U.S. SECURITIES AND EXCHANGE COMMISSION

SMALL BUSINESS CAPITAL FORMATION ADVISORY COMMITTEE

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U.S. Securities and Exchange Commission

100 F Street, N.E., Washington, D.C.

APPEARANCES:

Paul S. Atkins, SEC Commissioner, Chairman
Hester Peirce, SEC Commissioner
Mark Uyeda, SEC Commissioner

Committee Members
Marcia Dawood, Committee Chair
Rose Standifer, Committee Vice Chair
Bart Dillashaw, Committee Secretary
Herbert Drayton, III, Committee Assistant Secretary
Robert Bolen
George Cook
Vincent Cordero
Joseph Lucosky
Diego Mariscal
Claire McHenry
Erica Duignan Minnihan
Jennifer Newton
Andrew Prystai
Rodrigo Seira
Jasmin Sethi
Marc Oorloff Sharma
Joe Sheirer

APPEARANCES (Cont.):

Committee Members (Cont.)
Wendy Stevens
Erik Syvertsen

Panelists
James Moloney, Director of the Division of Corporation Finance
Christina Thomas, Deputy Director of the Division of Corporation Finance
Sue Washer, Biotechnology Consultant and former CEO of Applied Genetic Technologies Corporation (a previously listed NASDAQ company)
Daniel Zinn, General Counsel and Chief of Staff, OTC Markets Group

SEC Staff
Timothy Collins
Courtney Haseley

C O N T E N T S

P R O C E E D I N G S

MS. DAWOOD: Good morning, everyone, and welcome to today's meeting of the SEC's Small Business Capital Formation Advisory Committee. I call this meeting to order. I want to extend a warm welcome to everyone including our five newest Committee members. It's great to see everybody. And thank you all who are watching on the webcast, SEC.gov, and those of you who have joined us in the room.

Courtney, do we have a quorum for the meeting?

MS. HASELEY: I am pleased to say we do have a quorum, Marcia. And also would love to give the SEC disclaimer. So for any SEC staff or Commissioners that speak today, any views provided are in the speaker's official capacity at the SEC but do not necessarily reflect the views of the Commission, the Commissioners or other members of the staff. Thank you.

MS. DAWOOD: Excellent. Thank you so much. So the last meeting we focused on IPOs in the public markets including how to encourage more private companies to go public. And during that meeting many creative and potentially impactful suggestions and recommendations were discussed on how to improve the public markets, especially for smaller companies considering going public. And today, in line with the SEC's recent floury of rulemaking proposals focused on reducing regulatory friction and facilitating capital formation in the public securities markets, we are continuing our exploration on how to encourage more small companies to go public.

As we hear from today's speakers and discuss the SEC's proposed rule changes, like registered offering reform and the proposals focused on semiannual reporting and filer status categories and review last meeting's suggestions and recommendations, I encourage the Committee to continue to be creative and vocal on regulatory reform they believe will help attract and retain smaller companies in the public markets.

So before we dive into our very exciting agenda today, we have Chairman Atkins, Commissioner Peirce and Commissioner Uyeda joining us this morning. Thank you so much for being here with us. And let's kick things off with your remarks, Chairman Atkins.

CHAIRMAN ATKINS: Great. Thank you, Marcia. And good morning, ladies and gentlemen. Thank you very much for being here today. So I should like to begin by extending a hardy welcome to the Committee's new members, Anya Coverman, Joseph Lucosky, Andrew Prystai, Rodrigo Seira and Erik Syvertsen. Thank you all very much for bringing your collective expertise and many contributions. I'm looking forward to your giving us, I think will prove invaluable, as to work to widen pathways to capital for small businesses.

Today we turn to that very objective as the Committee continues the consideration of a matter that I maintain to be among the most consequential before us. How to incentivize more companies, especially those small and growing, to grow and remain public. During the decade of the 1990's there were approximately 4,000 IPOs. In the 25 years since then there have been only 3200. At the prior meeting in April committee members and speakers supported several aspects of our agenda that could reverse this trend and revitalize the IPO market. Specifically these include; recalibrating disclosure requirements for smaller public companies, reconsidering reporting cadence, enhancing form S-3 eligibility, revising the criteria to qualify as a well-known seasoned issuer, extending the IPO ramp, and modernizing filer status categories.

Today I'm pleased to report that the Commission has since proposed four rules that reflect those very ideas and many more. In May the Commission proposed amendments that if adopted would allow public companies the option to file one semiannual report each year in lieu of three quarterly reports. By removing the SEC's thumb from the scale, we would afford companies regulatory flexibility to align reporting practices with their industry business model and investor expectations.

Just weeks later, the Commission issued two additional proposals that if adopted would build upon legislative and regulatory concepts that have proven successful in the past and which aim to extend that success to more companies in the future.

So the first, referred to as registered offering reform, would expand access to the SEC's shelf registration process which allows public companies to access the public markets quickly and when market conditions are most favorable.

Currently, due to eligibility restrictions newly public companies cannot use the flexible shelf registration process offered by Form S-3. And smaller companies have only very limited access to it. Registered offering reform would expand the full availability of shelf registration to nearly all public companies, including the newest and the smallest, increasing the number of eligible companies by over 60 percent.

Furthermore, registered offering reform would expand brokers and dealers ability to public research reports about issuers conducting registered offerings even if the broker-dealer is participating in the offering. Notably a broker or dealer's ability to publish public such reports about domestic issuers would no longer depend on the issuer size or the length of its reporting history. As a result, smaller and newly public companies would benefit from brokers or dealers having great flexibility to initiate coverage for them more quickly after their initial public offering. Likewise, investors and other market participants would gain from the research and analysis resulting from increased and more immediate coverage of these companies.

The second reform that we proposed in tandem referred to as filer status reform would recalibrate disclosure and other requirements based on a company's size and maturity. As a result, more companies would receive relief from some of the most arduous SEC requirements, including auditor attestation of internal control over financial reporting. The proposal would also build on the IPO onramp by extending the length of time that companies can potentially remain on the onramp and be exempt from audits or attestation requirements and others like it.

Finally, we proposed rescinding the prior Commission's Climate Disclosure Rules, which I believe exceeded the Commission's statutory authority and abandoned the foundational principle that our disclosure rules should be rooted in materiality. In practice, the Climate Rules would impose unnecessary burdens on companies, a deterrent for those wishing to go public, and a difficulty for those already listed. I've said it many times before and I'll say it again today, the SEC is a disclosure regulator and it is not a merit regulator.

Of course, as with any rulemaking proposed by the Commission, I look forward to receiving public comment and feedback on these proposals, including that of this Committee and today's speakers.

So in closing, know that we hold your insights in high regard and that as is their most fundamental purpose, they provide the input that sound policymaking requires.

As we further propose the efforts mentioned, today's discussion will be essential to effectuating them. To that end, as always, I implore you all to be honest in your evaluations and innovative in your advice. Our path forward certainly depends very much on it.

So I'm grateful once again for your service on the Committee. Enjoy the rest of your meeting. And I look forward to reviewing the prospectives that are sure to arise as a result. So thank you very much.

MS. DAWOOD: Thank you so much, Chairman Atkins. Commissioner Peirce.

COMMISSIONER PEIRCE: Good morning. I, too want to welcome the new members and you're joining a great Committee. So I think you'll really enjoy it and we look forward to your contributions. I want to thank the rest of the Committee members for your continued work. Thank you to the Office of the Advocate for Small Business Formation for supporting the work and facilitating these meetings. I'm looking forward to hearing later from Sue Washer, who is a former Committee member, but hearing from her as a panelist will be great, along with Dan Zinn, and appreciate the panelists as well.

Today's topic, modernizing market access and encouraging IPOs and small public company capital formation is a mouthful, but it's an important topic and I look forward to the continuation of the discussion from the last meeting which was really fascinating. I especially enjoyed hearing Committee members' feedback on what we can do in this area and also the reaction to the panelists which provided some really great insight.

At the Committee's February meeting I spoke about the value of our public markets and the unique benefits they offer companies. Benefits that simply cannot be recreated privately. This morning I would like to focus on the Commission's recent efforts to extend those benefits to a broader range of issuers and the process behind those efforts. Under the leadership of Chairman Atkins, and you just heard about some of these proposals, the Commission is proposing and adopting rules that simplify registration and disclosure requirements and allow more companies to go public with fewer unnecessary regulatory hurdles. Done correctly, these regulatory efforts will benefit not only issuers but also investors.

Labyrinthine restrictions on access to public markets unmoored from an investor protection rationale serve nobody. At the same time, we're exercising the utmost caution and working to streamline and update the rules that may be outdated or ineffective. The goal is not to cut for the sake of cutting, but to cut requirements that do not yield proportionate benefits. Central to our rulemaking process are thoughtful understanding of our regulatory history, practical lessons derived from years of experience with existing rules and wisdom brought to us by public commenters. This Committee's 'input is also essential as we seek to make public markets a more welcoming place for companies to turn for capital.

In that spirit, I would like to pose a few questions for consideration by the Committee today. If the Commission's new filer status rules are adopted as proposed, what do you expect utilization to look like for smaller issuers?

For instance, will companies seeking newly available Form S-3 eligibility face any unique operational or infrastructure challenges in taking advantage of it? What further reforms would smaller issuers and their investors like to see beyond those currently proposed that would encourage them to take advantage of the public markets?

As a practical matter, do form 10-Q disclosures play a different role for smaller issuers and their investors than they do for larger companies? Would smaller issuers be more or less likely to adopt semiannual reporting if offered and why? Are specific disclosure items under Reg S-K especially burdensome for smaller issuers?

A theme from the April meeting was that one of the best things we can do to make public markets more attractive is to give companies more control and certainty over timing during the IPO and subsequent capital raising. Do any of our proposed rules meaningfully help to achieve that goal; what additional steps can we take?

Another theme was the need to improve research coverage and market making for smaller public companies. As Marcia said at the last meeting, too many public companies become invisible after the offering. What can the SEC do to create an environment in which smaller public companies get the attention they deserve?

Chairman Atkins has suggested rethinking the gun jumping rules and one of the panelists at last week's roundtable which Courtney moderated suggested something similar. Would deregulating offers be helpful?

Committee members also noted the role that inevitably costly litigation plays in keeping companies out of the public markets. Can the Commission do anything more to address these issues than we have already have done with respect to mandatory arbitration provisions?

Thank you and I look forward to the discussion and any recommendations that come out of it.

MS. DAWOOD: Thank you so much Commissioner Peirce. Commissioner Uyeda.

COMMISSIONER UYEDA: Thank you, Marcia. I can give an answer to one of Commissioner Peirce's questions. I really do think we need to deregulate offers. It might have made sense in 1931, in '32 or 33 Act and there was no information out there about a company, so the prospectus was everything. But in 2026 we have something called the internet. A lot of other information to gather about a company and so trying to restrict information about a company I think is a bit of a fool's errand in 2026. Maybe not in 1926.

But anyway, good morning and thank you for all being here today. Before turning to the today's agenda, I want to welcome the five new members, Anya, Joseph, Andrew, who I see on the screen, Rodrigo and

Erik. You bring prospectives, portfolio alternatives, capital markets law, early stage venture and fund formation. I look forward to your future contributions to this Committee and this Committee will be stronger for them.

At the last meeting in April I raised several concerns about barriers for small companies; accessing public markets, compliance costs, underwriter economics that disfavored smaller offerings in a regulatory framework calibrated for large issuers. Now I would like us to spend less time on diagnosis and more on potential solutions.

I'm pleased that the Committee we briefed on three proposals moving through the Commission right now; expanding Form S-3 eligibility and taking other steps to modernize the registered offering process; enhancing emerging growth company accommodations and simplifying filer status and providing options for companies and their shareholders to determine the optimal periodic reporting cycles, whether that be semiannual or quarterly. Today you will hear directly from my good colleagues at the Division of Corporation Finance on these specific reforms.

Modernizing our rule book is important. The Commission last took a hard look at improving the capital formation environment more than two decades ago. These proposals address concerns that are rules, forms and guidance for public companies are outdated and disproportionately burdensome for smaller companies relative to the benefits. For example, consider Form S-3 and shelf registration. The framework we're currently operating under mostly dates 2005, before the iPhone had even been rolled out. It's also before the Commission required XBRL and structured data, which has created a very different disclosure environment.

Expanding S-3 eligibility to more issuers and streamlining the registration and communications rules that come with it is an attempt to create a set of rules that more accurately reflects how information moves today. And it's not through the mail and paper prospectuses. For a small company this is not an abstract benefit. It's the difference between raising capital on a reasonable timeframe and watching a market window close during a lengthy registration process.

For each of these proposals and any other regulatory reforms discussed today, the task I'd ask the Committee to apply is simple to state and hard to answer. It's a given disclosure obligation producing information to investors that materially changes the enterprise value of a company or its stock price or is it a fixed cost that lands hardest on companies with the fewer resources to absorb it.

This is a difficult question to answer in part because the costs we're talking about rarely show up in a single dramatic barrier. They accumulate. A threshold set too low. A deadline set too tight. A filing requirement that made sense for a $10 million company, but gets applied to one a fraction of that size. Often a single line item does not look unreasonable in isolation.

