U.S. SECURITIES AND EXCHANGE COMMISSION

SMALL BUSINESS CAPITAL FORMATION
ADVISORY COMMITTEE MEETING

Wednesday, November 29, 2023
10:04 a.m.

Amended: 12/7/2023

U.S. Securities and Exchange Commission
100 F Street, N.E., Washington, D.C.
Via Webex Video Teleconference

PARTICIPANTS:
Gary Gensler, SEC Commissioner, Chairman
Caroline Crenshaw, SEC Commissioner
Hester Peirce, SEC Commissioner
Mark Uyeda, SEC Commissioner

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Bailey Devries*
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Jasmin Sethi
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PARTICIPANTS (CONT'D):

SEC Staff from the Office of the Advocate for Small Business Capital Formation
Courtney Haseley
Amy Reischauer
Julie Davis

Presenters
Anna Snider, Head of Investment Selection for the Chief Investment Office, Global Wealth and Investment Management, Bank of America
Kenisha Nicholson, SEC Division of Corporation Finance, Office of Small Business Policy
Marc Mehrespand, SEC Division of Investment Management

*Committee members include the SEC's Advocate for Small Business Capital Formation and three non-voting members appointed by each of the SEC's Investor Advocate, the North American Securities Administrators Association (NASAA), and the Small Business Administration, as well as an observer appointed by the Financial Industry Regulatory Authority (FINRA).

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INTRODUCTION

MS. DUIGNAN: So I'm very pleased to call this meeting to order. Good morning, and welcome to today's meeting of the SEC's Small Business Capital Formation Advisory Committee. I officially call this meeting to order.

I want to extend a warm welcome to everyone, including those members that are joining us remotely. It's good to see all of you, and I really hope that everyone had a wonderful Thanksgiving. We also appreciate the members of the public who have tuned in to watch us via the webcast.

Courtney, can you confirm that we have a quorum?

MS. HASELEY: Yes, we do have a quorum.

MS. DUIGNAN: So this is our third meeting, for those of us who were brought onto the Committee this spring. I really appreciated everyone's thoughtful and collaborative discussions in June and September, and we look forward to diving deeper into some really important topics today.

In September we talked briefly about what we'd do, if we had a magic wand that allowed us to shape the Accredited Investor standards from scratch, so I can't wait to see what magic everyone is going to be bringing to us today, with their great ideas.

We've come prepared to discuss ways that the Accredited Investor definition could be improved, with a view towards positively affecting capital raising for both entrepreneurs and investors. And this afternoon we have an exciting speaker joining us to provide perspective from an institutional investor, who invests directly and indirectly, in small businesses. The hub of investment selection for Bank of America's Global Wealth and Investment Management Division.

She is going to speak to us about how they incorporate diversity, including the tracking of metrics into their investment decisions. I expect that the practices that they'll share with us will lay a great foundation for the Committee's discussion today.

But before we get to all of that, we are so pleased to have Chair Gensler and the Commissioners join us today. We really, really appreciate you being with us this morning. Chair Gensler, would you like to start with your remarks?

CHAIRMAN GENSLER: Thank you so much, and good morning to everybody. It's good to be with you in person. I know that this is a hybrid format, but it's really good to speak here at this Small Business Capital Formation Advisory Committee, as is customary, and I'm sure my other fellow Commissioners will say, we each probably will note, that our views are own own. For me, it's my own as Chair of the Securities and Exchange Commission, but I'm not speaking on behalf on my fellow Commissioners. Well, actually -- maybe not. It's larger print though.

Yeah, I'm not -- you might edit a word or two. I'm not speaking on behalf of my fellow Commissioners or this staff.

I understand that today you're going to have two panels, one panel on Accredited Investor, as you had said, and the second on Diversity and Investment Process, including existing processes and voluntary disclosure.

I also want to thank Kenisha Nicholson, from our Division of Corporation Finance. Is Marc here somewhere? Maybe he's hybrid. Alright, this afternoon. Marc, from our Division of Investment Management, each of whom are giving brief remarks, and I also want to thank, is it, Anna or Anna, Snider, from the Bank of America, who will be speaking on Diversity and Investment Process Panel, that you mentioned earlier.

From the 1930s on, investors and issuers have benefitted from basic bargain that Congress embedded in the securities law. And that basic bargain is in essence that investors get to decide what investments they make, but it's based on what Roosevelt called complete information or embedded in raw, full, fair and truthful disclosures, and anybody making that public offering of securities would be registered with the SEC, with the specified disclosures.

Congress recognized that there were certain transactions or issuers that would be exempt from such disclosure requirements, in essence, forming the private markets. Well, not forming, because actually they existed prior to the laws being passed in the 1930s. So we had sort of side-by-side public companies, with that basic bargain, and then private companies and private markets.

Over the decades we've seen continued development of robust, both public and private, markets, and I believe that our economy has benefited from both. I would say that, because I'm a child of a family business, and my dad only had 30 or 40 employees, but he had that ability to run that. I also, when I went to Wall Street, I was honored to be the firm that was also a private business, but grew to about a quarter of a trillion dollar balance sheet. It was Goldman Sachs.

So I'm seeing both the very small and the rather large, that were not necessarily having public equities, and so forth.

Regulation D, first adopted in the early 1980s, has become one of the most important exemptions for companies looking to raise capital outside of registration, and the Accredited Investor definition. That which you mentioned earlier, has always been a cornerstone of that Regulation D. In essence, some investors were accredited and might not have that basic bargain.

So, when I think of any discussion about the definition of an Accredited Investor, it raises a question, I think, a policy question, important policy question, about when it may be appropriate to have exceptions to the basic bargain. In essence, at the heart of our capital markets, it's about full, fair and truthful disclosure, but when might it be appropriate that investors get -- not get, I should say not get, n-o-t, that full, fair and truthful disclosure that Roosevelt worked with Congress to embed in the securities laws.

I look forward to hearing the Committee's thoughts on ways that they think we might improve on the current definition of Accredited Investor, but I sort of see it through that lens. It's an exception to that basic bargain in our capital markets.

All companies, from small businesses, to high-growth start-ups, to corporations, deserve access to our capital markets, to fund their entrepreneurial ideas, and innovations, regardless of the founder's race, gender, geography, or any other factor. At the SEC we work every day to protect investors and facilitate capital formation, across a wide range of the spectrum of communities of our great nation, and all the different communities that make our nation strong, including underserved communities.

With respect to the middle part of our mission, to maintain fair, orderly and efficient markets, I think fairness literally is embedded in our mission. So I welcome the Committee's thoughts on diversity in the investment process, and the role such diversity plays with regard to our mission.

