I think we need a lot of study on this, and I would urge the SEC's bureau to undertake some study in terms of the cost of data and how companies like Refinitiv, Thomson Reuters have bought up many of the data providers and are now some might say charging monopoly profits, monopoly prices for

data, which maybe only the highest, the biggest scale asset managers may be able to pay for.

In addition, I would invite the SEC to look at distribution channels. Is this favoring or disfavoring the small asset managers and the mid-sized asset managers out there.

Then there's the active versus the passive as well. We've seen this battle between the very large active management firm and a very large mostly passive management firm, and we've seen that the very large passive management firm can't always sell index products cheaper than the very large mostly actively managed firm. There are loss leader considerations here too.

So there's going to be a lot of, I think, shaking up in the future as we see these forces play out, and it will play out, I think, differently among passive products versus active products.

Let me stop there. Sorry for the chaotic presentation, but this is really an interesting and tough problem to get one's arms around.

MR. DRAEGER: Russ, thank you so much. And it wasn't disorganized or unwieldy at all. I thought it was easy to follow and raises some really interesting concerns and opportunities.

So Ed, with your discretion, I think it would be great, it looks like we have plenty of time for some Q and A for all the panelists on any of the topics that they covered. And so I'd like to open it up to the AMAC and just make sure people have time to engage with the group.

MS. McGEE: I have a quick comment. I would like to thank the panelists, I thought it was full of good content.

Several of the panelists did talk about, suggesting to the SEC that they relook at the definition of what is small, a small advisor, and I think this is critical.

I just wanted to make the comment that advisors that are managing separate

accounts have -- can be -- make decent profits at a lower AUM, maybe 200 million or so. But advisory firms that are managing products have significant overlay of regulations. And I just don't think it could be profitable for some of these firms under a billion. I would encourage the SEC to look at advisory firms and the types of products that they're offering.

CHAIRMAN BERNARD: I think that's a great point. Do any of our panelists want to comment on that or react to it? Do others have other questions?

While you're thinking, I'll just chime in. First of all, thank you all. I think that was exceedingly well done, and it laid out, I think, very thoughtfully and concisely the issues facing small advisors and to a certain extent the ecosystem that's already in place to address some of these issues from a business standpoint.

I'm hoping to pose -- and this may be more for Karen and Gail and Theresa, but I think it could be for any of the

panelists. I'm guessing at any time there's a question about the disproportionate burden of regulation on smaller advisors, in the context -- and whether or not that can be reduced in some way, shape or form, you-all often will face the sort of, the question from the sceptic of help me understand so the SEC is trying to balance, you know, appropriate innovation, opportunity for investment and so forth for investors with protection. And if they reduce regulatory requirements on smaller investors, how do they do that without harming investors.

I think, frankly, you've each given some very good examples in very specific terms, and I guess my broad question for you as not to replay all those because I think we've all got those for the record and it was very helpful, but is your broad answer to that question -- I'm just thinking it's a question that's hovering in the room, I see Karen nodding her head that you often face and I wanted to give you a chance to address it.

Is it really the answer that the devil is in the details and it depends on the specific facts and circumstances and the issue you're talking about, or is there a broader answer that would help us as a committee frame that question of how you can balance maintaining that protection while at the same time reducing the disproportionate burden on small advisors.

So help us, if you would, because we're going to -- as I've used this term too many times today, we're in a hurry-up offense to distill a lot of this and come back with recommendations. Anything you can give us in terms of design principles that might help us think about how to maintain that balance would be welcomed. Sorry for the very long worded question.

MS. BARR: Thank you, Ed, and I'll start, and please, Gail and Theresa chime in.

The devil is in the detail in terms of the specific rule. The broad principles are obviously investor protection is paramount. Investor protection is paramount, and we're not asking for exemption from regulation. What we're talking about is scaling and tailoring.

So taking a one-size-fits-all rule set and scaling and tailoring it to segments of size, firms and business models.