However, it is the cumulative effect that is what pushes companies to stay private or to leave the public markets. I hope that this Committee comprised of individuals who are uniquely positioned to understand the barriers facing capital formation for small businesses can tell us plainly if we drawn the line in the wrong place or more importantly how we should be thinking about applying principles-based disclosure obligations rather than prescriptive rules and regulations that tempt to try and recreate some form of closet merit regulation. Thank you again for all of your service and look forward to today's discussions.

MS. DAWOOD: Thank you so much, Commissioner Uyeda. And thank you, all Commissioners, for being here with us today.

So I want to take a moment before we get started on our agenda to extend a very warm welcome to the Committee's five newest members, each of whom were appointed by the Commission in June. So Anya Coverman is the President and CEO of the Institute of Portfolio Alternatives here in Washington, D.C., Joseph Lucosky is the managing partner at Lucosky Brookman, LLP in Woodbridge, New Jersey; Andrew Prystai is the CEO and Co-founder of Event Vesta in Omaha Nebraska; Rodrigo Seira is a partner at Cooley LLP in Miami; and Erik Syvertsen is the Head of Asset Management and Chief Legal Officer at Angel List in New York. On behalf of the Committee, we look forward to working with you.

So I know we do have some of you online and some here in person. I just wanted to take a few minutes to give each of them a chance to say some remarks. So why don't we go ahead and start with you, Joe.

MR. LUCOSKY: Thank you. Good morning. My name is Joseph Lucosky and I'm the managing partner of Lucosky Brookman in New York New Jersey. I run 110 person law firm that is really hyper-focused representing small businesses and emerging growth companies. And every day I spend in the trenches with founders and entrepreneurs and investment bankers and others who work actively in the capital markets. And I get a firsthand look to see how our rules really play out in practice, where they work well, and sometimes where maybe they have unintended consequences. So I look forward to learning from everyone on this Committee and contributing some practical feedback. And thank you again for inviting me and for your time.

MS. DAWOOD: Thank you. Erik.

MR. SYVERTSEN: Thank you. I am Chief Legal Officer of Angel List and head up our asset management business. Angel List, for those not familiar is a platform that provides I infrastructure for the venture capital industry. And we serve funds, their LPs, the GPs managing these funds, and the underlying founders in a variety of ways that give us a broad perspective on venture capital. And I'm eager to share those perspectives where helpful here to help bring perspective to the unique issues of the technology companies that feed the pipeline for a robust IPO market and see how the private market regulations ultimately impact the public markets and the robust pipeline there. Thank you for admission on this Committee. I'm excited to share perspectives and learn from the rest of you.

CHAIR DAWOOD: Thank you. Online we have Andrew.

MR. PRYSTAI: I am Andrew Prystai, CEO and Co-Founder of Event Vesta. And very much in that pipeline hopefully that Erik was talking about there going from being a small venture-backed company to one day being an IPO company here. So very much appreciate being part of the Commission and appreciate all the Commissioners and the entire SEC for looking seriously at what are the regulations, what are the rules here that we can focus on to really streamline the process and enable more entrepreneurs, more founders, to keep the economy dynamic. So really appreciate the opportunity to be a part of this.

MS. DAWOOD: Great. Thank you so much, Andrew. Rodrigo.

MR. SEIRA: Hello everybody. My name is Rodrigo Seira. I'm a partner at Cooley. Apologies for not being able to make it in person today. I'm on my family holiday in Riga Latvia, so calling in from there. I am very excited to be joining this Committee. My background is as a startup and venture finance lawyer at Cooley's. So I work with founders from day one all the way through exit. And I've focused a lot of my career on working with founders in the crypto space, with the way securities laws have been applied to that industry. My hope for this Committee to is help bring the prospective of those founders and also to help the agency think about how we can carry forward the core principles of securities laws as they are applied to kind of an evolving set of technologies that allow founders to raise in different ways. So looking forward to the conversation. Thank you very much.

MS. DAWOOD: Great. Thank you. Yes, welcome to all the Committee members. I know Anya was not able to join us today.

Our first speaker today are Director James Moloney and Deputy Director, Christina Thomas, from the SEC's Division of Corporate Finance or CorpFin, as we call it. And CorpFin has been extra business lately with a flurry of rule proposals. Recently they have released rule proposals for registering offering reform, which among other things makes Form S-3 available to significantly more issuers and extends certain registration and communication benefits. Semiannual reporting, which would permit companies to file semiannual reports in lieu of quarterly reports. Of course that would be voluntary.

And filer status, which enhances emerging growth companies accommodations and simplifies filer status categories for reporting companies. Additionally, the Chairman has an open comment file focused on IPO modernization. And together these proposals and open comment files directly impact small businesses and their capital formation activities. Furthermore, the regulatory solutions proposed in them align with many of the previous suggestions and recommendations we heard at our prior meeting.

So with that I will turn it over to Jim and Christina to give us some background and insights on these rule proposals and open comment file.

DIRECTOR MOLONEY: Thank you, Marcia. First let me say, it's great to be here. And it's a tough act to follow, the Chairman and his fellow Commissioners, Hester Peirce and Mark Uyeda. I'm Jim Moloney, CorpFin Division Director. I'm looking forward to working with all of you in the months and years ahead on these rulemakings. I know they've been described several times here so I'll try not to be too redundant, but if adopted I believe these proposed rules will make a meaningful difference for small businesses. It will definitely improve access to our capital markets.

For those of you who may vaguely recognize my name, I was here in the nineties. So I echo what Commissioner Uyeda mentioned earlier about we're living in a different time today. This is not the nineties. But back in the nineties when I was here in CorpFin I worked on Reg M-A and Reg M-A substantially overhauled, modernized and streamlined the rules around communications relating to business combination transactions. So I thank the Chairman and the Commission for having me back to implement similar reform to the rules we face in the 33 Act.

These rules are being proposed at a critical moment for our public markets. We've observed a significant decline, as the Chairman has said, in the number of publicly listed companies. When I was here in the nineties, I think there was something like 8,000 public companies listed on U.S. Exchanges. Today we're down by roughly 40 percent. In the intervening decades we witnessed a wearing on of disclosure rules and additional requirements and nuances, much like the layers of paint you'd find on the banister in an old home.

Some of the folks on my staff have started referring to me as Jim Bob Villa. You may remember the old TV show, This Old House. So Jim is back and renovating the house. This layering on of rules and regs is often a reaction to market events. Public company regulatory framework, unnecessarily costly, complicated, burdensome and outdated, which may actually disincentivize companies, especially small businesses from going or staying public.

So I say, it's time to strip back the 18 layers of paint to restore the banister, the mahogany banister, to its original glory. We're going to bring back the distinctive beauty and then we'll apply a new finish, a new clear urethane finish, which will enhance the rules and regs that will apply to the many companies that you work with and represent. By executing on our rulemaking agenda we aim to create a modernized framework that will better reflect both the original intent of our core principles, like financial materiality, and the modern-day marketplace in which issuers and investors interact today.

Onto the Chairman's “Make IPOs Great Again” priority. It aims to reverse the decline of these publicly listed companies by making the path to public markets more practical, more cost effective and attractive for smaller earlier stage companies.

Something I know you're all very familiar with.

The semiannual reporting, the registered offering reform and filer status proposals are part of a larger comprehensive overhaul to provide clearer, simpler and more workable framework for public companies, both with respect to their reporting obligations and their ability to raise capital in the public markets. Now, taking them each in turn briefly, let me explain just one or two examples of how these proposals if adopted would help encourage more companies to go and stay public.

Let's start with semiannual reporting. The semiannual proposal if adopted would provide optionality to companies to select the reporting frequency, not based on what the SEC dictates, but based on what the market dictates. And if adopted, it would not surprise me if the market develops over time such that a company will determine the reporting frequency based on among other factors, the disclosure practices in its specific industry, how cost effective it may be, and the expectations of the markets and its investors. This gives greater flexibility to both companies considering entering the market and those already reporting today.

Registered offering reform, ROR. Registered offering reform intends to modernize the outdated requirements for conducting public offerings by expanded access to the easiest registered offering method, that is shelf registration, to all companies immediately post IPO. This will expand WKSI style flexibilities to practically all listed companies creating an even playing field for smaller companies that today do not enjoy the same time tested accommodations that larger companies have enjoyed. And it will enhance research reporting exemptions to help newer companies obtain and maintain market visibility.

Let's put some of these benefits into practical terms. Consider a small pre-commercial biotech company that successfully completed its IPO within the last year, but needs to conduct a follow-on offering to raise additional capital to further its clinical trials. This company can't wait weeks or months for SEC review of a follow-on registration statement that for all intents and purposes will contain much of the same information already provided to investors in the IPO prospectus. But under current rules, that's exactly what many have to do today.

Form S-3, the vehicle for shelf registration currently requires 75 million public float and a 12-

month reporting history. Thresholds that were set back in the nineties that today shut out companies that have earned their place in the public markets and need to raise capital on their own timelines. The proposal replaces these obsolete thresholds with two simple questions. One; is the company an ineligible issuer, which can be easily ascertained under or proposed definitions. And two; is this company current in its reporting. Two very simple tests to determine whether you can access shelf registration.

Let's move onto filer status. This rulemaking proposal aims to streamline filer categories. Today we have five categories. If adopted the proposals would take it down to two categories, large accelerated filers and non-accelerated filers. It would also extend EGC, emerging growth company, and SRC, smaller reporting company, scaled disclosures and accommodations to more small and mid sized companies.

It would create a predictable regulatory onramp to support early stage public companies. And it would create a new tier of the smallest companies who will no longer have a longer period to file their periodic reports. Not only will this be simpler and more predictable for companies to determine their filer status that they're in, but more companies than ever will have the disclosure and reporting other accommodations currently available to the smaller reporting companies and emerging growth companies.

So notably, non-accelerated filers or NAFs and AFs, which will represent about 81 percent of public issuers, will not be required to obtain the auditor attestations on a company's internal control over reporting, financial reporting, ICFR. That is the SOX 4Ob requirements. 81 percent of the companies will not. I truly believe this will facilitate and incentivize companies to access, smaller companies that wouldn't otherwise access the capital markets.

With that highlight I'm going to turn it over to my Chief Deputy, Christina Thomas.

MS. THOMAS: Thank you, Jim, and thank you to the Committee and the Advocate's Office for inviting me to speak today. As Jim mentioned, there are three particular proposals that we have in the pipeline right now that we believe will, if adopted, provide a more workable framework for public companies and are part of our larger goal to encourage more companies, especially small and mid-sized companies, to become and remain public.

I'm going to go into a bit more detail on each of those. So apologies if we're repeating, but I think it will hammer home exactly what's in the proposal to help with your discussion today. As Jim mentioned, we are excited about the semiannual reporting proposal because of the flexibility it would provide for companies. Companies subject to the reporting obligations of Exchange Act sections 13(a) and 15(d) currently file with the Commission three quarterly reports on form 10-Q each fiscal year in addition to annual report on form 10-K, which also covers the fourth fiscal quarter.

There are certain exceptions, most notably for certain foreign private issuers. But if adopted as proposed, the amendments would allow all reporting companies to elect to file semiannual reports on a new Form 10-S in lieu of quarterly reports on Form 10-Q. Companies can make the election to become semiannual filers or continue to file quarterly reports on Form 10-Q. If a company does elect to become a semiannual reporter, it will have the ability to switch back to quarterly reports in the future.

This provides greater flexibility to reporting companies to select the interim reporting frequency that best serves the company and its investors at a given point in time. If reporting companies choose to become semiannual filers, they would indicate this by checking a box on the cover page of their annual report on Form 10-K or the relevant registration statement at the time of becoming a public reporting company. Semiannual filers will file their interim reports on a new Form 10-S. This form would require the same narrative disclosures and financial information as the current form 10-Q, but would cover a fiscal six-month period rather that a fiscal quarter. The financial statements for semiannual period would be required to be prepared in accordance with GAAP and reviewed by an auditor but not required to be audited.

Semiannual filers would have the same length of time to prepare and file the Form 10-S as the Form 10-Q, with the Form 10-S due 40 or 45 days depending on the filer status after the end of the first semiannual period of the fiscal year. The semiannual reporting proposal, if adopted, would provide optionality to companies to select the cadence of SEC reporting, as well as, voluntary reporting frequency based on what is optimal for the company and its investors.

In the registered offering reform proposal we hope to build on the success of shelf registration by expanding eligibility to all companies immediately post IPO. We are proposing to revise Form S-'3 eligibility requirements by among other changes removing the requirement that issuers be subject to the reporting requirement of the Exchange Act for 12 months before using the form. And eliminating all of the form's transaction requirements, including the instruction that requires issuers to have at least $75 million in public float to register an unlimited amount of securities on the form.

Form S-3 would continue to require that issuers be current and timely in their Exchange Act reporting requirements and would prohibit certain ineligible issuers from using the form. These proposed amendments are intended to allow a greater number of issuers the ability to access the public markets quickly by using Form S-3. We expect that there could be an increase of over 60 percent in the number of issuers eligible to offer an unlimited amount of securities on Form S-3. Newly eligible issuers would benefit from the cost savings and capital raising efficiencies associated with the ability to use Form S-3 and conduct shelf offerings.