With that -- I'm going to have to leave early at some point, but I'm going to stay -- I want to hear my fellow Commissioners' remarks, but I'll look forward to the reports of your panels.

MS. DUIGNAN: Thank you so much, Chair. We really appreciate those remarks. I'd love to invite Commissioner Peirce to provide remarks to the Committee.

COMMISSIONER PIERCE: Thank you, Erica, and thanks to everyone for being here today, and for your continued participation on the Committee. We greatly value your input. And as Chair Gensler said, I'm not going to be able to stay, but I always enjoy going back and watching the meetings after the fact.

In the spirit of what I like regulations to be, I'm going to keep my remarks very short. That's a hint.

CHAIRMAN GENSLER: I got it. I got it.

COMMISSIONER PIERCE: The Accredited Investor definition is always a sort of lively discussion, and I'm sure that today will be no different. I hope that one aspect of today's discussion will be how we can bring to life an idea that the Commission posited several years ago. Specifically, in conjunction with revising the definition of Accredited Investor in 2020, the Commission raised the possibility of quote, "designating qualifying professional certifications, designations, and other credentials, by order, as a means of expanding the Accredited Investor status.

What other measures of sophistication should the Commission designate? We could consider, for example, successful completion of certain well-established, avidly-administered investor education certification programs, maybe a set of college courses on investment or degrees in certain fields.

And then I think just taking a step back, on both of our discussions, the discussions that you have today, I think it's important for us to remember that capital markets do intertwine with who we are as an American people.

Of course, we haven't perfectly achieved this ideal, but the ideal that unites us all as Americans is a commitment to freedom, freedom to think, freedom to live your life out, use your time and talents to serve your family and your community, in the way that you think best. And the capital markets help us to live out that freedom.

The Commission, which is charged with regulating those markets, needs to be careful not to trample on the ability of Americans to think, dream and do. Americans should be able to invest and build wealth without having to convince a regulator, even a regulator operating with a really honorable, protective impulse, that they are sophisticated or rich enough to invest.

Rather, our role as regulators, is to ensure that capital can flow freely, to enable Americans, all Americans, to make the most of their time and talents. That includes the freedom to build businesses, to invest in other's businesses. Freedom and risk taking are the backbone of our thriving, dynamic, innovative nation, and any regulations we adopt must be very careful not to impede that freedom.

Thank you.

MS. DUIGNAN: Thank you so much, Commissioner Peirce. We really appreciate that perspective. Next I'd like to invite Commissioner Crenshaw, who is joining us virtually today,

COMMISSIONER CRENSHAW: Good morning. Thank you for the remarks from my fellow Commissioners, and thank you, Erica and the members of the Committee today. And this is not my first time speaking at the Small Business Capital Formation Advisory Committee, although it is my first time speaking with some of you, even though it's been a couple of meetings now, so just to make sure I get all my bases covered, I do want to welcome those of you who I've not yet met, who began your terms earlier this year, and welcome you and thank you.

In your predecessors' times on this Committee, they considered a number of important topics, and I look forward to seeing what topics are on your agenda, in the months and years ahead. And as you consider your priorities, I'd like to highlight two areas that I would be especially interested in your input.

First, wage increases. It's been hard to open a newspaper over the past several years, without reading a story about how COVID 19 pandemic continues to affect the economy. Thanks to the robust government response, average hourly wages have increased since the end of the pandemic, and I think that's something to be thankful for. Unemployment is near historic lows. Families are more economically secure, and costs, though rising, are now being outstripped by wage gains, by average wage gains.

Many financial thresholds set by the government automatically increase, to reflect these increases. But the Accredited Investor Standard stubbornly remains at the same level it was set at in the early 1980s. Last year your predecessors on this Committee stated that the financial thresholds in the

Accredited Investor definition are not always a good proxy for investors' financial sophistication, and that at least some of these thresholds related to accreditation, should be indexed for inflation.

Eighteen months later, is this even more relevant than ever? It's important that we build on the improvements that have been made in economic security. To the extent you examine whether we should create alternative standards for investor accreditation, I look forward to your input on how to take into account the impacts of the wage and price increases, over the past several years.

Increasing access to certain investments should not come at the expense of increasing the risk borne by everyday investors. And it's important to avoid creating an alternative that turns into an ever-widening loophole, and that puts hardworking Americans' investment dollars into a market, without standardized disclosures or well-established investor remedies, inconsistent levels of access to information about firms' finances and risks, and the risk of total loss of investment, at much higher levels than in the public markets.

Second, I am very attendant for the impact that rules have on underserved communities. The SEC's

Investor Advisory Committee recently released a report on firms' use of digital engagement practices.

The cart I'd like to flag for you today is in the introductory section, which highlighted a study conducted last year, that found that increased participation in the markets by new investors, who are more racially and ethically diverse, has led directly to increased losses experienced by those investors.

I'm conscious that our rules can have desperate impacts on various communities, and I care deeply about whether our rules inadvertently create or exacerbate a wealth gap among investors of different racial, ethnic, national or other backgrounds.

In light of the enormous wealth gap that already exists, I'd appreciate your input on how to encourage capital formation, without exacerbating the wealth gap, by exposing new investors to increase risks that exist in the private markets. And as you consider the topic, I would like to point out that the House Financial Services Committee recently considered this issue, and Professor Gina-Gail Fletcher testified that quote, "If the scope of the Accredited Investor definition is broadened, this will expand the opportunities for wealth extraction and amplify wealth inequality in the country."

As you know, the Commission has a tri-part mission of protecting investors, promoting capital formation and ensuring fair, orderly and efficient markets. As the Commission balances those interests, your input, as members of the small business community, is crucial.

Thank you for agreeing to serve on the Committee, and I look forward to seeing your recommendations.

MS. DUIGNAN: Thank you, Commissioner Crenshaw, for those very thoughtful and helpful remarks.

I'd like to invite Commissioner Uyeda for remarks.

COMMISSIONER UYEDA: Good morning, and I join my fellow Commissioners in welcoming everyone here today. Great to see so many of you here in person, as well as over the past couple of meetings.

I just wanted to say, some of you have had also the opportunity to talk sort of between meetings individually, and I would certainly encourage any of you. I appreciate all of your contributions and your time and efforts, to serve on this, and if you'd ever like to follow up with me or my office, my door is always open, so encourage you to do that.

And one of the things, when I think about the basic bargains of the Securities Act of 1933, is one of the basic bargains to me is if you seek to raise money, you shouldn't lie, cheat or steal. And the anti-fraud provisions are against false and misleading statements, are very important.