And in sum, there are two types of ways of doing that. There's one at the level of each rule and looking at each rule and whether it could be scaled and tailored to different segments of the registrant population.

And then there's in the implementation or examination phase there are a good number of SEC rules that talk about tailoring a rule to the -- that firms can tailor their policies and procedures, for example, to the size and model of their firm.

But then when it comes to actually implementing that, there are expectations from examiners, from third parties that

don't always sync up with the high-level principle of tailoring.

So, for example, the Division of Examination puts out extremely helpful risk alerts and observations. And it would be helpful if those could be right size or tailored to size of firms. So, for example, here are best practices we're seeing at large asset managers, here are the best practices we're seeing at smaller advisor firms.

So I'll stop there and let Gail chime in.

MS. BERNSTEIN: Karen, I think you said it really well. The only thing that I would add is that I would suggest that the Commission always look for adopting new rules to whether or not the protection that it's trying to get at already exists somewhere.

So without looking to adding new specific requirements that are additive but not necessarily that targeted or that helpful in achieving the objective, I would suggest just looking more at do we

already have something that covers this.

And the other thing that I would suggest is that the Commission really look at every rule whether it can moderate implementation timelines, whether everything needs to be done at the same time for everybody in the same way. Those are the couple things that I would add.

MS. HAMACHER: I would note that I was speaking from an investor perspective. But as a fund trustee, I'm trying to judge whether the cost is appropriate given the added protection. And I think the issue comes from the rule drafting tends to focus on broad principles and the average. It also thinks about the minimum and the maximum.

So the derivatives rule would be a good view of that, you know, what falls outside the rule, what's the maximum allowed in the rule.

And when the rule is drafted, nobody really has a very concrete sense of what it's going to cost to comply. And as everybody starts working on the actual

cost, it becomes clear that they are not -- that not everyone is going to pay the average basis point charge.

And I think it's the fine tuning the application in the middle that is the difficult part and probably requires a second stage to be able to really address. I mean I was kind of -- I'm like should we have commented on this rule, the derivatives rule when it came out, but I think it was really hard to see it when it was initially being drafted.

CHAIRMAN BERNARD: That's very helpful.

Dave, did you want to say something?

MR. CARSON: Theresa must have been reading my mind, because I was wondering could there be another step in the rule-making process. Because it's very hard for small advisors that I work with all the time to invest time and energy in analyzing an appropriate rule because we've all seen the final rules can be significantly different than the proposed rule.

And so the tendency is to wait for the proposed rule, and then vendors come up with the solutions that meet what the proposed rule calls for and only then can us as a service provider, let alone the advisors actually assess what the impact is from a cost perspective.

I don't actually want the rule-making process to become more complex, but it really is hard the way it runs today, I think in my opinion, to be able to analyze what the impact is going to be and then you end up with situations that are kind of either you're in one extreme or you're in the all other bucket. And, I mean, things like liquidity risk management, I would hazard a guess that 96 to 98 percent of the funds that we work with are extremely liquid products and yet people at the firm, people on the board still have to spend time giving thought to that.

So, yes. The more nuance, however you get there I think would certainly be

helpful.

MR. DRAEGER: That's all very helpful.

Russ, I saw your hand as well.

MR. WERMERS: Yeah, just a different dimension, Ed. You asked for specific comments from the SEC. I think the different dimension here is standardization of data, and this is standardization of data by issuers as well as standardization of data releases by asset managers.

A metaphor could be Morningstar's style box, Karen's company there. Morningstar's style box sort of democratized the measurement of style. Now you can look up on Morningstar.com any asset manager, large and small, and find out what their style orientation is and so on.

Data standardization, I think, will bring -- you know, right now there's no incentive when -- for those types of forms that could be filed in text format and have no standardization and format.

There's no incentive for some intermediary to create a Morningstar type of service for filings.