Lastly, with the filer status proposal, we are proposing to extend accommodations currently utilized by smaller or emerging companies to more public companies, while also providing the smallest public companies extended time for financial reporting. Currently as Jim mentioned, there are five partially overlapping filer statuses where the accommodations available to a particular company depend on whether it falls under one, both, or neither category.

The current categories are large accelerated filers, accelerated filers, non-accelerated filers, smaller reporting companies and emerging growth companies. The existing filer status framework is complicated for both companies and investors. So we are seeking to simplify the framework to make it easier to understand and comply with. As Jim mentioned, we're looking to consolidate from five categories to two. So the two remaining would be large accelerated filers and non-accelerated filers. The non-accelerated filer status would represent about 81 percent of all public issuers, and as Jim mentioned, they would no longer be required to obtain an auditor attestation over the company's internal controls over financial reporting.

We would extend the current emerging growth company and smaller reporting companies scale disclosures and accommodations to more smaller and mid-sized companies. So this includes no Say-on-Pay or Say-When-On-Pay shareholder advisory votes, scaled executive compensation disclosure, including no-pay versus performance disclosure, and fewer years of financial statements with reduced presentation requirements.

We'd create a predictable regulatory IPO on-ramp to support early stage public companies. And importantly for this audience, we're looking to establish a new subcategory of small non-accelerated filers for companies with total assets of $35 million or less for the two most recent fiscal years. These small non-accelerated filers would have an additional 30 days to file Form 10-K annual reports and an additional five days to file Form 10-Q quarterly reports. The change is intended to meaningfully reduce the reporting costs for this category of companies which represent the smallest 18 percent of public companies by assets.

By expanding existing benefits to more companies, simplifying the analysis required for a company to avail itself of those benefits, and enhancing certainty of how long a company receives them, we believe the filer status proposal would make public company status more attractive.

In conclusion, our semiannual reporting, registered offering reform and filer status proposals are the first steps to transform the public company regulatory framework. And there are many more exciting things to come as we work toward reforming regulation S-K. So please stay tuned for that.

I want to thank you again for your time and dedication to the Committee. And I look forward to what I'm sure will be a very productive discussion today.

MS. DAWOOD: Thank you so much, both of you, for all of those great comments, very very helpful. To gain some further insight on how these rule proposals may impact smaller companies considering going public or currently public small caps, we will hear from a prior Committee member and former Vice Chair who was previously the CEO of a Nasdaq listed company.

Sue Washer is joining us now, virtually. She is a biotech consultant and former CEO of Applied Genetics Technology Corporation, which is a previously listed Nasdaq company. So Sue, thanks for joining us.

MS. WASHER: Thank you for that introduction, Marcia. And I want to thank the staff for the invite to speak to you all today and to comment on how very nice it is to see so many familiar faces around the table from my time on the Advisory Committee. I did just want to expand on a couple of things just to provide some insight as to what I bring to the table in my remarks today.

So in addition to being the CEO of Applied Genetic Technologies both when it was a private company through the IPO process and then as it was a public company for many years. I also had prior work in economic development in the State of Florida where I worked with the various universities to try and pull technology out and start local companies. So certainly a broader experience in small company development. And I also worked if for many years with a local investor who had invested in a very vibrant art space construction company in Florida and ran that company for several years. So again, another smaller business. And as Marcia said, I'm currently doing consulting, board work and mentoring grad students who are thinking of taking their research out into the public markets and starting their own company. So a breadth of experience addressing this problem.

And I'm very pleased to be able to be here today to discuss what I think is a very important topic. I reviewed with interest the discussion the Committee had at your April 28th meeting and thought that there was several interesting points that were made that could frame my remarks. The opening comments in April were about the need for public markets to provide access to capital to a wide range of companies as well as to provide opportunities for general investors to participate in the advancement and financial success for innovative growth companies. I would agree with both of those perspectives and the needs the markets have.

But before I talk about those two objectives, I would like to point out that I personally don't think that I will review today or what the Committee has been discussing truly addresses very small cap companies of under say 200 million, or those that are in low growth businesses. In those cases I do believe that public markets may not be the right path and private or other traditional funding methods will be more effective and more efficient. And I'm happy to discuss these comments or questions about the dynamics at play for these companies.

I just wanted to kind of preface my further remarks that I feel that all that I will be discussing really pertains to small companies and certainly $200 million companies in our current market cap situation are still small. But companies under 200 million may not benefits from many of the issues that we're discussing today.

So I do think there are many things that can be done to make the IPO process and staying public less burdensome. And as I said, as I took AGTC public it truly was a small company. We'd received several rounds of venture capital funding. We are probably about at the equivalent of a B or a C round today. And we only had 12 people in the company. So by anyone's definition, that was a small company. And going through the process of going public, which we started the process in the summer of 2013 and we went public in March of 2014. So it took a very long time. But much of that was because we very much used the Jobs Act and the testing of the waters' meetings that were available. And this really made all the difference for a small unknown biotech company in the State of Florida, those testing of the waters and that ability to file confidentially and reiterate on our filings was critically important to the success of IPO.

So while many feel rightly, and there has been discussion of this in the last meeting, that private markets are currently robust and provide excellent access to capital, in my experience in the private markets, this capital is not as widely available to many small companies, especially those outside of the concentrated technology hubs, which is where AGTC was in the State of Florida at that time period. And it's also hard for those that are really working with very new technology, untried technology or with those that have new management teams. The private markets are much more accessible to experienced entrepreneurs or people that have had experience in very large companies and then are spinning things out. So to new teams, brand new technologies and companies off of the beaten path, so to speak, private markets are not as accessible as people might think.

So access to this capital also in the public markets is really time consuming. People have talked about it as being cheaper and faster and easiest and I would highly disagree with those remarks. It can take an order of 9 to 12 months to raise a private round, unless you're a very big established multiple time CEO in Boston who might be able to raise it faster and who has a very well connected board. So I do believe that private markets can be challenging for many small businesses that are starting within the United States. And that's why I think access to public markets is still very important.

On top of all that, I think the other aspect that comes under the Commission and I've heard Commissioners talk about is that it is important to make sure that access to these innovative opportunities are available to a wider range of people than the private markets or M&A activity support. So being able to get companies into the public markets enables the general public and a much wider range of investors to participate in the accelerated growth and the financial opportunities of investing in growth companies. So that's why that kind of frames why I think this access to public markets is very very important.

So from the current SEC proposals that were just discussed and I read with great interest when Courtney asked me to speak today, and also your discussions in April, I'm going to emphasize some ideas that I pulled from both of those, and provide some pretty specific examples from my experience for reference, because I think that's what I can bring to you is having gone through the process and now not being a publicly traded CEO. So I can provide a little color and background on why I think many of these changes are useful to public companies. And I'll go at it from two perspectives.

It's not just the ability of a company to go public. And I think there are many things that can be done to make that less burdensome. But it's also the ability of a small company to successfully remain public and to continue to be able to raise funds through that time period. If they don't have exponential growth, they're still doing well, meeting their objectives, but they're still remaining a small cap, I think we also need to think about these rules and regulations and processes to enable that small company to successfully and with less burden remain a public company.

So again, I don't have any of these in any particular order. And after my remarks I certainly would expect to answer any of your questions. So first of all, I think it's a really good idea to shorten the SEC review times and wait periods. I would agree that in today's age of almost instant analysis and reporting online and even in traditional print media that the 15-day period and some of the other wait periods are burdensome to companies.

And I'll give you an example in that, and this kind of, I'll tie this in with my agreement that the shelf registration should be available immediately. You've just filed all of this extensive analysis. I've never understood the 12-month time period where you couldn't use the shelf. Because when we went public the 15-day wait period wasn't so important then because we'd done so much of the testing of the waters and really used a great deal of time educating the public, but we had a really good increase in our stock price right after we went public. And so there was just a real momentum for us to go raise another round almost immediately. It was only several months after -- we went public in March, we did a follow-on in July. That's how quick it was.

But because of where we are were we had to do a whole other S-1 process. So what that triggered was, yeah, there wasn't much we had to change and we did a good job with our lawyers of letting the SEC know that very little had changed. We highlighted for them every word that changed so the review process could be shortened. But then we had to wait for that 15-day period. So we were all very very nervous about with this big upswing in the market, upswing in our stock price, that we would miss that. By the time everything cleared, we would be on the downturn and maybe we wouldn't even go out and raise the money that that instance.

Now, we were lucky. We got everything through. The market stayed robust, our stock price stayed up, and we were able to raise money, but it really was on the downturn of the rise. And if we had been able to get out quicker we probably could have raised an additional 20 percent on top of what we were able to -- close to our S-1 and we'd actually just filed our first quarterly filing. I don't think that served any purpose to inform investors. So that's the first thing I'll say.

I think it's good to shorten SEC wait times and review times as much as possible. And I think early and immediate access even to a shelf registration are important because once we got through that initial time period and were able to have a shelf available, we just kept the shelf open at all times. So that at any time when we had good news or an upturn in the market we could easily raise money. So I think that that's very very important and speaks to the ability of a small company to stay public because of the frictionless ability to continue to raise money going forward.

I would also say, and I've already mentioned this, the Jobs Act was super important. We would never have gone public in 2013 with 12 people without the Jobs Act. The time period that that allowed us to confidentially file and get feedback. The testing of the waters for a small unknown company in Florida to be able to go out and spend an extensive periods educating investors was critically important. And some of those ideas should be built on going forward.

I would also say that one of the biggest burdens we had going forward after the IPO was for a young management team, and I would say any management team at this point, is clarity in improvements and how we can communicate. I can't tell you how many discussions I had to have with lawyers over the years about, hey, I was talking to investor A and he asked this question and I responded this way, and I realized that maybe that was new information, do we have to file right away with the SEC. And so because there's this issue of having, if person A knows something, if you've told one investor something, everyone has to know it.

And so I think that the rules on this, the breadth of what it captures, is it just a nuance. Are you allowed nuances of what you say because not all of us have perfect memory of word-for-word answers to questions. So I think that this clarity of communications and some kind of safe harbor if you are a regular filer and have a history of regularly filing that won't trip you up. And this is sometimes what I think many large investors are almost trying to do is kind of trip you up in your communications. I think this would be very important because it is a huge hurdle for small companies to maintain the diligence on this communications issue.

I also think that the incorporation by reference that was mentioned as part of the filing is also important. So you don't have to keep refreshing large pieces of work and disclosure, that you can incorporate it by reference would be much easier, quicker and more efficient. I think that the extended ECG status is really important. And I'll give you a couple of examples there.

I think that unless your revenue is really crossing a threshold, if you are a small company and in my case, a biotech company, where we were going many years in clinical development, being in that ECG status or what is now going to be the non-accelerated status is very very beneficial. As we approached timing out of that, even though our revenue was no where near the threshold, it really burdened us, because as we were going forward and having to comply with the 404(b) we had to double our accounting staff. We had to double our quality staff just to be able to monitor and build all of the software systems and all of the review processes. And it was very stressful at a time when management's time would have been much better spent monitoring the clinical trials, developing communications about the technology we were working on, and not on for someone with no revenue, not on these strict internal controls.

So I am very very supportive of the changes to filer status and simplifying the categories because the categories were very confusing to everyone. And to be able to extend the time period where you are not having to comply with 404(b)

Also, the quarterly reporting; so again, from my experience as a biotech company, and I think this is true of all early stage biotech companies and many early stage technology companies who don't have revenue, the benefit that investors get of a quarterly report is not all that great. Because mostly you're saying, yes, the clinical trials are continuing. Clinical trials can take a year, two year, three years or more in some instances, and there's nothing for you to report.

You don't receive information on an ongoing basis from those clinical trials. The data is only unearthed at the end. The most you can do is say that we anticipated enrolling 100 patients and we've enrolled 20. We have no revenue, which everybody already knows. Maybe we hired a new CSO or something, but it's not monumental information that comes out on a quarterly basis.

And on top of that, it takes up a lot of time. It is a, for a quarterly report it's a minimum of a month of planned activities, you know, gathering your quarterly financial, gathering the quarterly information, the management team discusses what the filing is going to look like, we have to have an investor meeting, we have to schedule meetings with investor after the report goes out. So that's a month of time in a quarter. That's a third of your time. And it always seemed to us like it was just seconds before we were rolling into, okay, when does a next date start for our quarterly report. Especially with pre-revenue companies or companies in lower growth stages of their development cycle, I don't think investors benefits from each quarterly report. And I think that the semiannual reporting is completely sufficient.

The other thing I will comment on is that, just because a company decides to do a semiannual and not quarterly doesn't mean they won't have reporting requirements outside of that semiannual report. If something material happens, they will still have to report it. If a patient in a clinical trial has a serious adverse event, that's going to require reporting. If the data comes early and it's a blockbuster positive result, that's going to require reporting. If you lose your chief medical officer, that's going to require reporting.

So I think that the fear of companies being able to maybe defer providing information is unfounded because of all the regulations about materiality and having to report real time on anything that's material to the company. And so that's why I feel that the semiannual reporting could be so beneficial to small companies.