And then when I think of the '33 Act, but some offerings are so large that it rally does deem the need to register with the SEC and provide disclosures. But it fully reflects the fact that there could be a spectrum of offerings, and appropriately contained a provision for to exclude offerings not made available to the public.

At your last meeting you talked about raising capital for smaller companies and challenges, and in some ways there are a multitude of options, but sometimes options can make things tough for the entrepreneur. They could do a 504. They can do a Reg A, a Tier 1 Reg A or a Tier 2. They could do an intrastate offering, a 147, or they can do -- use 147(a) and do the multi-state or interstate offering. They could use the Jobs Act, 506(c) provision.

But, with all that choice, I think Reg D, 506(b), offerings still remain by and large the one that a lot of people are most familiar with, a lot of lawyers are most familiar with. It's their safe place. That's what they run to. And the key part of that, of course, as Chair Gensler said, it's the Accredited Investor definition, that is the hock into that.

So we have all these other ways to raise money, but if you look at the numbers, I still think the 506(b) -- actually, I forgot about Regulation Crowdfunding. That's another way too. But most of it is still raised, even when you carve out the pooled investment vehicles out of 506(b)s, it's the most common way, which leads me to -- important to your discussion here today, so I think it's very timely. I think I share some of my thoughts about the Accredited Investor definition at our last meeting. I think it was a great innovation at its time, but as we now look at four decades plus of use, one can argue that the Accredited Investor definition is simultaneously underinclusive, and overinclusive, and that there are ways we ought to be thinking about that.

And that's, I think, your challenge, one that is perplex. A good many very, very talented folks, who thought about this before, so I wish you good luck on that.

You know, one thing, when I think about this issue, I was at a recent conference, where the issue was private versus public markets, and I really disagree with that assessment. I think it's important to have both a robust private and a robust public markets, and they really are intertwined. One can exist with each other. And the private markets can help lead to many innervations, job growth and opportunities that later blossom in public companies. And that's why it's so important for it to be an incubator.

Now, when I also think about the '33 act, I realize that, you know, we talk about risks of private investments, one that wasn't widely discussed in the 20s and 30s, leading up to the '33 act, was the efficient or the portfolio diversification theories that would later, when Harry Markowitz -- a Noble Prize, and the idea that with -- having a diversified portfolio with uncorrelated returns, can actually create a more efficient risk return frontier, and so Markowitz's work in the 50s and helps at least -- when I think about risk to investors, one also needs to think about well, what if the risk of failing to be able to diversify, and so private markets and there are ways that can be done, at least can be thinking about or should be done, through investment professionals.

I certainly share concerns that others have about we don't want the expanse of private markets to be in essence open season on senior investors. But at the same time, for a long-term investor, who wants a diversified portfolio, if you are a state or local employee, and you put the benefit of -- you've got a defined benefit retirement plan, you are indirectly benefitting from the private markets, through venture capital, private credit and private equity.

So those are all, I think, important things to think about. There's a lot of different ways you can look at this that go beyond just pure numerical thresholds for net worth, and for income. And I would encourage you to explore all that space, and part of it can be thinking about whether there ought to be limits like we have on Regulation Crowdfunding. Yes, you can do it, but a percentage of total investments.

And maybe investments is the better metric, not actually net worth. I mean, these are all things, and I think the part I would encourage you, is to think about this as a blank canvas. Don't be hemmed in to what we've gone in the past and, you know, it follows close with the second topic. I think it's also very important. We had a prior Advisory

Committee that issued some recommendations and, as I told Senator Menendez earlier this year, they had some recommendations on diversity and Senator Menendez asked if I would encourage the Chair to consider some of those recommendations, and I told him I would encourage the Chair to consider those, as whether or not they ought to be in our public, our agenda, so, you know, I'm glad you've got that topic keyed up today.

So thank you.

MS. DUIGNAN: And thank you, Commissioner Uyeda. That's incredibly helpful, and we are embarking on a pretty strenuous task, as we try to balance these two sort of uprising forces of inclusion and -- so that's a great framework for us to think about our work today.

I want to thank Chair Gensler and all of the Commissioners for their remarks, and to let everyone know that Commissioner Lizarraga is not available to join us today to provide remarks, but hopefully we'll hear from him next time. So thank you.

With that, we are very pleased to welcome Kenisha Nicholson, Special Counsel. Thank you so much. Special Counsel in the Office of Small Business Policy from the SEC's Division of Corporation Finance.

To add to the many acronyms used here in government, that office is the OSBP, and it is different from the Small Business Advocacy Office that Amy, Julie and Courtney are in, which you may hear called the OASB. So hopefully everyone can keep track of that.

At the last meeting we heard from Erik Gerding, Director of the Division of Corporation Finance. Kenisha's office is within that Division of Corp Fin, and has responsibility for all of the exemptions from public company registration, as well as rules affecting small public companies.

So we've invited Kenisha today to share a little bit about what OSBP does, and also some background on the Accredited Investor definition.

And just to help with expectations, Kenisha will not be able to answer questions on any potential rulemaking on the Commission's agenda, as SEC staff cannot front run a decision that may be made by the full Commission, but she has said that she'd be happy to spend a few minutes on any questions that we may have on work of the OSBP. So welcome Kenisha. We really appreciate you joining us today.

MS. NICHOLSON: Thank you so much. You have a great description of the differences between our two offices. So the following remarks are provided in my official capacity as Special Counsel in the Commission's Division of Corporation Finances, Office of Small Business Policy. I will definitely be calling that OSBP, but do not necessarily reflect the reviews of the Commission, the Commissioners or other members of the staff.

So first of all, as Erica note, what I'm going to talk about a bit is what our office does, and then I'll switch over to the Accredited Investor definition. I apologize in advance, because I will repeat some of the themes that have already been raised by the Commissioners, but I think that they're important, especially because how I personally view the framework is somewhat intertwined with the actual definition, and how exemptions work, and basically the system that we currently have, and what we have to work with. Once again, going back to the speculation point, I can't speculate about the future, so I'm talking about what we have and what we can use now.

So, as Erica noted, we're within the Division of Corporation Finance, so the Division of Corporation Finance has a legal and regulatory policy arm, and that's where my office sits. Actually, my boss, Jennifer Zepralka, who runs the office, was actually at the last meeting in the audience. She's unable to be here today, because she's actually speaking to the public at another meeting. And so she leads our office, and within our office there are actually six other attorneys, including myself, and one paralegal.

And so, the areas that we cover are private offering, so specifically Regulation D, Reg Crowdfunding, Reg A and all of the other exemptions that, in particular, Commissioner Uyeda mentioned.

We also cover the smaller reporting company rules for public companies.