CHAIRMAN BERNARD: That's a great point, and that type of standardization may actually be one that in contrast to some of the other examples is disproportionately helpful to small advisors because they can get easier access to information they need without the burden of the staff or whatever it may take when it's all in paper format.

MR. WERMERS: As well as one of the few things that could be informative and useful for investors, small investors.

CHAIRMAN BERNARD: I've got another question, but Scot, I see your hand up.

MR. DRAEGER: As I'm listening to people speak, I'm wondering about maybe a change that could be made in the notice and comment area of the rule-making, because there is always opportunity for small advisors to comment, of course. As

Dave said, there are resources to pull that together in a timely way may be in question.

But even when a significant number of small advisors comment on rule-making, the weight that is given to those voices in the debate is relatively small compared to the larger institutional voices who have the capacity to pay for and receive trust coverage on their angle, on the proposal.

And so -- and I think that the proxy voting area, you know, to what extent small advisors can rely on proxy voting advisory services and to what extent that actually furthers their fiduciary duty got such a small weight as compared to, you know, a quick reference to nomenclature of robo voting which was thrown out there by the issuer community as a way to, you know, pejoratively position what those proxy advisory firms do.

And so, you know, I'm wondering about whether in the notice and comment process there could be an opportunity for small advisors either, you know, through the IAA or other places to coordinate comments that could receive weight by the staff, you know, somewhat commensurate with the fact that it's a huge volume of SEC registrants that are impacted by that regulation.

So, you know, I think the notice and comment process exists. Part of the question is to what weight are some of those comments, you know, being, what gravity is being given to those comments if you don't have the opportunity to get the press coverage on your angle. So anyway, that's just a thought.

CHAIRMAN BERNARD: Honestly, given your background you understand what I'm about to, the subject I'm about to make a comment on far better than I do.

But I think some of the comments that we've had about the definition of smaller advisor and what metrics that's based upon and whether that should change I think would have bearing on what DERA

does, the Commission obviously has a responsibility to address the cost and benefit of any new regulation and sort of understanding the population which is considered in the context of doing that analysis could have bearing on some of the things you just described.

Jane, I think I saw your hand go up.

MS. CARMEN: I just wanted to comment and ruminate on the fact that as you said, it's in the investing ecosystem, and I think it's important to take a step back and realize that small funds and small firms are an important part of that ecosystem.

And if every regulation is trying to protect investors but the consequence of it is minimizing of the playing field, then the ecosystem itself will die.

I feel like a little like an endangered species of a small fund provider, but I think that there are lots of different funds that are a lot

different and right for different investors. I mean, as a faith-based and an ESG provider, I know that our investors are sometimes different than the typical investor.

And I do worry a little bit about overprotecting people and making access to financial products and information too difficult.

I really think about it in a practical sense. The people who have been the most harmed are the people who haven't been in the market at all. So we need the ability to talk to the average person and turn them into a small investor.

And I just, I get concerned that trying to protect people too much may in the end forfend. It's just a comment I wanted to make.

CHAIRMAN BERNARD: That's helpful. Other questions or comments.

MR. SUYDAM: One thing, I think maybe to think about with new regulation, it's not just, you know, the proposal and how it might impact, but there should be

some thought given to that testing once the regulation is in, particularly as impacts smaller, you know, the division examinations could always be looking at for smaller what's the impact. Is it what we thought it was. Is it different than what we thought it was and then tinker.

We all do that in our business, when we put things in we back-test them as we go to see their impact because they're never exactly what you think they are.

CHAIRMAN BERNARD: I think that's a great suggestion, and it could probably apply to a lot of the different issues for which we're making recommendations across AMAC.

One quick question for you, Russ, if I may, just to pick up on your good point of higher outflows for firms with less than 100 billion. And I'm not sure at your work, if you've seen -- I can imagine the impacts that scale and technology would have on that, but I wonder if you've also looked at the extent to which that has to do with distribution dynamics.