On top of that, those of you in the room who may know better than I, but I believe that semiannual reporting has been available in Europe since about 2013 since the mid 2010's. And I don't think there's any evidence in the European markets or with European companies that semiannual versus quarterly reporting has resulted in any untoward issues in the European markets. And I do think it will get management teams focused on what we would all want them to be in innovative companies, and that is their technology, their company, the future of the company, rather than just constantly being dragged into the right here and now. And being somewhat motivated to reach as much as possible to report something new in that quarterly report because it's hard in a clinical stage company or a mid stage company to really report something fantastically new each and every quarter, but you want to. So you want to present something new. You want to show progress. You don't want to just sit there and say, well, we're still in clinical trials, thank you for your time on this call.

So I think that there's a motivation with this too often reporting in not getting to the management team really focus long term, which I think is for the betterment of the company, the betterment of markets and the betterment of investors for management teams to be focused on long-term success. So I'm very much in support of the ability to only report semiannually. However, I will say that at least in the beginning, I do think a lot of companies will be motivated by conversations with investors to stick to quarterly. And they'll be less companies that adopt semiannual because they feel pressure from investors and research analysts to have this information flow.

So I think there's going to be a learning period where companies figure out what kind of communication can I do on a regular basis, are press releases, investor meetings, going to be sufficient. So I think there will be tension. But from a regulatory point of view I think that tension is appropriate. Tension between companies saying, I'm clinical stage company, I only want to report semiannually. And investors saying, we'd like to know on a more regular basis, because that's what they're used to. So I think there's going to be a learning period there.

The other thing I wanted to talk about was analyst coverage. And that hasn't really come up today, but in your April 28th meeting there was some discussion about the issue of analyst coverage. I think that this is a real critical issue for small companies. I know that during the time we were public at AGTC there were several of our banks that provided excellent coverage. We developed really great relationships with research analysts. But two or three of them during the time period we were public had to drop coverage of us just because the bank had a lower, had a threshold under which they wouldn't offer coverage.

So if you were smaller than 400 million they weren't going to provide coverage. And I think that there's a lot of issues tied up in this as to, I would say, that I agree with banks that analyst coverage is expensive for them. They have highly trained individuals that are very well compensated because of their training and experience, and there's hundreds and hundreds of companies that they're trying to cover. And they have to allocate their resources. And part of this is because of the banking fees and liability mix that we should probably look at. And part of it is just the sheer numbers. Most banks cannot have the staffing it takes to really cover the widest range of companies possible. And there are some companies that just have to be covered. In every industry sector the top of the heap has to be covered by a bank for that bank to really be relevant.

So I do think there's a lot more work to do in this aspect. In April I think one of you brought up the idea of sponsored independent research. So where companies would pay a company that had independent researchers to be able to cover them. I am not sure that that's an answer. I think it's something that should be explored. I know that it's somewhat available in the U.S. at this point because we reviewed it a couple of times at AGTC. It ends up being pretty expensive for the company on top of what your banking fees when you raise money with the regular banks. And then I think that there's a perception that once it's paying, pay-for-play, that the coverage isn't going to be independent.

So I think that there are some things that we should look at here because I know there's a similar type of system in Europe that is used more extensively than what I think is used here in the United States. So I think this is an area that needs much more research. I don't have the answer for it but I do know it's an issue for small companies.

The other interesting aspect that was brought up is that one of the things that could be burdensome for companies was that you would go through the whole process of trying to go public and then it's literally the last few days of your official roadshow and when you go to pricing that you actually figure out what are investors going to pay, what is the price that's out there.

In some cases, I do understand that people look at that price and say, well, we can't go public at that price. We're either not going to be able to raise enough money at that price or it's so much lower than what we were expecting that the process isn't worth it to us. Now that, I don't know how often that happens. I don't have the stats on that. But I do know it does happen. And then this would be a huge disappointment to the company because they've already spent some money on the banking and the legal work and the accounting work and then not be able to accomplish the goal. So there was this idea of, could you have earlier indications of pricing during a process like testing of the waters. I think that's a great idea and could be very very beneficial to companies.

The only caveat I would have for that is that, we did testing of the waters over several month time period. We had over a hundred meetings with investors. Some of them were multiple meetings with the same investors. But it was a lot of meetings. I can tell you that if we'd asked for pricing thoughts at the beginning of those hundred meetings, it would be a very different price than what people thought of at the end of those hundred meetings as we were educating them, as we were actually making progress in the clinical trials during that meeting time process.

So it had to be well thought out how you would do that and to get an accurate read on what the pricing is going to be. But I do think it's an interesting idea to explore.

So those are some of my ideas as to -- and some examples from my career, as to why these things are important. I'm certainly, just to rap it up, very in favor of the proposals that are on the table that have been developed, and I know that this Committee has been supportive of. Certainly the semiannual reporting I think is very important. The registered offering changes I know for us personally at AGTC, it would have been a game changer in those early years that have the shelf available. And I think just the confusion around the filer status being cleared up will be beneficial to investors as well as to companies.

So those are my thoughts and my perspective and I'm happy to open it up to questions at this time.

MS. DAWOOD: Wow, Sue, that was so informative. Thank you for sharing all of that. So you did allude to this but just, if we could go back for a minute, when you were thinking about the decision to go public, you had said that the private capital was so hard to raise and then you decided to go public but it seemed like that was taking up a lot of the management team's time also. So what was in the thought process before you made the decision to go public?

MS. WASHER: I think the decision is much more straightforward for biotech companies. The amount of money a biotech company needs to actually get a product approved by the FDA and commercialized. FDA approval is super expensive, but getting ready for distribution of a pharmaceutical product is also real expensive. I think the stark reality is that for emerging stage biotech companies either you go public to raise the hundreds of millions of dollars it's going to take to commercialize a product or you're looking at M&A and have a large company take over that cost burden.

So for us, we saw in 2013, that summer of 2013, many of you may remember that the public markets had been non-existent and M&A was very low in that time period. And suddenly that summer, the public markets opened up. So our board was like, the public markets are finally open, go, because this is our opportunity to see if we can do that. And then I will say it is without a doubt, there is not a doubt in my mind that once you're public, it is far easier to raise money on the public markets than it is privately. So the public markets, especially when you have that shelf, as soon as you release good information, as soon as the markets are robust, you just go out and raise money or you can use an ATM on a consistent basis. We used both of those during the time we were public.

If your still private, you're still talking about that nine months of kibbitzing with private investors and thousands of diligence questions and taking up much of the management team's time and being uncertain what those investors will charge you. What pricing will they put on your company and they're totally in control as a very small community. And I would emphasize that this is especially true for newer management teams that are not kind of the tried and true entrepreneurs in the biotech world.

I would say that tried and true entrepreneurs in the biotech world, they already know the investors. They have a robust well-connected board. And it probably is easier for them to raise money if you're in Boston or San Francisco especially. But for other companies, the private markets are very challenging. And I will say that the biggest advantage AGTC had, once we went public and got through that being eligible for an S-3, raising the money on the public markets was very easy.

MS. DAWOOD: Interesting. If any members have a question please chime in. I'm curious about the costs. So not only about the costs for you going public as a small company, but if these reforms would have been in place at the time, like what do you think the differences would be related to the costs?

MS. WASHER: So I do think the costs would have been lower. Especially the cost of that first fast follow-on was pretty high, because it was really like doing another IPO. So I think with these reforms in place, the costs would be lower. I do want to make just a personal statement, going public is expensive. And we all know we're going to pay X million dollars to banks, lawyers and accountants. I don't think, and I think somebody mentioned this in April, but I don't think that's the overriding costs that management teams think about. They do think about it. It's discussed at the board. People angst about it. But having access to that much more cash and fundraising is considered kind of the price of getting in.

I think the cost people think about is management team time, liability, this communications that I talked about is how challenging communications can be and making sure you're not tripping yourself up in material new information. I think that's really the friction point for companies, especially once they get over the hurdle of being public. The friction point becomes that communication. And then it also becomes, can you keep your float high enough and your valuation high enough that you can utilize those public markets.

And that's one of the reasons why I think companies under 200 million have to question really carefully whether being in the public markets is appropriate. Coverage is going to be hard. Floats are going to be hard. Getting enough variety of investors participating in your company is going to be hard. So I think then the cost is more worrying about that all the time.

DIRECTOR MOLONEY: I want to jump in and double click on that. It caught my ears, you're mentioning the ambiguity around selective disclosure and knowing when you have an FD obligation and when you don't. Do you have any ideas from your time as a public company CEO of what would help clarify that ambiguity and make it easier to have that information also available in the market without the uncertainty?

MS. WASHER: So I think it probably has to do around some really clear language, if you've just released a report semiannual, hopefully, that says 12 people have been enrolled in your clinical trial and two months, three months later you happen to just forget you said 12 in June and now it's September and you tell an investor 15 people have been enrolled, does that trigger an FD. And I would say from a practical matter, it shouldn't. What's the overall difference between 12 and 15, you marginally updated somebody's understanding, but it shouldn't trigger -- right now what that would trigger is a CEO calling their lawyer and walking through FD regs and trying to determine whether by eight a.m. the following morning they have to file something. And I think that's the burden of FD.

And that is a lot of money. I mean, I would say on average we had those kinds of conversations, I don't know, three or four times a quarter maybe. Because FD covers everything. And investors are continually trying to get that one extra grain of information. And so management teams feel really burdened by, do I just stand there and repeat 12 patients as per our last report, 12 patients have been enrolled, when they know in their head 15 have. That's a lot of tension and conflicted that's caused in management teams.

So I think some kind of safe harbor is what I can think of. If it's not material, let them just answer the question, right, as opposed to being in their head feeling conflicted.

DIRECTOR MOLONEY: I'm curious, would using approved social media channels to make it easier to disseminate the information, with that as an available option, does that make it easier as a public company CEO, or is it more the question of, do I have to have this out there at all?

MS. WASHER: Do I have to have this out there at all. And I think social media would really make it harder not easier.

MR. PRYSTAI: I was curious when you were talking about how you use the S-3 registration for the company and especially around having coverage, was just curious, was it from the regular reports that you released, that that's when you would see the stock price increase, that's when you would take advantage of those market opportunities or was it from up-cycle disclosure and you had good news with trial outcomes; what triggered some of those opportunities that you were able to take advantage of?

MS. WASHER: Well, the two triggers were just general biotech market increases. So if there was general upticks in sentiments about the biotech industry, usually all of us would float up. And depending upon how far we would float up, we would take advantage of it. So the easier it was timing-wise to take advantage of that the better the companies did. But the other major thing was when we got good news from a clinical trial or we did two large collaboration agreements, one with Genzyme at the time and one with Biogen, and so when we closed those deals that was considered exceptionally good information, because there was a lot of non-diluted capital. But then having our stock price go up we could get additional capital on top of that collaboration capital. So we would want to turn the switch as quickly as possible there. So good news and general market upticks.

MR. PRYSTAI: Very informative. And you had also talked about when you IPO'd you had a nice pop with that IPO, had to refile an S-1 essentially refiling the exact same one you had done. And a lot of the conversation around the S-3 and the shelf doesn't seem like it was really addressed in that type of situation or scenario to work?

MS. WASHER: No, it would have, because we would have been able to have an S-3, which is far less cumbersome than an S-1 and we could have put that on file because you can put that on file before you need it. So we would have probably in that situation, which is what I think people would do now if this rule is passed, you would file your S-1 and automatically follow it on with an S-3 because you don't have to wait 12 months and have all this reporting history and just have it sit there available. And then you refresh your S-3 on a regular basis so that whenever you need it you can tap it.

MR. PRYSTAI: Totally. Maybe I had missed this with getting prepared for the meeting and getting up to speed from the last meeting and proposal. I thought that the current proposal said that there was still a six-month seasoning process for the S-3 change, from the 12 month. Do I have that correct?

MS. WASHER: I don't know. It could be.

MR. PRYSTAI: I'll ask the broader group, just because I thought that was an interesting example of, maybe I misunderstood that seasoning component, but if that was case there still would be that gap there in those first six months where you'd have to go through that same S-1 process if it wasn't immediate, within the first 30 days for sure, first couple months there, where maybe there's future opportunity for additional ways to help close those gaps. Helping with the S-3 shelf streamline with the S-1 process. But also that still six-month gap there where if there is extraordinarily good news and/or market opportunity that additional ways to keep leveraging public markets to help with that liquidity and help entrepreneurs and management teams like AGTC to take advantage of that to keep growing the business instead of feeling like, we missed our shot here. We didn't take full advantage of the S-1 process like we could have.

MS. WASHER: That may be my misreading, Andrew. Maybe it was just from the discussion in April that I listened to. I would say, why do you need any wait period at all, you just filed everything to go public, why would you need to wait at all. But it may be that the new rule does include the six months, and that would be better than 12. So that would be a step in the right direction.

MS. HASELEY: Sue and Andrew, I apologize, I'm just going to jump in to clarify. The rule proposal on registered offering reform it does propose an immediate availability of S-3. I think there might have been discussion from an invited speaker perhaps in April where there was discussion of about six months, but that was before the offering reform proposal was seeing the light of day.