So, what I would say that our office does can be kind of thrown into three buckets. The three buckets, one that I'll go into much more detail about, are rulemaking and interpretations related to the rules and the areas that we cover. The second one is internal subject matter expertise within the Commission, primarily within the Division of Corporation Finance.

But then the one that I think is the most probably relevant to the Committee and also probably the most interesting, is external informal guidance.

So, along with many of the policy offices within the SEC, we have a public facing phone number, and a web forum, and that's there for the public to reach out to us with questions about the rule areas that we cover.

In the case of our office, the most common question that we get typically relates to interpreting and understanding the requirements of the Form D filing. And then we also get a lot of entrepreneurs that are just starting out. And so these questions can be everything from hey, I just can't figure out where exactly to go to file a Form D, I don't get it, to I know there must be laws that, like, govern my -- someone investing in my business, but what are they and can you help me find them?

And so, while we can't, you know, provide legal advice, we're going to do our absolute best to guide people to the resources that we have available.

We also get attorneys. We get sophisticated operating companies that may or may not be trying to either prove their counsel wrong, or possibly raise money on the cheap, you know, without securities counsel.

So, one of the things that’s actually really great about OSAB is they helped create an amazing landing page for resources, and so that's become an amazing tool in our toolbox, because we can start a conversation with someone and say please go to

SEC.gov/capitalraising, and from there we can point them out to specific resources. I have a personal favorite. Navigate your options. It is -- and they totally think that I'm like this is a plug. No, I'm very serious. It is a very short yes or no quiz, that really helps people that don't really know how the securities laws work, to basically answer a couple of yes or no questions, and get presented with a menu of options.

And then they can be linked to the much more detailed compliance guides that our office writes during the course of a rulemaking, where there's a compliance guide that has to be created.

So, we think that those resources are really wonderful and they're very helpful, and they're very helpful, and we love to direct people to those things. So, clearly, I'm excited. This has been one of my favorite jobs that I've had, and now I'll turn to a little bit more of the mechanics of the actual rules, specifically about the Accredited Investor definition.

And I understand that you guys already discussed in detail exemptions, and I'm going to try to primarily focus on the Accredited Investor definition, but for me, I find that particularly challenging, because as I noted, I think that these things are really intertwined. It's basically a system designed to operate together, that's been modified over time.

So, when starting with the Accredited Investor definition, I'm going to actually take it back to a really basic principle. A lot of the Commissioners were talking about the basic bargain.

When I get a call from someone, I always start with, "Are you familiar with the securities laws," so I can get a sense of how do I level set with them. And for a lot of people, they aren't familiar. So I like to start with this very, very basic principle. Under the Securities Act, every offer and sale of securities needs to be registered, or rely upon an exemption from registration.

So that's our baseline that we're working on, that we've got registration or an exemption. And for most people, we're always talking about exemptions. If you're trying to go public, you probably aren't consulting with our office. Hopefully, you're consulting with experienced securities counsel.

So, specifically, Section 4(a)(2) of the Securities Act exempts from registration transactions by an issuer not involving any public offering. And the Securities Act does not define the phrase "transactions by an issuer not involving any public offering." So it's been left to court decisions and the Commission interpretations, to define the scope of that exemption.

In SEC v. Ralston Purina Co., the Supreme Court established the basic criteria for determining the availability of Section 4(a)(2), by focusing the inquiry on whether the issuer claiming exemption can ensure that the persons participating in the offer are able to fend for themselves; and, accordingly, do not need the protections afforded by the Securities Act, because they have access to the type of information, which registration would disclose.

As Commissioner Uyeda noted, the concept is kind of really distilled as this in another way. In recognition of the fact that it's not always necessary or appropriate, the Securities Act contains a number of exemptions from its registration requirements, and the Commission is authorized to adopt additional exemptions, and the Commission has done that over the course of the years.

So, for background leading up to the adoption of Regulation D, in 1974 there was actually

Rule 146. In that rule they noted that the ability of an investor to fend for themselves, also includes whether the offeree can bear the economic risk of the investment.

Later, the Accredited Investor concept was introduced, with the adoption of Rule 242, which provided a limited offering exemption for up to $2 million, assuming the satisfaction of certain conditions. And the rule defined an Accredited Investor as a person purchasing $100,000 or more of an issuer of securities, a director or executive officer of the issuer, or a specified type of entity.

So, in 1982 the Commission decided to repeal 146 and 242, and adopted Reg D, and the Form D filing requirement, and the purpose of that was to facilitate capital formation by simplifying and clarifying existing exemptions for non-registered offerings, expand their availability, and provide more uniformity between state and federal exemptions.

This was through defining a specific safe harbor for determining compliance with Section 4(a)(2), transactions by an issuer not involving any public offering.

And so, although my remarks are obviously 100 percent focused on the federalized, I do want to note that the concept of registration or exemption is generally applicable at the state level. However, Section 18 of the Securities Act generally provides for preemption of state law registration and qualification requirements for certain categories of securities, that are usually defined as covered securities. Securities issued pursuant to Rule 506(b) and 506(c) are covered securities.

So, in the case of 506(b) and 506(c) offerings, this practically means that at the state level the filing requirement is a notice of the sale, rather than a potentially much more complex registration requirement, requiring a formal signoff by a state securities regulator, which may even need to be obtained prior to the offer and sale of securities in that state.

So that kind of explains one of the reasons that you might see that 506(b) offerings are viewed in a particular way as more attractive.

So, going back to the Accredited Investor definition, it provides that natural persons and entities that come within, or that the issuer reasonably believes comes within any of 13 enumerated categories, at the time of sale, is an Accredited Investor. In the case of natural persons, the two categories that are most often relied upon are the net worth test, which is individuals whose net worth exceeds $1 million, excluding the value of and mortgages on the individual's primary residence, either alone or with their spouse or spouse equivalent. And the second test is the annual income test, which is with individuals with annual income in excess of $200,000, in each of the two most recent years, or joint income with the individual spouse or spousal equivalent, in excess of $300,000 in those years, and have a reasonable expectation of reaching the same level of income in the current year.

So, the numerical thresholds of $1 million and $200,000 were established by the Commission in 1982, as has been noted. The joint income test was added of $300,000, was added in 1988, and additionally, the exclusion of the value of and any mortgages on, the individual's primary residence, was done to implement one of the requirements of the Dodd-Frank Act in 2011.

Now, to place those numbers in context, in 2019 the Commission estimated that the number of households qualified under the individual income and net worth thresholds was approximately two percent, whereas in 2019 the number of households would have been 13 percent.

In fact, in 2019, if the thresholds had been adjusted for inflation, the $200,000 threshold increases to $538,000, and the $1 million threshold increases to $2.7 million.