So, for example, shelf space and larger advisors and broker/dealers and so forth wanting to reduce the number of families for whom they're doing due diligence and so forth. What do you think is in the mix in that specific data about the outflows for smaller advisors?

MR. WERMERS: I think that, like I said, the Oliver Wyman/Morgan Stanley report, that was their main point was that changes in distribution and the disintermediation of distribution services may really be changing the landscape out there.

Yeah, I think that that's right. The shelf space we can think of, you know, go to the grocery store and certain leading products start to take over because there's a limited amount of shelf space.

I think the same thing is true with shelf space at some of the places like Charles Schwab or Ameritrade or whomever

runs the next generation of offerings. And I think it's going to be a problem for the middle tier there. And it may already be a problem, as you've sort of suggested.

MS. LaROCHE MORRIS: Do you think consultants playing an increasing role in the selection of funds for that shelf space is also influencing distribution?

MR. WERMERS: Great point. Yes, they are. To some extent we see consolidation of consultants, and that leads to more I guess focusing on -- I guess the shelf space is lower with your consultants. The other -- Rene, the other big force that has pushed out a lot of the also-rans -- forgive me for saying that -- is the litigation. Litigation consultants are loathe to -- you know, it's the old recommend an IBM PC and nobody is going to blame you, fire you. Recommend an Apple 2 and you might get fired.

So litigation is also pushing consultants and as I say the consolidation of consultants themselves into just a few

large ones is now creating sort of a group think. And I think and also there are some kind of back-and-forth benefits that are being shared between the consultants and the large asset managers.

CHAIRMAN BERNARD: This is all a great discussion. We're about coming up on time, but any other questions or comments for this group? Go ahead, Scot.

MR. DRAEGER: I just have two quick questions. One out of curiosity for Steve.

So as you were moving in the foreign markets, with respect to the distribution side of the business, were there materially different approaches that you had to take? Obviously, small funds we know the distribution model here in the U.S., but is it meaningfully different in Europe, Steve?

MR. YADEGARI: Well, for a smaller advisor, Scot, it sure is materially different, and the reason is there are only so many resources a smaller advisor may be able to bring to task. So where a

larger firm may be able to open an office in a foreign jurisdiction or at least send the team into foreign locales more regularly, potentially establish presence, the smaller advisor, that becomes a bit more of a challenge where it might have a more limited team and then questions of distribution may center around finding other intermediaries with which it can work with so that there are greater distribution opportunities.

In our case we began with one client who felt that an investment in UCITS was something they were interested in or some type of structured product. So it gave us an opportunity to get started. And as we began and had some meetings, we discovered the importance of having a presence locally, and we had to begin leveraging certain relationships so that we could have that continuity and presence even though we could not and we weren't positioned to open a foreign office or have our own personnel on the ground on a consistent basis.

MR. DRAEGER: Thank you, Steve.
My last question is for Russ. Toward the end of your presentation you were talking about passive indexing products used as a loss leader for the actively managed products.
What is -- where are we in the maturation of considering the antitrust issues associated with that, do you believe, Russ?
MR. WERMERS: Well, I'm at a disadvantage, Scot, (audio interruption) and a good one at that and I am not. I think that it's an interesting situation because it's becoming, you know, there are just a few asset management firms that are controlling -- not controlling, I should say, that control the vast majority of index assets now. And we know, we all know who they are.
And to some extent it's not going to get any better because both indexing and active management fees are going down. And some of this is related to technology and Moore's law and so on and so forth.