MR. PRYSTAI: Thank you, Courtney. Sounds like that would cover that exact situation that happened there. So that's fantastic.

VICE CHAIR STANDIFER: Sue, this is Rose. Thank you for those insights. And yes, on the six months, we had a wish list and before it was on the table that it could be zero, the ask was six months and got more than expected on that one.

I do want to go back on the Regulation FD, Fair Disclosure, but also on the semiannual reporting because I think you commented that there's ways to report out, even if you're semiannual, and that would be the 8-K. In your conversations with investors, did you ever get the feedback from investors that they wanted you to do an 8-K to make sure that they were cleansed from having material non-public information or was it truly more of these borderline, updating but in everyone's mind probably not material, probably not 8-K. How did those conversations go?

MS. WASHER: I don't recall ever an investor asking me to file an 8-K. Now I will say that we tried to be very good about that, about really educating the entire management team that spoke to investors such that something like that would never happen. So we need never had investor ask us to file an 8-K. But we had three or four discussions a quarter about whether what one of us said in a conversation, did we feel would trigger an 8-K, because of things like 12 versus 15 patients or things like that. So it was never from the investor side.

VICE CHAIR STANDIFER: What are your thoughts on how that would work in practice, if there was a safe harbor using your example of 12 patients enrolled, 15 -- I'm curious of how you would think operationally about this. Are you having internal discussions that said, here's our banded information based on current updates. If it was 12, but now it goes to 50, okay, we're outside our band. Having those conversations first with the lawyers versus after the fact, corrective, like would it make a material change in the time and expense of those conversations?

MS. WASHER: I think it would. It would still be after the conversation, I believe, because from a practical standpoint, the direction to the management team is always going to be, stick to the latest report. And so I don't think that you're going to say, it's okay if you say 15 versus 12, but not if you say, 18. You're not going to have those conversations. So I think it would always be after the fact. But I think that the angst and the amount of time spent reviewing the discussion would be much shorter and clearer and less expensive if there was some kind of flexibility there.

So it would be, oh, hey, lawyer, we really have dosed 15 and that's what came out of my mouth. The lawyer would go, no biggie, you've got some leeway here and don't worry about it. And that would be the end of the conversation. Whereas specifically a conversation like that, I know of one conversation like that, that went on for like four hours. So that's a much more expensive legal fee. It went on for four hours, did not result in an 8-K, but still was much more expensive than if the conversation had been 10 minutes, just want to let you know, I spit out 15 in answer to the question, I know our last report was 12. And it would take five minutes for the lawyer to say, well, that's okay, under the new interpretations. And that would be the end of it.

VICE CHAIR STANDIFER: Picking upon that thread and tying it back to the semiannual reporting, let's say that there were concerns in your quarterly or your semi that you had only got 12 and things weren't moving in the right direction and now you did have your 15 or your 18, would you have wanted optionality, maybe not on an 8-K that's signaling, you think this is super material. But optionality to update the market in a structured way in between your reporting short of something that triggered an 8-K?

MS. WASHER: So I guess maybe controversially, I don't think an 8-K is all that burdensome. It doesn't take that much effort, especially for a management team that has a little bit under their belt. I think the 8-K system works fine. And we would use that routinely in between quarterly reports. And we would certainly use it, a patient had an adverse event or we blew it out of the park and didn't dose 12 patients we dosed 20. We would certainly 8-K things like that.

In fact, I think there is a standard of expectation that you will communicate and 8-K those things. I don't think we need another way to make that available. And certainly in the case of something like that, material either whether it was an adverse side or the positive side, we do an 8-K and we do an investor call.

VICE CHAIR STANDIFER: So even on positive information that may or may not rise to the materiality threshold that required the 8-K, you would optionally do the 8-K?

MS. WASHER: And I have to say the biggest impetus to do that is to cleanse the poor management team's mind so that they can answer the question. I mean, it may seem trivial to everyone, but it is not inconsequential, the stress of talking to investors and keeping in your mind the exact thing that is the current honest to god truth versus what has been reported and what you can say one way or the other. We would 8-K things just so the team could be open and folsome in their discussions.

VICE CHAIR STANDIFER: Do you think that stress would increase if you were only having the fulsome report on the semiannual basis?

MS. WASHER: No. We would use the 8-K in the same way. You can't time when these things are going to happen, so.d.

MS. DAWOOD: Great discussion. Thank you so much, Sue, really appreciate all your insights and everything that helped to frame all of that. So to further expand on our proposals and how they will impact the currently public companies, quoted on the OTC markets and potentially attract more companies to public markets, we're going to hear from an industry leader in the exchange community. And our friend Dan

Zinn is back with us, joining us today here in person. Thank you so much, Dan, for being here.

On top of being a frequent and valued speaker to the Committee, Dan is General Counsel and Chief of Staff for the OTC Markets Group, a non-national securities exchange. Dan, thanks so much for being here again.

MR. ZINN: Thank you for having me. I was going to say, I had the pleasure of doing this about 18 months ago. So I also want to welcome the new members and look forward to working with all of you. I do have a presentation planned although I'm happy to just talk to Sue for another 20 minutes. That was fantastic.

I want to give a little bit of an idea of what I'll cover. I asked for two hours and the staff negotiated me down to about 20 minutes. So I'm going to try to do this as quickly as I can. I'll let you know what OTC Markets is to the extent you don't already, and why it's relevant for me to be here at all today. I'm going to focus most of my remarks on the registered offering reform proposal. All of them are relevant to the companies on our markets but that one in particular and our comment letter on that topic was filed and I believe published I believe yesterday.

And then of course it wouldn't be worth your time if I didn't come and advocate for several additional ideas that we think would really take things even further in the mission of this Committee. So let's talk about OTC Markets relatively quickly.

We operate public trading markets for 12,000 equity securities, stocks, that are not otherwise traded on the National Securities Exchanges, as Marcia noted. That is a universe that includes international super mega-cap companies, Roche Pharmaceuticals and Adidas and Heineken and firms like that all the way down to much smaller U.S. companies. From a U.S. perspective, think of a community bank as a really good example of an OTCQX company. There's 100, 120 or so community banks on that market. So established well-capitalized, and in that case, certainly well-regulated entity. Many of these banks were Nasdaq listed prior to the Jobs Act, took advantage of some of the changes there to avoid that sort of cost and complexity. And come and make a home on the OTC market where it made commercial sense for them.

The next market down we call OTCQB. We talk about that as a venture market and Sue was teeing it up so nicely with the biotech examples. That is actually the example I would use that have a lot of capital raising needs up front. That might need several years of being a public company before hitting revenue targets and seeing their stock price and market capitalization take off, but can access our markets and interact with investors in that way.

The main link between those two markets is the disclosure required. This is audited financial statements, periodic reporting, whether that is quarterly or semiannual, we will see as time goes on. 8-K material like reporting. So all of the disclosure requirements are the same. It's just the qualitative or quantitative standards between those two markets. So things like bid price and market capitalization that are different.

OTCID is the market below that. That is just kind of a measure of determining that a company has made current information available. They have interacted. They have actually chosen to join that market. For all three of those markets, QX, QB and ID, management is making a certification that they are in compliance with U.S. Securities Law and that the information is current.

You look to the right side of the slide, the pink limited information market, the yield sign more or less says it all. I don't have to explain too much. Those are companies that have a certain amount of information available but do not engage with the market in the U.S. So they don't for example make that management certification available. We note that largely as an investor protection.

All of these market designation are really to allow investors and brokers and regulators for that matter to understand what kinds of companies are on each market. Finally on the bottom right corner, for anybody who's a skier, that double black diamond symbol is our expert market, for experts only. That is where we will allow brokers to quote and communicate with one another in securities that don't have the required information under Rule 15c2-11. So none of those quotes are distributed. Retail investors don't have access to that information. That's again, kind of set aside. That's the OTC market.

As I go through this, by the way, I think we're reserving questions for the end, but I want to make sure this is as useful as possible for all of you. So if something I say doesn't make sense or you have a clarifying question, please feel free to interrupt.

I want to pause. I think it's only right to add our applause and congratulations to the staff for what has already come out in these proposed rules. Again, we're focused on the registered offering reform rule. I don't want to repeat what others have said, but the Form S-3 eligibility, in particular, the removal of the $75 million public float requirement or the baby shelf rule. And what we were just discussing with respect to timelines will have a material impact on how companies remain public.

There's so much focus -- this is a registered offering reform. There's so much focus on the offering stage of how a company accesses the public market. It's important, I think some of the commissioners pulled on this thread as well, that you think about what it is to be a public company for the life of your company. Many of these proposals and the ones that resonate with us are about companies that have an active market trying to stay and maintain that public status.

Blue Sky preemption for registered offerings, we are big fans of this. I have a lot more to say about blue sky preemption in other contexts as we go, but Blue Sky preemption for registered offerings we think is just a very natural step. These are -- securities offering now is national in nature.

Documents are filed on Edgar, that is available to everyone throughout the country. They are filed with the Regulator, the SEC. We work a lot with NASA, the state securities administrators and each individual state securities regulation office, they provide an incredibly valuable service. This is not a place where they should be focusing their time and this creates all kinds of friction in offerings for securities that are not otherwise listed on exchange.

ATM offering expansion, Sue did a nice job talking about what the value of an ATM is. In particular, what this filing does, what this proposal does is for the time recognized those OTCQX and OTCQB markets I talked about on the prior slide as appropriate trading markets on which an ATM can take place. Without things like the S-3 eligibility changes and the ATM expansion what we have seen companies do, and I think I described it in this room before, is something like a debt spiral financing.

When public financing is not as easily available or really costly to come by, companies -- an entrepreneur founder who believes in their idea and just wants money through the door, which is understood, will take a deal. They will say, I will take that money and I will give you convertible securities that convert at a discount to the then existing market price. So if when those securities convert, the price is $4. The lender then converts them at 3. And will sell everything they have into the market all the way until that price is down to 3. They're making free money that whole time. That drags the price down. That dilutes existing investors and drags the value of their shares down as well. These things will help alleviate that problem for a lot of companies. So I really want to make sure we focus on that point.

That was the applause and now the requests, the proposal stage. There are a few things. These are all outlined in the letter that we filed just yesterday. So I'm not going to focus so much on each point, but some of them I'm going to dive into in greater detail. And of course, happy to answer questions on anything the Committee is interested in.

Form S-3, we talked about why those things are so valuable. There is a usefulness for certain foreign private issuers to see this expand. Right now if you are a foreign private issuer, the new benefits offered in this proposal will not be available to you. In our markets I talked about 12,000 securities and I mentioned Roche and Adidas and Heineken and these non

U.S. companies. There are a number of non U.S. companies that trade on our markets. Canada is the best example. That is the biggest by far non U.S. jurisdiction that has securities trading with us.

Even in Regulation A, the Committee has recognized that the rules in Canada, whether that's disclosure or general regulation of public markets are so similar to the rules that we have here, that they were able to allow Canadian issuers to take advantage of that regulation. There are other examples in other contexts where the Commission has looked to foreign jurisdictions. We think it would be a nice idea to include companies from countries that have similar rules in that nature and, and we put this in the letter, and that have extradition to the U.S., which might sound extreme, but to keep insiders and affiliates honest and understand that they are accountable to U.S. rules when they take action here. We think that would be nice expansion of this.

Permitting ATM offerings under Reg A Tier 2 is relatively self-explanatory. We're talking a lot about disclosure. A lot this focuses on SEC typical Exchange Act reporting requirements. Regulation A Tier 2 is another SEC sanctioned method of continued reporting for companies that have taken advantage of that offering exemption. And allowing ATMs would just help that, what is it, a very useful proposal that is somewhat underutilized, help that gain and even greater foothold. And allow companies that have already taken advantage of that do all the things that Sue mentioned with respect to an ATM and sell into the market when it made sense for them.

We are again thrilled that the proposal has recognized OTCQX and OTCQB. We have no qualms with how it's written. We just understand that as compliance officers from brokers and banks look at applying these new rules, the more certainty we can give them as to exactly how this is going to work, the easier it's going to be for them to start this process and make this a regular occurrence. So codifying OTCQX and OTCQB into the rule itself we think would just be that extra step. The way it's proposed now would have the Commission maintain a separate list of qualified trading markets using all of the criteria laid out in the release to make that determination. That's fine as well. This would just be again an extra step.

I had the pleasure of being on a roundtable last week that talked about a number of these issues. We talked about ELI and SELI at least the way people are talking about it in the building. But that these exchange listed issuers and seasoned exchange listed issuers will now have some additional relaxation of some of the restrictions that had applied earlier. All of what we're talking about and all of what we heard the Commissioners mention and other speakers mention is about disclosure. I think Commissioner Uyeda said it exactly. This is a disclosure-based agency.

If a company is making SEC registered disclosure and they are current in that requirement and it's through EDGAR and it's available to everybody in all the ways that we've talked about, again, I understand that we operate the OTC Market and so we're speaking from a particular position. But there is no reason to treat a company differently based on where they choose to trade. An Exchange listing is a choice. I talked about community banks, many of which were paying a lot of money to Nasdaq or the New York Stock Exchange, paying a lot more in legal and audit fees in order to be there, they made a commercial decision to trade with us. It's the same company, making the same information available under the same federal regulatory standard. This applies to ELI and SELI benefits and really can apply to almost anything else related to these proposals in whatever the Commission is dreaming up next.