So the most recent amendments, which were already mentioned, are the Commission's ability to designate certain professional certifications, designations or credentials, as Accredited Investor. The Commission has designated three such credentials, if held in good standing.

The General Securities Representative License, a Series 7, the Private Securities Offering Representative License, the Series 82, and the Investment Advisor Representative License, the Series 65.

So, there's the entire world of exemptions. We've got, you know, Rule 504, 506(b), 506(c), and while the data that we have in the Commission clearly indicates that Rule 506(b) is the most popular exemption from registration, similar to the Accredited Investor definition, I think it's important not to view the exemption or its popularity, in a vacuum.

Participants in the exempt offering market have a variety of potential exemptions, as

Commissioner Uyeda mentioned, that might be available. And many of these exemptions have been updated dramatically in the last decade, to facilitate capital formation, and some of them permit participation by an unlimited number of non-Accredited Investors.

So, while the combination of the Accredited Investor definition and the exemptions, are designed to provide a wide range of capital raising and investment opportunities, all while balancing investor protection, there's always room for improvement.

So, a couple of questions. You know, for example, what is and what is not working well, especially as it relates to the Accredited Investor definition? But also, for the exemptions that permit an unlimited number of non-Accredited Investors to participate, why are they under-utilized? Are they simply not as well known, or do they need to be modified to be more useful to issuers or investors?

And finally, taking a big step back, what other steps might the Commission take that would enable it to better assess the balance between capital formation and investor protection, as it relates to the Accredited Investor definition, and its role in the exempt offering framework, more broadly?

MS. DUIGNAN: Thank you so much, Kenisha.

We really appreciate all of that incredibly useful information, and also apologize for keeping you a little late, behind time.

So, really, I think that is such an incredible way to set the framework for our next portion of discussion, which is to dig into some of the Accredited Investor definition options that we have. So, we really appreciate the incredibly helpful background provided by the sec staff, and now we'd love to open this up for a discussion amongst the Committee, around how we think the Accredited Investor definition is working in practice, and various ways that we think it could be improved. So, I know that several of you submitted ideas prior. We sort of gave you guys some homework for this meeting, so I know some of you guys actually completed the homework, and sent in some really great, thoughtful responses, so I'd like to open it up to volunteers, to see if anyone would like to kick it off with their thoughts on how we can make improvements.

MR. DILLASHAW: I'll start. So, I guess I'll say, I'm firmly in the camp of wanting to expand, you know, keep the current level of Accredited Investor and expand it, where we can. I think that comes from sort of a general viewpoint that, you know, where -- especially in the middle of the country and the practice that I have, focuses on a lot of early-stage, angel investors, and this is the core of regulation -- Regulation D 506.

So the angel groups and maybe Marcia can weigh in on ACA's sort of view on this, but they are made up of individuals that are, you know, fall within this Accredited Investor definition, and are the core of investing in early stage companies, and by that I mean companies that are generally sub-$10 million in revenue, in sort of the Series C, Series A stage, and typically trying to raise amounts, say less than $5 million in a round, to sort of giving a little bit of scaling on that.

And any reduction in the number of available angels, I think, is going to directly impact the ability for that segment of the market to raise capital. And conversely, I think any expansion of that category would increase the availability of capital.

So with that sort of a background as my general framework, I think I am in the camp of the dollar thresholds should, frankly, not be indexed to inflation, and should stay where they are, because it's a way to expand -- as inflation happens, it's a way to expand that pool. And then I also think, you know, the SEC should look at creating, you know, a sophistication test, you know, I'll sort of analogize it to a driver's license, you know. I think there are, you know, ways to sort of take a test, to sort of figure out whether or not you are aware of the risks of early stage investment, cover some basic premises, like this is extremely risky, you're very likely to lose all of your money on this individual investment, and, you know, diversity is -- and by diversity, I mean, you want to invest in a lot of deals, is sort of the core premises of angel investing.

And I think that is the type of stuff that could be covered in a teaching program, and you take a test of it, and it could be a relatively easy test that folks could, you know, could sign up for and pass the accredited.

So I'll sort of kick that off and everybody else can tell me where I'm wrong.

MS. DUIGNAN: And one thing I would love for us to talk about today, because I think it's something that's important to some of the Commissioners, and something that Kenisha also highlighted, which is that 40 years is a long time to not, you know, account for inflation. It's not like, oh, it's just been -- years, right, so I think it is meaningful and that's something I want to make sure that we can all really think about today.

MS. DAWOOD: So I'm not -- oh, I'm sorry, go ahead.

MS. NIKLASON: So, Bart, I really agree with everything you said. Unfortunately, I have to admit that I did not do my homework but, you know, I can tell you that having raised money at our company for, you know, more than 15 years, from Accredited Investors, even with the ongoing inflation that we've seen, the vast majority of my Accredited Investors during our private phase, were middle-aged white males.

So, if part of the mission here is to expand the types of people who can invest in the markets, and can benefit from that, any indexing, any raising of that threshold, I think, would have that unintended, but I think very meaningful, side effect, that it would make the club of people who are allowed to benefit in the private markets, smaller and more exclusive. Certainly, I agree with Commissioner Uyeda that if you offer securities, you should not lie, cheat or steal.

And, of course, that always remains true, but again, people lie, cheat and steal, not just to small, unsophisticated investors. They lie, cheat and steal with very sophisticated, very large investors, and we've seen several, you know, really fabulous cases of that in the last year too.

So, I think that the focus on ethics, obviously, and following the rules, on the part of people who do offer securities, is really something that generally our society has to focus on. And focusing on that, I think, should be the more important issue, rather than trying to paternally protect people, who might get played by people who are forming companies, who are probably less scrupulous than they should be, so I think we should focus on honesty, rather than trying to paternalistically protect people.

MS. DUIGNAN: Marcia.

MS. DAWOOD: So to that point about fraud and the things that go on, about dishonesty, I completely agree with you. In the cases where we're trying to protect the people who are on fixed incomes, and we want to make sure that they aren't taken advantage of, completely understand that.

From the point of view of the Angel Capital Association, the amount of fraud that we've actually seen in angel investments, and I know Bart can attest to this, as well, is extremely low, so there is a misconception out there that there is fraud within angel investing, and I just -- and, of course, there's always exemptions, but for the most part, we are not seeing fraud, so to say that first.

And then as far as the indexing, I was interested in Kenisha's comments about in 2019, when they were looking at what the indexing could actually do, we went back and looked just recently at the Angel Capital Association, about the indexing, and we found similar numbers. Probably now in 2023 they might be a little bit higher than what Kenisha said.