But where we are, are the places now too big?
I'm not quite sure, but I think that's something that definitely the SEC should be thinking about in terms of enhancing competition in both the passive space and the active space.
Sorry to dodge around your question, but it's a great question.
MR. DRAEGER: Thanks, Russ, I was just curious. I know we're butting up on time, but this has been terrific.
SUMMARY AND DISCUSSION
CHAIRMAN BERNARD: This has been a great discussion. Let me just once again thank Scot and his subcommittee and particularly today's panelists. You were all asked to summarize your thoughts and issues in a concise manner, and you all did that extremely well. And it gave us a lot of rich input to consider in the time we have remaining. So thank you very much.
We're going to go to our final session, which is sort of a lightning

round. We go around the table. The meeting, as you know, is open to the public. You're welcome to stay with us, but we also appreciate your time and understand you've given us a good chunk of it. So if you need to sign off, by all means feel free to do so. I will look for sort of nods of heads. We had an unusually long break this morning. Would people like to go ahead to the lightning round? It usually takes us about 20 or 25 minutes, or we can take a five-minute break. Thumbs up if you want to keep going. I figured people might want some time back at the end.
So if we can do as is our normal custom, and we found this to be an extraordinarily good source of input at every meeting. So if each member, and I'm going top to bottom on the participant list which you can all see by first name. And so A comes up first and just for full disclosure I started at the bottom the last meeting.
Take no more than a minute to share

one or two things you heard that struck you today. If what struck you is similar to someone who just spoke before you, that's fine because it helps us see dominant themes and priorities.
So I will work my way down the list. And with that, Asa, you were up first. So I welcome any thoughts that you want to share with the group.
MS. SOE: Thanks, Ed. I found the last session and small advisors very, very fascinating, and there's so much to digest, so I'm going to have to go back and read the transcript.
But I do want to point out the pressures that are faced by the small advisors in the fund. It's actually, you know, there was that pressure everywhere. It comes from the hollowing out of the belly from the asset management industry.
I do want to point out the pressures also come from the supplier's side being consolidated which a lot of people point out. And there's also data being treated almost like gold now. And

data is incredibly, incredibly expensive, and the use of data rides and the derived products that are creating derived products from that. So somebody who is in the field, I think that's something that I will urge further insight and investigation into why is data so incredibly expensive.

CHAIRMAN BERNARD: Great. Thank you for that. Jane, you're up next.

MS. CARTON: I think one of the things that struck me is the theme of some monopolistic entities that pervade our industry in different ways. And that's a real problem that our industry faces in lots of different categories. So I think that that sort of struck me the most.

CHAIRMAN BERNARD: Great. I think Gilbert had to drop off, so Jeff Ptak, you're up next.

MR. PTAK: Good discussion with all the presenters, in particular Rama and Mike, I think you did a great job in presenting your subject matter, and I also enjoyed the small presentation, good food

for thought there.

You know, I think to your point, Ed, a little bit later in the discussion, you know, sort of coming up with a good sort of framing for AMAC so that we can appropriately provide the best counsel recognizing that there are real issues there around making sure there's an appropriate balance between protecting the investor while at the same time not creating insurmountable (audio interruption) for smaller advisors who are out there.

That's the key thing, but what can AMAC do with recommendations to best effect that I think is a key question or at least one that I find myself wrestling with.

But compliments to everybody that presented today. I thought you did a great job.

CHAIRMAN BERNARD: Thank you. Joe Savage.

MR. SAVAGE: Again, thank you to everybody that spoke today. It was great

panels.

I guess the small advisor and small fund panel I thought was really good. At FINRA we regulate broker/dealers, not advisors, but I can just tell you from my own experience a lot of the same themes come up on the broker/dealer side, particularly fee compression and the use of technology and the need to outsource, I think, are all very common themes, especially for small broker/dealers. But even mid-size and larger broker/dealers are feeling those pressures as well.

In terms of tailoring rules, you know, we tried that at FINRA, at least in terms of our capital acquisition broker rules, which are a rule set for sort of a narrow business model of firms that mostly have an institutional customer base and do more of a kind of an M&A or institutional private placement or corporate advisory-type business. You know, it's been moderately successful, but it's hard because you really do have to balance investor protection against creating a

smaller rule set. But I think it's worthwhile if you can do it the right way. Thanks.

CHAIRMAN BERNARD: Thanks. John Bajkowski.