Now I want to dive into Blue-Sky preemption in a different context. This is for secondary trading. And I think it's a really important distinction. What the Commission has proposed in the proposing release would apply to offerings. That is wonderful. That means an issuer trying to access the markets for the first time or even on a secondary capital raise doesn't have to make additional filings with each state regulator. We understand what that's like and I'll get into that in a moment. But it does not specifically address secondary trading, meaning there is a whole set of state and jurisdictional rules that apply to how companies trade when they are not doing an offering.

Those rules act on brokers in particular. What they say is that a broker cannot solicit, cannot offer advice. An importantly, we heard a number of commissioners and speakers mention this, cannot provide research on a company that is not Blue Sky qualified or exempt in a particular state. Again, this is not during an offering. This is just while they're trading.

So they can't tell a customer, a retail

investor, you should buy this. They also can't say, this is a terrible idea. They can't offer any advice at all. A firm like, I used Raymond James as an example previously or Edward Jones, a firm that has a national reach, that has correspondent offices in every state generally will not distribute research on any OTC traded company, because they are concerned about violating any of the 54 jurisdictions Blue Sky Laws if per chance a company is not qualified in a certain state.

What we've proposed here is that that Blue Sky, preemption for secondary trading be applicable to Reg A Tier 2 offerings for the reasons I noted earlier. That's out there that is SEC sanctioned and comparable to what you'd see in Exchange Act reporting. And to eligible issuers on the OTCQX Market, again, for the reasons that we talked about what the OTCQX Market represents and all of the criteria that the Commission laid out in the proposing release for determining that OTCQX is an appropriate market for at the market offerings. I'm not putting OTCQB in there even though the disclosure requirements are the same. And I will explain why here.

This is our Blue Sky map for OTCQX. We have spent over a decade talking to NASA, again the

Organization of State Securities Administrators and each individual U.S. state and jurisdictional securities office, mostly to get them to recognize the disclosure available on our OTCQX and OTCQB Markets for purposes of a manual exemption, which is what many states have as an understanding that enough information is publicly available for investor that they can make an informed investment decision such that they don't have to register or otherwise file anything with the state, just for secondary trading.

We have 41 is states that have in some manner or another recognized OTCQX. That is done through rule filings. In Florida and Virginia that is done through legislation. States have taken every different kind of path to get there. There are a few other states that have very broad exemptions that we don't highlight here, including our home state of New York, that cover all transactions through brokers. However, we were only at 41. It is not possible I don't think to get to all 54 U.S. jurisdictions and solve that problem, the research problem, the advice problem that we talked about earlier.

We have taken additional effort, and I don't have a map for this one, to get our own stock, we trade on the OTCQX market, we're a public company. We have tried to get our own stock registered, qualified. We have paid fees. We have filled out forms. We have done everything we can in every jurisdiction. We right now have 53 of the 54 U.S. jurisdictions. Thousands of hours and many more than thousand of dollars spent on this effort. U.S. Virgin Islands is imminent, it's right there, and then we'll be at 100 percent. But it should not take that kind of effort to make this work. This is clearly a well-understood market, securities regulators across the country agree, none of them had an obligation to do any of this. Most have seen fit to do it. There's really not a lot of argument against it. It's mostly they have a lot of things to do and this becomes a tough thing to kind of get on the radar.

I know I said I'd dive in a little bit. But that is really the entire sort of understanding that we've gained of how this works and of the importance of it and something that we'll continue to push for to the extent that we can as the SEC continues to file rules. I will stop in a moment. I can go back -- also technology improvements in 18 months since I was here last.

Just to touch on the last proposal here, modernizing Form S-3 for former shell companies. This was discussed at the roundtable I participated in last week. There are rules around shell companies that make a lot of sense. However, again, this is a disclosure-based discussion for the most part that we're having here. If a company puts out the appropriate disclosure to let people know they're no longer a shell, this is what their operating business is, it makes sense to let them out of that shell prison at a certain point and again recognize the value of the public information they're making available.

I think I did it in not much more than 20 minutes. Thank you. And I'm happy to answer any questions.

CHAIR DAWOOD: That was fantastic, Dan. Thank you so much. Questions from the group?

MR. DILLASHAW: Can you go into a little more of the detail around sort of the nuance, you called out Reg A specifically, does that dovetail in with any of the S-3 registration or reform that's going. Maybe sort of wrap my head around that sort of whole process.

MR. ZINN: Sure, sure. Secondary, again in furtherance of keeping companies public, the secondary capital raising is probably the top of our agenda and the biggest thing that we've been talking about with the Commission for a long time. So right now Regulation A provides an offering exemption that has been utilized by a number of companies on our markets, actually banks tend to use it as well for certain types of offerings. There's specific prohibition in Regulation A at the market offerings. And the ability to do what Sue was describing without the market offerings. And so would love to see that offering exemption in particular. That easier pathway for companies to raise money, apply and raise money to allow companies to take advantage of all of these new relaxed rules without worrying about Exchange listing.

Again, I acknowledge what my role is versus the Exchanges, however, Microsoft and Apple and Google should be on the Exchanges forever. They serve a wonderful purpose. But there are so many companies that wind up doing reverse splits and bending over backwards just to try to maintain compliance with an Exchange listing requirement in large part because it gives them access to things like ATMs and capital raising in that way.

So the S-3 shelf offering is a piece of that and again, seeing companies no longer have to struggle with the $75 million limit. That was a big bar to raising the kind of money that they really needed to, biotechs again are a wonderful example, to get to the next stage of development in their company. So they were forced to seek other avenues. Having that as an available tool, having Reg A as an available tool for secondary capital raising, and allowing those shelf offerings to be fully underwritten if that's the way that makes the most sense for the issuer, or to have this frictionless or less inefficient process of using an ATM so that the cost makes sense for these issuers, opening up as many pathways as we can is really important. I hope that answered the question.

MR. DILLASHAW: It does sort of. I guess I'm trying to figure out, is the barrier just that they would have to -- if they go register a Reg A and then decide they want a more robust secondary market, just the burden then would be they would have to go do an S-1 registration and an S-3 registration after that assuming they kind of want to go down that path versus kind of being able to avoid that step and just do your Reg A offering and then go straight to S-3 or S-3 equivalent or some sort of after market optionality there without having to do the S-1.

MR. ZINN: They wouldn't have to go back and do an S-1. There is a short-form registration, and a lot of companies do this so that they can list, they do a Reg A and raise a certain amount of money, do the short-form registration and then list on an Exchange and then consider doing a follow-on offering in that way. But they have to go through that process of -- they're just taking advantage of Reg A and the filing requirements both in the initial and ongoing stage and then they have to immediately pivot from that and move to a filing regime that they didn't necessarily plan for or that it wasn't intended for, where Reg A has all of this secondary disclosure in tier 2 already available. Just makes sense to allow them to explore that path as well.

MR. DRAYTON III: Dan, I know you may have said this 18 months ago when you were here because I was here as well, but give us some sense of the cost differential between Nasdaq and OTC, if you will.

MR. ZINN: Sure. We like to say that we provide 75 percent of the value for about 25 percent of the price. So Nasdaq works on different levels. I'd love to say we created this market tiering system, we did not. So there's Nasdaq capital market and Nasdaq global market, etcetera, and New York does the same. So there are different levels of initial annual fee. I believe that their annual fees are in the 60's at this point for an entry level and we are in the 20's for OTCQX and OTCQB. It's more than that frequently the fees associated with joining those Exchanges. So understanding what that's going to mean from a legal perspective is typically hundreds of thousands of dollars in difference.

From an audit perspective -- so you can join our markets and not be fully SEC registered. You can make 15c2-11 disclosure. We have our own disclosure standard that tracks Rule 15c2-11 and enhancement to that disclosure regime. But that also allows for companies to trade without things like 404(b) that are now being addressed by the Commission, which I think is great. Those are the costs, points, that I think drive people to our markets.

VICE CHAIR STANDIFER: It would be great if you could talk more about if you did have preemption or recognition amongst the states securities regulators, what do you think the uptake in increase on the analyst coverage, does that solve the cost burden or is that only one piece? And what we heard from Sue, it's still expensive for those small cap, those smaller companies to get that coverage.

MR. ZINN: It's a piece, but it's an important piece because the larger the broker-dealer network and the more capacity they have to offer research or offer advice on specific companies, the less likely they are to distribute that research now because of the way the rules work. Where there's an economy of scale that allows, like I said, an Edward Jones or Raymond James, to have research on a sector and to drill down into that sector in sometimes smaller companies, you're limiting that pathway for research distribution for those companies. It won't solve it.

Commissioner Uyeda said this very nicely, about every single line item in isolation might not seem like the thing that makes the difference. But this is what I think is a very large piece of what prevents compliance officers from being comfortable distributing research, with their investors, all of those things are important to the growth of particularly a smaller company. I'd love to say it's a full solution, but I think it's an important piece of the puzzle.

VICE CHAIR STANDIFER: What level of analyst coverage are you seeing or not for companies listed on your markets?

MR. ZINN: It's way more limited than I'd like for it to be. Again, for Roche and Adidas and

Heineken there's unbelievable analyst coverage. For a community bank in Pennsylvania it's a lot less. We do see some sponsored research, which Sue was mentioning as well, so that is an aspect of the market. We see a lot now of companies taking advantage of podcast interviews and webcast interviews and putting information out to investors in ways that are not just a dry regulatory statement or compliance statement.

So they're taking advantage, but it's a much more limited universe. On a sector basis we'll see it. So using banking or biotech, mining in metals or something like that, we'll see interest in that sector drive research but that's not the same as an analyst that follows a company for years and years.

VICE CHAIR STANDIFER: So of the three proposals we've been talking about, is anything in there that you're like, I don't think that would work?

MR. ZINN: No, we're pretty supportive of all of it. We do see, because we have a lot of companies that are not U.S., we see a lot of semiannual reporting on our markets and where investors on used to that and comfortable with it, on the London Stock Exchange, for example, it doesn't seem to present any issues. I think the fear here is, this is a big change for a lot of investors. But companies will take it up in all the ways that people before we today talked about. And then investors will adjust and they really do like it or they won't, but not an issue.

In the same vain, I'm so in favor of seeing a relaxation of some of these limitations on offerings that exist now. The filer status proposal takes similar steps towards democratizing, modernizing, a lot of what we've seen develop. These rules made sense when they were originally passed. It is now well into the future. When I talk about OTCQX and OTCQB and why they should be included in rules, it didn't exist when these rules were last looked at. This came out in 1996. So there's a lot of modernization here. This is just a very long way of saying, we applaud it all.

VICE CHAIR STANDIFER: One of the concerns raised on semiannual reporting, it kind of goes on what Sue was talking about in cleansing information, material non-public information, staying current by getting that out in the market. What is your response to those concerns in terms of companies on your exchanges staying current, making sure that information is out there even though they are reporting on semiannual basis?

MR. ZINN: So a couple of things. And we can draw from the experience I was talking about with companies who are not even SEC registered. There is Rule 15c2-11 that doesn't exactly roll off the tongue, but sets forth of all these different individual pieces of disclosure that a company needs to have in order to be the subject of a public broker-dealer quotation. That's a baseline. That's when I was going through our markets, that's OTCID. We have so many companies that take the additional steps of OTCQB and OTCQX, we require significantly more disclosure on those markets than is required under 15c2-11.

They're getting a reaction. They're getting more engagement the further up our tiered market system they go. And so I'm not so concerned about companies falling below the radar unless they were going to fall below it anyway. I do think companies will need to adjust for things like quiet periods, black-out periods for insider sales, although I'm supportive of all the proposals in the way I said, there are technical adjustments that need to be made to that one in particular so people don't lose compliance with things like 15c2-11. This is much more of a commercial decision I think for companies and how investors react to them and how the marketing reacts to them. And how much they're paying. Sue talked about spending a third of their time on reporting.

They're going to take all that cost benefits analysis into account in making this decision. But it's not going to be great, now I can slow things down and nobody is going to care. At least that's my impression.

MR. LUCOSKY: Dan, good morning. Thank you for being here, by the way. Nice to see you again.

MR. ZINN: You too, Joe.

MR. LUCOSKY: My question is, as you know, we represent dozens of OTC companies and Nasdaq, New York Stock Exchange companies. My question for you really is around the registered offering reform. I've been thinking a lot about this. How does the registered offering reform affect the OTC given the penny stock limitations contained in the proposal and how many companies will that really help? Because the way I look at it is the OTCQX is mainly international, a lot of large companies as you noted, you know, who may or may not raise money. But from where I sit, my perspective in the emerging growth world is really the U.S. domestic growth-oriented companies that really want to take advantage of this rule and raise that capital. So what's your view of the proposal, the penny stock exemption and how many companies is this really going to help on the OTC?