We also then went and did an informal study, so I don't have any concrete data on this, but we did an informal study of our members to see how many angels would that actually eliminate, and the number is staggering.

We're talking about the elimination of about 50 percent of the current angels in the U.S.

Now, according to the Bureau of Labor Statistics, about 16 million people in the U.S. could potentially be Accredited Investors today, yet we only have about 300,000 angels that are active. That is not enough to cover the entrepreneurship and the inventions and the innovations that we want to see today.

So, I am a big proponent of adding, not necessarily -- we don't need to take away from where we are right now, but let's not add extra burden with indexing and numbers and you live on the coast, and you live in the middle of the country, and we've got an index for that, and all kinds of complications that could just tie up a lot of things.

Let's add the educational component that we've been talking about. Let's have an examination. Let's have risk warnings. We need to make sure that people are able to diversify, but we also want to make sure that they're aware of the risks.

We put warning labels on a pack of cigarettes, and everybody pretty much knows today that if you smoke, you could get cancer. You know, it's not hard. But we don't put a warning label necessarily on early-stage investing, which is also risky. You could lose all your money. So that's something that we could consider, having those risk warnings.

And I believe that the education is what will help us to be able to get to a point, where we can help people understand better what they're investing in, the questions they can ask, so they aren't, you know, looking at something and thinking, oh, how cool, that's a neat, shiny object, let me invest in that, and then five minutes later they're trying to do something else, and the next thing they know, they're overextended.

And we try to tell people at the ACA that really the amount of money that you should be investing, using -- you know, into this asset class, is probably only, you know, five percent of your net worth. This isn't something that you're going to take all your money, but yet we see people every day go to the lottery and to gambling, and there aren't limitations on what people can do, no matter how much money they have with that.

So -- okay, I'll stop there. I could go on.

MR. COOK: If I could weight in there, I agree. I think we talked about, yes, there's been a lot of inflation in the past 40 years, but our economy has also changed a lot in the last 40 years, the number of knowledge workers, the number of people involved in the financial services industry. The number of households that can afford the risks associated with investing in private markets, is fundamentally different than it was in the 1980s.

So if we're trying to baseline everything and index it back to the 1980s, I think we're going to destroy a lot of opportunities.

Actually, there's a really interesting correlation within Regulation Crowdfunding, because about 18, 24 months ago, they updated the amount that non-Accredited Investors can -- the way non-Accredited Investors can participate in Regulation Crowdfunding. And I don't have all the data here, but I mean, personally from our corridor ourselves, we've seen much more investment activity. We see a lot more people participating at higher levels, investing in privately-owned businesses. We're seeing better financial outcomes, and we haven't seen any increase in fraud, through -- at least, kind of my anecdotal view of Regulation Crowdfunding.

So some interesting parallels to the conversation here around the Accredited Investor definition within Reg D.

MS. DUIGNAN: Diego.

MR. MARISCAL: Yeah. I'll just add a couple of thoughts, based on the conversations. I did do my homework, but just this morning, so I don't know if that counts, but essentially, you know, I think when we think about Accredited Investors, you know, we're looking at an income level, right, but yet accreditations can come in other industries in the form of education, right? And so to Marcia's point, I think that certainly looking at accreditations on the form of how is this person being educated, right?

And I do think, also looking at, and try to pull my notes here, what I said, but looking at kind of dynamic criteria, depending on the type of investments that the investor is looking to make, so whether it's social impact, whether it's impact investing, how do we perhaps sort of modify the requirements, based on the type of investments that are trying to be made?

And then the third suggestion was to be able to do some sort of community investment exemptions. So basically, looking at can we get, based on regional or industry-specific areas, a number -- and this goes specifically to under-represented communities, to come together and, again, collectively gain an understanding of the risk of the investment process, and in that way, sort of the risk and gain of better understanding of the investment process.

So those are just some ideas, but I do worry about overcomplicating the process, and so I do think that starting, at least, with some sort of educational certification, if you will, can certainly be relatively easy step in the right direction.

MS. DUIGNAN: Thank you, Diego, and thank you for submitting your ideas. That will be really helpful for our summary. Herbert.

MR. DRAYTON: I'll go. I did not do my homework -- I have company, some of my colleagues, you have company.

You know, as I was sharing with Ammon Simon this morning, from Commissioner Pierce's office, you know, I had a colleague of mine who we went to church together, and I told him about a great business idea, that he thought was a great business idea, as well, and he committed $15,000 to this project.

Well, it didn't work out, and this guy asked me to -- he said, well, I talked to my wife, and we're going to need the money back.

Now, under normal circumstances, I would just have ignored him, but this guy went to church with me, and I saw them in church every Sunday, so he thought he had a basic understanding of the risk involved, and this is someone who spent 30 years in the Air Force, had a master's degree. His wife had a Ph.D., as well, but they just didn't understand the risk, and I had to bear the consequences of them not knowing that, so I had to find a way to get his money back to him.

So I think that education piece is helpful. I will say that if we put the word "certification" or "examination" in there, that's going to further exacerbate getting these folks into the investment space. I understand a need for it, but if it's simply course completion, and they've gone through the course, and they've completed the course -- a lot of these folks don't understand risk, the definition. What does that mean?

If you take defined examples of what those risks are, that should -- if that's not a part of the education, then it's really not going to do any good. The biggest one is you could lose your money. That should sit up at the top.

And I think the second one is, you can't hold Herb accountable, if he loses your money. You know, I think those things are very important.

I also think that in my philanthropic space, where I serve on a number of boards, that you've got play space impact investing, where someone who may have $10,000, they may want to give that money to a foundation, and then monitor the performance of those money, when they're doing social impact investing.

And they could serve on committees, when they're talking about making these investments, so they'll understand that process. So I think that that education needs to include ways for them to gain knowledge into investing, without the risk that's associated with some of the more traditional investment, so when we think education, again, I'd like, if we could avoid certifications, examinations, but also define what that term risk means, and also give them access to places where they can -- they can play in a sandbox and get a better understanding.

MS. DUIGNAN: I'm so sorry to hear that you ended up provided an accidental angel investment insurance policy to your friend. Maybe that's a business, insurance for -- okay. Wonderful. Jasmin next, but I'd like to recognize Aren, who is joining us virtually.

MR. SHARIFI: Sorry, I was muted. I apologize I couldn't make it today, but thank you for the accommodation.

I think this is a really interesting topic, and I agree with some of the comments, that I think one thing, you know, that I want to kind of put out there, is that I don't think the income thresholds or the education are mutually exclusive.