MR. BAJKOWSKI: I was amazed how Michael was able to condense into four slides the work that his committee has done over the last year or so. For me perhaps what struck me in terms of the interest of the individual investor that is the group that I kind of work with, it's still a motion of privacy and how investor protection has really changed and how the SEC is struggling to deal with that issue, the notion of what investor protection is while also providing strong market liquidation and access to capital formation.

It was a challenge, and our members are always concerned about the whole notion of their privacy, how the information is being used; information is golden now. What is advice, what does a nudge become advice, and I think the notion of how can we take the information as being presented and distinguished between what is simply information and what is advice is a challenge for the SEC.

And the fact that broker/dealers have different requirement versus advisors, as far as what the relationship with their clients is is an interesting point as well that needs to be somehow considered when the information (audio interruption) back to that individual.

So again, a lot of great information, and thank you so much for being able to see this stuff.

Thank you. John Suydam.

MR. SUYDAM: First I'd like to applaud Rama for his leadership of our subcommittee. It was outstanding, particularly the last 30 days or so, which I think was quite intense for him.

But the one comment I'd make is about the small advisor discussion we had. One thing that we may want to hear more about in the future is any type of disproportionate effect, you know, the

squeeze on small advisors is having on the diversity within the industry. Because I suspect it might be, I just don't know, but it would be great to get some information about that.

CHAIRMAN BERNARD: Mike Durbin.

MR. DURBIN: Just to echo my thanks and congratulations to you, Rama, and the subcommittee who does excellent work on a thorny topic so well done.

Going on small advisors, and, again, kudos to all of you for I thought was a really detailed and pretty direct set of thoughts in short order, which I personally appreciate. I'd also like to pick up on where Asa started, which is, you know, the example of CUSIT as an element of data was perhaps just one example, but the market data tail is quite long, so it would be an interesting category to stay on top of.

And the one trailing thought is I did not hear a lot about the role that state securities regulators may play in all this, but they are not long tail, they

are small businesses. The states do have a primary role in regulating, so I would just be curious as to the subcommittee's view on and perhaps ideas for state securities regulators against this theme. Thanks.

CHAIRMAN BERNARD: Thanks. Paul.

MR. GREFF: Thanks, Ed. Congratulations, Rama, and the area of the small advisors is a narrative that I'm not very familiar with, so I really do appreciate a well-organized and really thoughtful discussion, and I just found it really educational. Thanks very much.

CHAIRMAN BERNARD: You're up again, Rama, and I add, once again, my thanks and congratulations on a job well done, and I welcome any thoughts you want to share with us, although we just lost your picture.

MR. SUBRAMANIAM: I think for me the evolution of advice is, as I said very interesting on sort of the technology angle and any time needed to address it and trying to work out as

things -- it was a great advantage to being able to tailor advice or a portfolio that has $5,000. My daughter opened up a brokerage account and was offered robo advice. She wasn't told forget it, you have $5,000 to invest. Balance that against appropriate regulation.

On the small advisors, the small advisor ourselves on the asset management side, you know, I understand the issue with data. It is the new frontier, new source of wealth for a lot of people. I think one comment I'd make generally on that is distinguishing maybe regulatory hurdles for small advisors with call it industry structural issues. Someone touched on it with institutional investors; right. They wouldn't touch a fund unless it's being through consultants. Consultants themselves always have incentives and motivations.

I know when we look at launching funds, we don't think about institutional investors for several years. Doesn't matter how good a product you have, how good an idea you have, they're not going to touch it unless it's been through the consultant.

I think some of it is structural inherent in segments of the industry, and I think kind of distinguish that from sort of regulation could be useful.

CHAIRMAN BERNARD: That's great. Thank you.

Rene.

MS. LaROCHE MORRIS: I think the thing that struck me is the conversation we were having about outsourcing and the small advisor, because as the advisor outsources more and more to the service provider -- and it could be one of the service providers that Jane mentioned that are fairly large -- the advisor loses that expertise in-house. So it's really important that whoever the advisor is outsourcing to is a partner and has expertise to help maintain the level of knowledge of an advisor. And it touches all of the conversations we had today

about technology and about data and the need to have the right legal and compliance in place in order to grow and scale the business and offer new types of asset classes.