MR. ZINN: That's a really good question and Joe and I could get really in the weeds on this, I know. But for context, OTCQX, another reason why we highlighted that for the preemption comment, OTCQX is a non-penny stock market, meaning every company needs to make sure they do not meet the definition of a penny stock. That's how the rule sets up. OTCQB, however, will allow companies that qualify as penny stocks as long they're making that disclosure available and meet certain other standards.

So there are something like 18 or 1900 SEC registered companies across the markets. And you probably know better than I do. But there is a portion of those that are in the penny stock world and then there's a portion that are outsider of that. So figure it's 50 percent of that number that have the ability to take advantage of these rules.

I also think, just like I was talking about the way we've structured the markets makes them aspirational and companies want to take the extra steps to kind of move up the chain. That access to these kinds of offerings, access to shelf offerings, access to ATMs, will become a more aspirational thing for some of the smaller companies that will then take steps to get themselves out of the penny stock world, to the extent they can and access those offerings.

MR. LUCOSKY: Thank you. So one other question to follow up on that. So even if there are 50 percent of those companies and the new rules go into effect, ATMs are one thing because that's sort of easy for banks to process and handle, there's no sales cycle for the most part. It's at the market offering by definition. But on the S-3 eligibility and the takedowns, how do you envision or how do we get more banks especially in the micro and emerging growth space, you know, there's a very bespoke number of banks, maybe 50 to 60 or 70 banks, to really take advantage of that and come into the OTC market to take advantage of the shelf takedowns. Because the banks I speak to and do business with, and you know this because we've been through this for years together, are a little hesitant and the investors are hesitant for them to find to take advantage of this. Do you think these rules will have banks coming into the OTC markets in a much broader way or is it still going to depend on liquidity and other requirements that maybe are more suited for the national exchanges?

MR. ZINN: I think it's a combination of those things, but that's in large part why we're so excited to see OTCQX and OTCQB recognized in this proposal, even in the context of solely of ATMs and why we think making it a more permanent part of the rule and really codifying those markets is a big step in giving comfort to those kinds of banks. You know as well as I do, again, 30 years ago these markets didn't even exist. And some of the policies that continue to be followed by some of those banks were written 30 years ago.

So as our marketed have modernized and as the SEC recognition of our markets tracks that and understands again, that this is a disclosure-based process, I think it will give comfort. I don't think it will be overnight. The same kind of educational campaign we've done with all the states is probably the same way to think about the educational campaign that we'll do with the banks and brokers that will facilitate those offerings. We're not going to go from zero to a hundred. I think we have to take these steps and all of these are necessary stops on the way.

MR. LUCOSKY: Thank you, Dan.

MS. DAWOOD: All right. Thank you, Dan, for being here today. We really appreciate all your insights and presentation. So we have a little bit of time remaining before lunch. Our goal for this time remaining and for this afternoon is to share our views on how these impact smaller companies and the public markets and to formulate any recommendations that we might have for the Commission.

So let's start with our first topic which is, I know we've talked a lot about today, but the semiannual reporting. Rose, you want to take this?

VICE CHAIR STANDIFER: So we have the summary of the Rule in front of us that was also part of the materials sent to the Committee before the meeting. I'm sure everyone in this room is aware of the news and the volume of comments on this particular rulemaking and the concerns raised by those comments, some of which I have specifically asked our speakers about today.

So we first want to open it up to the floor to the Committee members, based on what we've heard today, our prior discussions around how and maybe if the reporting cadence is hindering small businesses, impacting their decision to go public, impacting their decision to stay public, what input do committee members have based on their experience and what we've heard in this Committee, what are your thoughts on whether or not we should support the Rule as proposed, suggest changes, concerns?

MR. BOLEN: I'm happen to go first, if that works.

VICE CHAIR STANDIFER: Go for it.

MR. BOLEN: So my office oversees 175 investigations per month across all federal agencies and we historically close them out in 30 days. There are cases where they take longer. IRS cases tend to take months, maybe six months, seven months and there's that question, do we report back to the commenter every month and say, hey, we've heard nothing yet, we've heard nothing yet. Is that of value? And you look at it, okay, they're not going to get anything out of it, but it is going to take a lot of our staff time and that might not be the highest best use of their time to just report, hey, still nothing.

So then I flip that and I think about what it takes for a business to check in every time. That's of course far expanded when it's filing disclosures and paperwork over which they can be sued or see price changes. I think in a lot of cases when there is nothing to report, putting them in a position where they have to report and they have to go through those disclosures which take time and pay the fees to prepare the disclosure which cost a lot and take away from folks and management might not always be appropriate. So by keeping this as a voluntary choice where you can provide information every quarter if you like, or semiannually if appropriate, I think we put these businesses in a strong position where they can make the appropriate determination, the market will price them based on the decision.

MS. STEVENS: So my background is in auditing and accounting, just for the record, for those of you who don't know me. And the other thing I want to say is anything I say here today is in my personal capacity and not any of the organizations that I'm often associated with. So I agree with Robert 100 percent.

I could just give some perspective from my standard setting role that I'm often in the room with a mixed group of stakeholders. So those are the preparers. Those are the investors. Those are the regulators and those who set auditing and review standards. They don't find the quarterly reporting as necessary because it takes too long for companies to report, especially smaller companies, and most things that they need to know are available on the publicly on the websites of those entities. And again, we're talking mostly, the biotech example, and I know the biotech industry is heavily behind reducing the reporting, and I think because of the focus on being principles based not rules based, and risk focused, that companies regardless of size will make the right decision mostly influenced by investors on whether or not they need to continue to do quarterly reporting.

I'll just make one more observation. In my public company accounting experience, I predominantly dealt with startup companies, biotech, but other technology startup companies, had no revenues to report. So it was particularly meaningless to have to do the reporting and it's not that they can't, because I've often heard some, you know, there's a lack of sophistication and therefore quarterly reporting would ease some kind of burden. If you can do six-month reporting you can do quarterly reporting. It's just a matter of time and in some cases money.

I am in full support of going to semiannual. I also operate in a global environment where all around the world it has successfully been used. And there's also in those cases, optional quarterly reporting if they want to do it and then certain requirements that come with it. So I believe, and I said this at the last meeting, I don't think in and of itself this rule will have a C-wave of new companies that are going to want to go public because they don't want to have to quarterly report. I think that's is a very small movement forward for that. But I think the benefits are certainly there and I don't see a risk to investors because they'll raise their hands very quickly and say, we want the quarterly reporting. And I don't see a risk to quality or anything else that I've seen in lot of -- Rose, you referred to the letters, there's like 300,00 of them or some ridiculous amount, and actually AI has grouped them and some just say no. So that's not really helpful for me. Having a good reason I am willing to listen to, but I think the benefits far outweigh any potential risk.

MR. SYVERTSEN: Yeah, I was just going to build on that. I think there's a lot of thoughtful analysis on the economic impact of the actual cost of preparing your quarterly financials. For smaller companies in particular, the more scarce resource is management focus. I think in the private markets it's something you hear most frequently among founding teams, why not being able to buy back time to avoid having to produce reports that are largely duplicative and do not materially move forward the amount of information in the market, would be, again, it's not going to be a C-change, that companies would go public because of this. But I think it would materially change that mix on the consideration of the focus and attention that goes into public reporting for smaller companies. I think that's worth keeping in mind.

MR. DRAYTON III: Madam Chair, you probably see a pattern here. I agree with Robert. I agree with Wendy. I agree with Erik. Erik stole a few of my words. Those are the hidden cost burdens that we're talking about that have a significant impact on businesses, I know we have a number of lawyers in the room, but when you have the unwelcomed or unintended litigation because attorneys want to pull on the thread that there's really no there there and I think that causes problems because you have to respond to any litigation that crosses your desk.

And Sue said something that I'd like for us to make sure we shine a little light on. When she was talking -- if we go to the semiannual report, which I fully support, how do we define material adverse events that should be reported. I think we should pay some particular attention to how we provide that scaffolding and guidance for businesses when we do make this decision. And that can be as simple as by way of examples as Sue did as well.

VICE CHAIR STANDIFER: I'm going to add a nuance to the conversation. I agree that ultimately the optionality of semiannual reporting is good, especially for non-revenue and smaller companies. I agree that the market and the investors will have a say in wanting the information in companies because they are going public to have access to that market and liquidity will in most cases listen to the investors on the reporting cadence. I do have a concern about, going back to our conversation in February and what was raised today, about this transition period and the change.

In February we talked that one of the key benefits to companies of the U.S. markets is trust. The foundational trust that there is transparency. In this learning period, are we going to erode that trust such that it's hard to get back and when the market does adjust on those companies that are appropriated for semiannual reporting or quarterly reporting, we've done irreparable harm to one of the key benefits of the market, one of the key benefits of why companies are there in the first place.

So I have concern about this transition

period and perhaps that is adding clarity around the 8-K reporting, right, and what is material non-public information and providing that guidance so the investors have the trust that even though we're going to semiannual reporting, the companies are putting material information out there. And they're not a class of insider trading, which is one of the suspicions that's raised with this, that a select few will have information. We need to focus, again, going back to February, we all talked, what is the benefit, why do you go public. You go public for price transparency, the flexibility you can raise those significant dollars on the U.S. market because there is trust in that market.

MR. BOLEN: I would think you price in trust. And so for example, everyone here has probably bought or looked at buying a car and whether you buy that car from a reputable dealer in your area or do you buy it from a well-known auction house, you would tend to pay a higher amount than you would on something like a Facebook marketplace or buying it from a neighbor who you don't know too well, because you price in the risk that if something goes wrong you don't have the ability to make it right later on. And it's the same way in the art market. And I believe it's the same way in the securities market. Where if you don't have all of the information, you're not going to pay as though you would. So the investors would push back on that if it created a material risk because it would factor into pricing.

MS. DUIGNAN MINNIHAN: So I would just like to make a few comments from the perspective of an asset manager. As somebody who manages as portfolio of private investments of companies ranging from, you know, pre-revenue at initial investment to almost a billion in revenue, I would say that there is no way that I would let my companies move to semiannual reporting. And I don't care how small they are. I want to actually see how they're doing on a quarterly basis. And in fact, my best performing founders voluntarily report on a monthly basis.

So I have seen a correlation from the beginning between founders who are more committed to more frequent reporting and analysis of performance and actual success in the investment and it's almost inversely correlated with how timely and willing the companies are to do reporting. So I hundred percent support the option for semiannual reporting. But I also know that the expectation for most asset managers whether they're managing private assets or public assets is going to lean toward more frequent reporting. But certainly think the examples of positive applications in biotech or maybe some other sectors where they don't want to be -- where they have a much longer term type of investment makes sense. So I think it makes sense. We'll see how widely it ends up being used.

MR. LUCOSKY: I agree, Erica. I have a lot of the same feelings even as a capital markets attorney that represents a lot of these smaller companies. And Rose, I think you make a point that's been on my mind for so long. And that is the trust, and the accountability and the reputational effects especially in the micro-cap and emerging growth world.

There are about 900 maybe a thousand companies that trade on a national exchange with a market cap below $50 million. And that market at times gets a bad rap for things like transparency and accountability and trust. And I do worry about that. I support the voluntary measure of this proposal because I think options are good. But I do think, especially in the emerging growth world, I would like to see at least most of those companies continue to report for that transparency and trust. Because if we lose the trust of the marketplace, it's going to be really hard to retract investors into that environment going forward.

The other thing I'll say is that, I'm not sure we should complicate the 8-K rules here and have reform on those as well or we'll get nothing done. But I do agree the 8-K rules do not pick up on a lot of events that would happen that portfolio managers and investor would be interested in. For example, revenue is just one side of the equation, especially companies that don't have revenue. When you look at a company with no revenue you're usually looking at the expense side and the equity or investment side to see what those investments are being made, how large expenses. So I think that it's all a great idea on the 8-K. But the enumerated items without a voluntary 8-K disclosure don't quite capture all the things that maybe Herbert and Bart you have enumerated.

MR. SYVERTSEN: I have one point on the optionality. I fully agree with that and I think optionality is key here for most companies, especially most growth companies. Having more frequent information in the market is critical. And I also share the observation that monthly reports out to investors is actually a standard in private markets. I think the reason optionality is important for some kind of smaller issuers is the nature of public reporting, the rigor and liability that's attached to that reporting, is qualitatively different than an investor update in the private markets. And that's where I think having that optionality can be helpful for a class of smaller issuers.

MR. MARISCAL: I wanted to comment particularly on the accelerator perspective. As I lead one of the largest accelerators for founders with disabilities. And certainly this ties -- my perspective certainly ties into discussions that we've had around supporting underrepresented founders. I was particularly struck by the comment Sue made around the size of the company right when they went public, and the number of people on the team and even the size of the company itself.

So I think that I agree with the optionality perspective and the trust perspective. I also would urge us to think about when we're thinking about a recommendation to emphasize the importance of education of both companies and the general population about the process, right, because I think there's often a misunderstanding of what the benefits can be for smaller companies to go public. So I think it's important for us to think not only about what are the implications for broader society but also, how do we encourage more founders to consider going public as an option.