I do think that, you know, at the time that these income thresholds were established, as I think Kenisha mentioned, it was about two percent of the population, and now, you know, this $1 million income net worth test and 200,000 income threshold, now encompass about 13 percent of the population, so I think we've dramatically increased the initial group of people that were able to invest, and in doing so, there may be -- to Herbert's point of view, people have to understand the risk, understand what, you know, what the down side is of their investment.

So, I think one way we could rectify this would be to, you know, increase the threshold and, you know, we can determine if index it back to 1982, or determine a different type of -- kind of figure out what works in the correct climate, but then also have a test that may be certain investors that maybe don't otherwise meet that Accredited Investor definition, as modified, would then be able to test in, to meet that threshold, or to meet that requirement.

So that gives, you know, the people who are willing to get the certification or the test, or get that further education, maybe they would have either different thresholds or no thresholds. We can, you know, kind of figure that out. But I do think it's important to make sure that we're keeping in mind the investors and who -- the rules in some of these regulations are intended to protect.

I think when we're talking about these, you know, unicorns and these big companies that are massively successful, they're typically not going after small investments from investors that are investing, you know, less than a million dollars, or small amounts, to the company.

And when we're talking about, you know, smaller companies, I think there's always just a higher risk associated with investing in a start-up. There's a higher degree of risk involved in that, and there's definitely success stories, you know, but I think it's important that the investors who are able to participate in those investments, have, one, the wherewithal, and understanding of what they're investing in, and the higher-risk nature of the investment, as well as the financial wherewithal, be able to, you know, withstand the burden of potential loss of their investment.

MS. DUIGNAN: Thank you, Aren. Jasmin?

MS. SETHI: Yes. So there's been some great input here, and I kind of want to just bring a little bit of -- maybe kind of organize some of the things

I've heard. So, one thing I'm hearing a lot from all of you on the Committee is, you know, concern about individuals understanding the risks, and what's the best way to do that? Courses versus tests? You know, some kind of knowledge basis.

And I think one of the things that I took away from Commissioner Pierce's comments, is that we may want to be looking at something that can evolve, a framework that can evolve over time. So instead of having just, you know, you don't want to have a static framework, where there's just a test or a certificate right now. Right now we have these fairly, you know, fairly high-level test, Series 7 and so forth.

But, you know, the Commission could, you know, have the authority to approve future programs, so it could -- it would start perhaps in its next looking at Accredited Investor. It could start with, you know, some sort of baseline. Maybe it recognizes, you know, some tests that are already out there, and then has the ability in the future by, you know, by future orders, to continue to expand, as it sees fit.

So maybe there's some sort of application process, to Herbert's point, maybe it is a course eventually that maybe the Commission doesn't want to start with a course without a test. You know, so it kind of allows for evolution, allows for gathering data, to see how different programs might work, and see the consequences.

So that's a thing I wanted to throw out there in terms of the kind of risk and knowledge side of it. The other theme that is coming up, of course, is the actual income thresholds, and inflation.

Now, yes, inflation would raise those thresholds, you know, we've seen price increases. We've also seen wage increases. So, you know, it does make sense. It has been something the Commission has looked at before, so it may be appropriate to have inflation adjustment for thresholds, whether -- it should be the same thresholds we have now, or they should be adjusted, I think is a separate question, but having inflation adjustment in general makes sense, just in terms of how else things are done in the government, in terms of other things being adjusted.

And then I would say the third area that we haven't talked about yet, is to not necessarily have an all or nothing approach. So right now it’s very much you're either in or you're out. Crowdfunding isn't like that, as George would know better than I do, but there's certainly sort of more of a continuum built in to that.

And so, kind of thinking about Accredited Investors, you know, maybe there can be some minimum, maybe it's less than five percent of your net worth, for instance, that's, you know, kind of a no-questions-asked, you know, anybody can invest. You know, and maybe the next 15 percent has some kind of hurdle, and then, you know, after that you have more of a hurdle, or -- so it doesn’t have to be sort of a, you know, one and done.

And I think Commissioner Uyeda has mentioned something like that in the past.

So all sort of ideas to kind of get at the concerns, and since we do have a clean slate, as we were told this morning, we can think outside the box and think about, you know, where we want to start.

MS. DUIGNAN: Great. So does anybody have any radical out-of-the-box idea for us?

MS. DAWOOD: I don't know how radical this is, but, you know, we all on a regular basis, click the box that says I accept the terms and conditions, without reading the terms and conditions; right? Most of the time. We, as angels, get a lot of legal documents that say a lot of things, that a lot of people don't understand, and it would be nice if we had some kind of a one-page, very simple summary, of some of those things.

So, I'm thinking along the lines of, Herbert, what you were talking about, and I think your example is excellent, because I'm guessing that the people that you were talking to, probably did, maybe not at that moment, but at some point, hit the Accredited Investor definition, if there's a Ph.D. involved and a military background.

So, we're talking about somebody that had already hit the threshold. They didn't have to take a test in order to particularly invest, but they weren't educated enough to really understand the risks.

So, one is you could lose all your money. And that's something that I think once you're in angel world for a while, you know that. You kind of assume every time that you write an angel check, you're not going to get it back.

But the other thing is about liquidity, which is, I think, what the problem really was here. It wasn't just about the risk of potentially losing your money, because your company was still operating. It was the fact that they needed the money back or they needed it for another purpose, and they couldn't get the money out. So, the whole idea of being able to explain that this is an illiquid asset for a certain period of time.

And then the third piece that we might want to put on that very simple summary, would be about the indemnification and how they can't come back and say hey, you know, you were fraudulent, because what you were legitimately trying to do is grow your business, and whether that works out for the entrepreneur or it doesn't, and doesn't mean that their intent was to be, you know, fraudulent. Right?

So, you know, if we start -- I like Jasmin's thought there about, you know, it can evolve over time, and maybe we could have some kind of a certificate. I hate to use the word "certification," because then you get into all kinds of things, you know, that are way more detailed, but something that -- an exam, a course, something that people could take, but honestly, if people just understood what these legal documents said, and they didn't have to be a lawyer in order to interpret them, we would get a lot farther, and I think people would feel a lot more informed.

MS. DUIGNAN: I love that idea, and I think that the concept of some sort of an online training and simple sort of questionnaire, you know, that actually validates people as accredited, because it is very true, I think that the vast majority of folks believe that the designation Accredited Investor, results from some activity you've undergone, right? So, you know, actually making that happen.

I'm sure the Committee here would volunteer to, you know, maybe help you guys put a video together. But one of the things, you know, that I'd love to point out, as a professional real estate venture capitalist, who's coming in usually at series seed, so even after the angel round, when things have been substantially de-risked, when we put together our portfolio model for our LPs, our investors, we assume that we're going to develop the portfolio of 20 companies, and in the model, which is sort of the optimistic view of the outcome, you know, we assume that at least half of those companies are going to go to zero, and that, you know, maybe a quarter will give us about even money back, and another quarter will, you know, provide the majority of the returns.