So the importance of the outsourcing providers really being trusted experts becomes more and more important. That's what's on my mind as I'm reflecting on the conversation.

CHAIRMAN BERNARD: That's great. Thank you.

MR. WERMERS: Thanks, Ed. A few things here.

It's been said several times, but I want to also add my plaudits for Rama. Rama shared his report with me before this meeting; I read it pretty thoroughly and it's just top-notch. Good work to you and your committee.

And I continue to learn from my fellow smaller investors, small advisor subcommittee workers, IAA and the rest. There's so many things that I have learned today and continue to learn about the

challenges that smallness brings with it.

And then I think, finally, Jane Carton's comment just a few minutes ago about the cost of data I think is really something that is important that might have come out here unexpectedly. I sort of brought that up when I mentioned Refinitiv and Thomson, but I think data costs are becoming, you know, quite an issue now for small advisors and investment managers. I'll stop there. I enjoyed today a lot.

CHAIRMAN BERNARD: Thank you.

Scot.

MR. DRAEGER: Thanks, Ed.

First I want to just say thank you to Rama and the other subcommittee members to approaching retail access to privates in a way that exhibited true intellectual independence. You know, we obviously -- you brought together a lot of folks to speak on that somewhere on the end of the spectrum that thought access was really just inappropriate. And others were on the end of the spectrum, you know, the

Blackstones, if you will, that obviously were just making any play possible for access to retirement plan market for whether that is appropriate or not.

And I feel like your recommendations exhibited independence from any one group that had a, you know, a dog in the fight and really kind of proposed a balanced pathway that can protect investors appropriately while also carving out an intellectual for access for retailers to private citizens. Really terrific. Thank you for that.

So grateful to all the panelists on small advisors and funds. I think with respect to the outsourcing discussion, what I really appreciated is some distillation on areas where outsourcing can enhance quality control and enhance independence including onboard independence and thus enhance investor protection and then in part to Rene's point where outsourcing may be detrimental, you know, to independence or quality control. And so I appreciated some distillation on that. It was terrific.

CHAIRMAN BERNARD: Susan.

MS. McGEE: You would think after two years I would get the mute button down. I wanted to also thank Rama and Mike for their reports today, very, very good and thoughtful.

On the small funds and small advisor issue, I want to echo what Jeff said about tailoring and how hard that could be. And I would like for our subcommittee to maybe have some more discussion about some suggestions that we could give to the SEC.

I do think the easy answer is we're not going to tailor and everyone is going to be subject to the same regulation. That's very easy to say. And maybe our subcommittee could have more discussions about details, some detailed suggestions for the SEC.

But thank you, Scot, for your work.

CHAIRMAN BERNARD: Thanks. I think I've gotten all of the members. Is

there anybody I've missed? And Sarah, I'm going to give you the last word in just a moment.

Let me just add my thanks. I thanked Rama a couple times. One more time, I really do think it's a remarkable piece of work that that group has done. I also want to thank Mike and Scot. They have a slightly different challenge than some of our other subcommittee chairs, because we've come up against the end of our charter and I personally think today is ample evidence that they thought through that challenge, and the odds of us in the relatively limited time we have available of adding some valuable in these areas is very high. So I'm grateful to them for figuring out how to bring focus to framing their issues and ensuring that we can tackle a few key concepts that we can, in fact, push over the line.

So I look forward to that even if it's sort of high-level design guidance and so forth. I mean, both of the topics are very broad. I'm very confident in the

next couple of meetings we'll be able to add some value.

So we've obviously now approved the private investments subcommittee's work, and that joins the work we did, we approved in July on diversity inclusion and ESG and last year on exchange-traded products and operational matters.