MS. DAWOOD: That's great. Thank you all for your comments. I think what we'll do right now is we're going to take a break for lunch. So those of you tuning from from SEC.gov, we'll be back at 1:30. And after lunch we will go through the other proposals and also finish up here and see if there's anything we want to add or recommend. Okay.

(Whereupon, a lunch break was taken at this time.)

MS. DAWOOD: Hello. Welcome back. We are back from lunch and ready to be talking about all things that we were talking about earlier this morning. Thank you all who are also joining us on SEC.gov. We finished up this morning's discussion. We were talking about semiannual reporting. Does anybody else have a comment related to that?

So for recommendations regarding this proposal, I believe that we should see where everyone stands. So with the comment of small public companies should be flexible with respect to the cadence and scope of periodic reporting and disclosure, does everybody here agree with that statement?

Let's do a show of hands. Everybody who agrees? And everybody online, if you could also raise your hand. Yeah. We got it.

And what about the Committee in general is supportive of the Commission's proposal to permit public companies to report semiannually. Is there anything about the current proposal that we are not in favor of?

So we can vote that we are in favor of the semiannual reporting proposal. Raise of hand? Great. Outstanding.

So I also want to open if there are a quorum or folks in the room around recommendations to update or add to the proposal?

MR. MARISCAL: I don't think this is a core materially changes the recommendation or the proposal but I do want to reiterate the point that I made right before lunch, which is is the importance of educating. Whether it's ESOs in general or the public about the benefits and processes of going public. Even from Sue's comments on what her -- what the process was was very different than what I had originally thought of when we think of public markets. So I do think highlighting that as part of the recommendation even in a preemptory way would be important.

VICE CHAIR STANDIFER: So one thought there Diego was a recommendation that small businesses should have more access to pre-IPO education on the IPO process, benefits and obligations of being a public company. This was a point that was raised in our February meeting.

So I would suggest that we go ahead and vote on that as a proposal, given Diego's comment, as well. So if you are supportive of including this in our recommendation, I will re-reads it. Small businesses should have more access to pre-IPO education on the IPO process, benefits and obligations of being a public company. Again, this was discussed quite extensively in February. So if you are supportive?

I guess the question would be if there's any other additions. I know Joe and I mentioned issues around trust and disclosure. I did not hear a consensus around any specifics on that. If others want to add, we can put something on the table for a proposal, otherwise, if we don't have a consensus I would say it's not appropriate to include in the recommendation.

MS. DAWOOD: All right. So next up let's tackle filer status. So again, as we talked about earlier, this proposal has several key elements for small companies. They include recalibrating filer categories. We heard about the large accelerated filers, non-accelerated filers and a newly created category called small non-accredited -- did I say accelerated. Sorry. Filers. So Rose, you better just do this.

VICE CHAIR STANDIFER: So the rulemaking that is out aligns with conversations that we had in February, as well as, conversations that we've had today simplifying the categories to remove complexity. Again, this is all about once a company is public, staying public, and understanding their obligations. Thank you -- had a brief moment on your screen there.

So let's start with the rules that are out there in terms of categories themselves. The two new categories, accelerated, non-accelerated, and then there is a subcategory on the non-accelerated filers for the smaller. So let's start with around the room if members of the Committee are supportive of the proposed rule on these categories as written. Raise of hands.

MR. DILLASHAW: One thing I saw and that there maybe would be a discussion was the categorization for the smaller non-accelerated filer. They have this 35 million in assets as sort of the dividing line there. That's probably the one that hits closest for smaller reporting company. So that was the one thing I didn't know if we wanted to address that threshold separately or if this is the time for that.

VICE CHAIR STANDIFER: Sure. And I actually was not going to raise my hand because I have concerns about the 2 billion on the upper end. So let's start with the lower end.

MR. DILLASHAW: Okay.

VICE CHAIR STANDIFER: And their proposal is the 35 million. When I look back at some of our prior discussions we had actually talked about a 25 million. I mean, these are low numbers. We heard from Sue whether or not companies this small actually have the benefits. We also heard from Dan about options on the OTC. So where do we think that line should be for the small accelerated, non-accelerated filers. With the caveat, again, as we've heard, the benefit for this group, all non-accelerated filers have reduced disclosure. The benefit for this group is increased time to make the filings.

MR. DILLASHAW: I forget what it is, it's 120 days for annual and 45 days for quarterly reports of -- the requirements are the same. They just get more time to get it done because they're smaller and that's what under 35 million in assets gets you. So that's the significance of that dividing line.

MS. DUIGNAN MINNIHAN: So you're saying that would be an issue for you or --

MR. DILLASHAW: Well, my question for the group is, is that the right threshold, should it be higher, should it be lower, what does the Committee think of it.

MS. DUIGNAN MINNIHAN: It's literally just an extra 30 days.

MR. DILLASHAW: Yes. But I wanted to provide the backdrop to why it matters.

VICE CHAIR STANDIFER: 30 days for the 10-K, an extra 5 for the 10-Q. I don't see that as a material mover. To Wendy's point and what we've heard in this meeting and others, the ability to do the reporting is not the hurdle.

MR. LUCOSKY: I had a question about that and maybe this was explained earlier. How do they come up with the asset test for the small non-accelerated filer versus a public float test for the other two categories? Was there discussion on that?

MR. DILLASHAW: No, not that I know of. I think they made it up, they had to draw the line somewhere. That's where they draw it. But I don't think there was any like backdrop. Certainly in previous meetings, we didn't hear anybody comment on that at least.

MR. LUCOSKY: I just wonder if that is the relevant basis for defining the non-accelerated filer. When I look at an emerging growth company or a micro-cap company, I guess if the goal is to keep them non-accelerated then maybe asset could be the right test. But I just wonder if there's another metric that you all had discussed.

MR. DILLASHAW: Open to suggestions.

VICE CHAIR STANDIFER: My perspective here, if the goal is to simplify the categories. And again, that has been -- we have discussed that in this Committee, something that we are supportive of. The overlapping diagrams of which category you're in can be confusing. To pull on a thread from this meeting, it detracts from management time if you have, where am I, what are my obligations. I don't see the need to have a subcategory of non-accelerated filers that gives you an extra month for a K or five days for a Q. I don't know that having questions around an asset test or am I in this subcategory, if it's yielding any material benefits for our smaller companies that have decided to go public and put those processes in place.

MS. DUIGNAN MINNIHAN: I think the reason that it's there is because there are penalties around their restrictions on their ability to raise money like ATM, etcetera, if they miss these deadlines. I think the idea is for smaller companies just to give them a little leeway. Just in my own mind, when I think about some of my companies that have raised $35 million plus rounds and thinking about just like, not that any of them would consider going public but where maybe taking them out of some of this more restrictive timeline scenario would be helpful. To me it kind of makes sense. I don't know how it would benefit the businesses to remove it, but it seems like a reasonable thing to give them some extra leeway.

MR. LUCOSKY: Erica, I agree. It's an excellent point. I'll tell you where this comes off practically speaking from the emerging growth world and from the micro-cap world is a lot of times on the financial statements with the auditors. The auditors have been under tremendous pressure from the regulatory system and Wendy is smiling because she knows, from the PCOB and others. I know that's being dealt in other channels. But I will tell you, a lot of these smaller companies, and there's a thousand or more of them at least on the national exchanges and a few thousand more on the OTCQB.

The auditor's sometimes -- yeah, I mean, there's a lot to do on the audit side and I'm not knocking the auditors. But there's national offices. There's regulatory checks. There's all of the different accounting standards that have to be reviewed and re-reviewed because nobody wants to make a mistake. And sometimes it does come down to a few extra days or a few extra hours we've seen to get it right. And maybe it's not a large segment of this smaller non-accelerated filer, but I can see, and I agree with Erica, that an extra five days on a Q and 30 days on the 10-K really could help certain companies, maybe not the majority of them but certain companies.

VICE CHAIR STANDIFER: So I have a question then for you, Wendy. If we have these two buckets and there's a deadline for now the vast majority of the companies will be non-accelerated filers when their financials are due, and you're de-prioritizing, which happens for the smaller companies, what is the time period that the auditors actually do need to switch from that deadline for the vast majority of the companies to those that have the extended deadline.

Is 30 days sufficient, five days for the Q?

MS. STEVENS: I have a couple thoughts here. And I just want to make a first opening remark which is, we are not talking about foreign private issuers at all. Which is whole other bucket and adds a lot of confusion to the requirements. With that said, I fully support what we're doing here to streamline the definitions because in the smaller world smaller reporting companies and the emerging growth companies, it is confusing. You can be both. You can be one. It's very confusing.

What we don't know, and we probably very easy to use AI to find, is how many of these companies that we're talking about actually never make the deadlines. And they file five days late on the Q and they file 15 days late on the K. And it's still a rush to get it in for the 15 days. So I thought 30 was really generous. I could have lived with 15, to be quite honest.

So I do think it will help those that need it. I don't think all of them will elect to do it. So I don't know how much transition is needed, because if you're a well-operating and accustomed to the deadline smaller company, you're going to continue to do it. Everybody is in place to do it. You will continue to do it because what I also found with clients of this size is they want to go upstream. They don't want to be in the space where they have to file extensions and they're risking listing requirements and things like that. I have no issue with the extension. I think it's more than enough time. And I don't think it will require much of a transition.

What I did have some concern about, and you had raised it, Bart about, is 35 right, is 25 right, is 50 right. 35 I think is fine. That didn't bother me as much as we don't have a revenues metric and we don't have a net income metric, which is what Joseph implied earlier. I would like to understand why there isn't, because 35 million in assets if you're a manufacturing operation, it's a lot easier to get to than if you're selling something intangible, for example. So that was my concern, but otherwise, I think this streamlines where we are. And the extra five days, especially for the Q would be very helpful. And I think the 30 days for the K is more than enough.

MR. BOLEN: So a couple things. The first is the most common IRS penalty we see in my office is they missed a deadline by one or two, sometimes three days, and then they get a small penalty that compounds over an extended period, they're not aware of it. And then they come into my office with ten of thousand of dollars worth of penalties for shoot, we mailed it in a day late because the two people who worked at the company got it back from the accountant on time, didn't review it, didn't know what it takes to sign and what to look for.

So there's certainly that deprioritization from audit firms.

And there's also management spread very thin, not able to fully review it, be comfortable with the reputational risks, sign their name on there. And that does take a little bit more time. The second thing, if it were to switch to revenue-based, it would have to vary by industry. So then the SEC will be moving from promulgating a single size standard for small business to promulgating 337, I believe, is that right?

Yeah. So they'd have to then match the 337 industries in the United States because the small business size standard must meet certain criteria, if it is by employee count or if it is by revenue. The only exception to that is if you're using a different metric. So that's most likely why they chose assets under management or total assets.

We look at many federal agencies that have a specific metric.

They go only off of that and they move it up and down with the understanding that it's the best they can do with a single metric. No size standard is perfect. But this is very consistent with the data we've seen among small businesses. So this actually from where I sit and from where my economics team sits is actually pretty square head.

MR. LUCOSKY: That's a great explanation, Robert. Thank you.

I agree market cap for the smaller companies isn't a great metric either, because they bounce all around and you can put them in different categories depending on the quarter. So thank you for that.

VICE CHAIR STANDIFER: Any additional comments including folks joining virtually on the 35 million, whether the number itself or assets, some other size limitation.

MR. LUCOSKY: Just another clarification, Bart, since you raised it.

Is that net assets or just an asset number? I mean, 35 million of assets 50 million of liabilities negative shareholders equity, are we putting them in the same category?

MR. DILLASHAW: I think it's cross assets would be the threshold. They could have a negative balance sheet overall and still qualify for it. I think my main question, what I'm hearing is, it does make sense, one, to give some subset of issuers a little bit more time probably just to relieve pressure on the accounting teams, but that's real. I mean that's a real practical constraint. And then so I think that's one part of this that is sort of good feedback.

And the other is, all right, if we're going to do that, where do we draw the line. Seemingly, there seems to be some consensus around sort of an asset balance sheet and 35 million.

(Whereupon, the meeting was adjourned at 2:48 p.m. due to a fire alarm.)

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PROOFREADER'S CERTIFICATE

In The Matter of: SMALL BUSINESS CAPITAL FORMATION ADVISORY COMMITTEE

File Number: OS-0001

Date: Tuesday, July 21, 2026

Location: Washington, D.C.

This is to certify that I, Kyleigh McGinnis, (the undersigned), do hereby swear and affirm that the attached proceedings before the U.S. Securities and Exchange Commission were held according to the record and that this is the original, complete, true and accurate transcript that has been compared to the reporting or recording accomplished at the hearing.

___________________________ 7/23/2026

Kyleigh McGinnis (Date)

CERTIFICATE OF REPORTER

I, DEBRA GOODFRIEND, a Certified Shorthand Reporter and Notary Public of the State of New York, certify that the foregoing is a true and accurate transcript of the stenographic notes of the deposition of said witness who was first duly sworn by me, on the date and place hereinbefore set forth.

I FURTHER CERTIFY that I am neither attorney, nor counsel for, nor related to or employed by, any of the parties to the action in which the deposition was taken, and further that I am not a relative or employee of any attorney or counsel in this case, nor am I financially interested in this case.

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