So I will once again, apropos of getting this additional work done encourage all of you to check your email and your calendars for those last two meetings on October 28 and November 3 and let Christian know if you have any issues. I frankly don't think there's going to be much flexibility on time, so I really hope that you can manage your calendars accordingly, because we'd really love to have everyone's input in those final sessions.

And you'll notice when you look at the email that they are shorter because we're homing in on sort of closing thoughts on these topics.

As always, I'd really like to close

with sincere thanks once again to Christian Broadbent, Neil Lombardo, Ned Rubenstein, Emily Rowland, Jessica Shen, Jay Williamson and Wally Oriola who provided tireless and very thoughtful support.

Anyone who is working on the subcommittee knows exactly what I mean. They've been terrific and Sarah, so just so you know, we want to publicly acknowledge your team. They really have been a great support.

And with that, do you have anything you'd like to add before we close?

MS. TEN SIETHOFF: So I'll just add again another set of recommendations, and I really do appreciate the tremendous amount of work that goes into those, and it's not just the sets of words on the page, but all the preparatory work panels that go into that. You've passed on a tremendous amount of information for our division and the Commission's ultimate consideration. So a tremendous amount of thanks for that.

And then also as always today interesting discussions, and I'll say, you know, I will echo the point that it is helpful for us to understand distinctions between where you see areas that the Commission can focus on particularly versus the broader economic forces shaping the industry, and here I'm talking really about both technology and small advisors. But it is helpful for us to hear about both because they do so often interact with each other. And I think some was pointed out today, and I think the outsourcing is a great case in point of that where I definitely heard discussions about pressure driving you to outsource while at the same time that outsourcing creating tensions, and it creates pricing pressures. So certainly one connection point that I think we would always be interested in hearing is where our regulatory regime plays into that push and pull on outsourcing, are there aspects of it that's driving it and is that beneficial or deleterious I think could be

a great input.

And then I'll also just echo the exchange between Joe Savage and Susan. I do think a lot of times what we hear through the comment process that we're doing regularly initiatives relating to small firms tend to be one of either could there be a longer compliance period or could there be an exemption from the staff for small firms. And those may be sometimes alternatives that people want to point out, but we very seldom hear anything in between. And I know there was mentioned a tailored regulatory regime that is very rarely presented to us or ways that that could be some that really have a bang for the buck or the firms and really would make a difference.

Just to give some encouragement to a good discussion, perhaps, among that committee, I think is one area that we don't hear much about, so it really would be informative.

And with that as always, thank you for letting me listen in on your

discussions and look forward to the next couple meetings.

CHAIRMAN BERNARD: Thank you, Sarah. I think that last comment is a great piece of advice for the smaller advisors subcommittee, but also for any of those watching on SEC.gov who may write comment letters from time to time that provide a little more input on how we might be more focused.

So in any case, thank you all very much. We've gotten through a lot of content today. Appreciate your time, attention and the input of everyone who brought it to us. And we will see you again very soon in late October.

So thanks again, and enjoy the rest of your week. I think we're -- for those in the public, we will shut down the feed now and this concludes our meeting. Thanks so much.

(Whereupon, at 2:10 p.m., the meeting was concluded.)

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PROOFREADER'S CERTIFICATE

In The Matter of: ASSET MANAGEMENT ADVISORY COMMITTEE MEETING

Date: Monday, September 27, 2021

Location: Washington, D.C.

This is to certify that I, Christine Boyce, (the undersigned), do hereby certify that the foregoing transcript is a complete, true and accurate transcription of all matters contained on the recorded proceedings of the meeting.

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I, Barbara Moore, a Registered Court Reporter of the District of Columbia, do hereby certify that these proceedings took place before me at the time and place herein set out, and the proceedings were recorded stenographically by me and this transcript is a true record of the proceedings.

I further certify that I am not of counsel to any of the parties, nor an employee of counsel nor related to any of the parties, nor in any way interested in the outcome of this action.

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