And I think that that basic piece of information, which clearly at the angel stage, is probably a lot more, I would say, for an angel check writer, if I were to guess, I would say probably 85 percent of the investments of an angel stage, will not make it to positive or money-back return.

And I think so few people have any concept of that basic figure, number one. Number two, you know, as somebody who has been -- asset management, you know, I think the rule of thumb for portfolio construction is somewhere around five percent of your portfolio, should be in alternatives. And when we say alternatives, you know, that's not one start-up investment, right. That's the whole -- alternatives, illiquid, asset class.

And within that, you know, I think people also don't understand that technically that five percent should be divided amongst a minimum of 20 portfolio companies, to sort of achieve true diversification, since a lot of those are going to go to zero.

So if we take the five percent, and then we divide it by 20, you know, we're really looking at a much smaller figure, and I just think there's a huge lack of awareness around what people can actually afford to deploy into this asset class.

I'll highlight an example from my own personal experience. As Marcia knows, I spent a good deal of my career in the angel investment world, first with Golden Seeds and then I had sort of out of the goodness of my heart, started an angel investor network for professional athletes, because they were getting scammed so much by start-ups, you know, who -- when we talk about fraud, it's not always outright fraud, but sometimes just massive incompetence, as well.

And, you know, these guys are a great example of a class of people who is high-income earning, so meets the income test for, you know, a relatively short period of time, but I would very frequently see, you know, athletes who didn't really have that much net worth, you know, cutting a $250,000 check, into an angel round for a start-up, you know, with no real understanding of the fact that, you know, you can't afford that, right?

And so I think even for very wealthy people, who do meet the current income threshold, which I think is actually probably more of a risk than the -- I'm sorry, the asset threshold, which is probably more of a risk than the income threshold, because I know we said it was 13 percent total, but my guess is the -- population that has net worth of a million in sort of marketable securities, outside of their primary residence, is probably far less than that.

You know, even for those folks, the entire target for the asset class, is only 50 grand, right, and if you have to divide this amongst 20 companies, you're not making, you know, usual, the minimum angel investment is 25,000, or maybe the 15,000 that Herbert mentioned.

So I think, you know, structurally we need to explain all of this to people, but sort of kilter that -- one of the things, you know, that I had to force myself to realize over the last few days, is that there are other reasons that people angel invest, besides financial return, and that's very, very true. And while, you know, it's maybe not as fun as a weekend in Vegas, you know, people definitely extract a tremendous amount of personal fulfillment from supporting an entrepreneur and personal fulfillment, as Diego said, from supporting a local business, and personal fulfillment just from the educational aspect of, you know, being exposed to many different founders.

As folks who are in the angel groups know, you know, let's say you're making two investments a year, but as part of an angel group membership, you're maybe getting to evaluate 50, either cutting-edge start-ups every year, and learn a lot about them and build a network, so I think we want to kind of --

portfolio theory, and, you know, having people have a reasonable expectation of the risk of the total loss, which I think people do not have, as well as liquidity, which people also do not have, which we can maybe explain a helpful video, with the benefit that is created by having an active angel community that provides not only financial capital, but generally also intellectual and social capital, to founders who really need it.

MS. DUIGNAN: Do we have somebody virtually that was trying to jump in? No, okay.

MR. BAIRD: Hi. It was Donnel. I can hold my thoughts until they're a bit more structured, if there's folks in the room who want to go.

MS. DUIGNAN: No, go ahead, Donnel.

MR. BAIRD: Well, you're asking for crazy ideas.

MS. DUIGNAN: Outside -- yes.

MR. BAIRD: Well, I remember when I was -- right when I first started BlocPower, my start-up, our first investor was the [garbled audio]. And they forced us to do a cost share. They're like yeah, great, you want a $2 million investment from us, but we actually are going to give you six months to go off and match our investment with private sector capital, from angels or VCs, or else you're not going to qualify for this investment from the federal government.

And that was a contract, not technically a purchase of my stock, but I just, you know, that was the first thing I learned about capital markets as an entrepreneur. I just -- it seems to me that there could be an approach where new investors, first-time investors, diverse investors, could be limited to investing in start-ups that had already raised capital from other professional investors, or local banks.

And I don't know if that kind of constraint could solve some of the, you know -- some of the diversity needs. Similarly, and the last meeting I was able to attend in person, we had a representative from the Small Business Investment Company arm of the SBA here, and it's such an interesting structure, I don't know if first-time investors could be allowed to, you know, join us in LP, and in SBIC fund, as one of their first investments, which gives them, you know, access to investments, but some risk management, as well.

Last, I don't know what the opportunity is for tax credits, like could a first-time investor get like a $2,000 deduction, you know, once every 24 to 36 months, for, you know, the first $2,000 that they invest in a set of startups, but also, you know, more conservatively, I certainly support the idea of online education and accredited, you know, similar to receiving a driver's license, and I actually think the insurance products, you know, just like when you get a driver's license, having to have some insurance, is actually not that terrible of an idea, but there be some requirement -- like, yes, you do have the right to participate in these investments, but there is some kind of insurance or question -- that you have provided to yourself, whether it's in portfolio optimization and diversification, as was just mentioned, or a literal insurance product, or that there's professional managers, who are involved.

So I don't know if that kind of constraint is illegal, but, you know, structuring risk management constraints into first-time investments, seems natural to me to -- what I've had to do, when raising capital in the first instance, for my start-up.

MS. DUIGNAN: Thank you so much. I think we have someone else in the room.

MR. DILLASHAW: So just to dovetail on a lot of the stuff you were talking about, I think one thing that's important to point out, as you've heard everybody talk about, when we talk about sophistication with regard to making angel investments, what you've heard is the sophistication is -- no one has actually mentioned the ability to actually analyze the quality of the company, which I think is, when you look at some of the recommendations that have been made about professional certifications or industry knowledge, I think, you know, I'm all for expanding the definition, or not, but I think what's interesting is the education is not on how to analyze a company.

The education is that you need to assume that it's going to fail, and how do we do -- and how do you deal with that? Which from a certification, teaching standpoint, I think actually make things a lot easier, because you don't have to teach someone how to read financials, you don't have to teach someone how to understand business models. That's not, I think, where the emphasis should be.

And I only mention that, because some of the other proposals that have been made with ways to expand Accredited Investor definition have focused more on your ability to understand the company, type of education.

Second thing for radical idea, throwing out there, I would suggest looking -- one of the things that we've talked about before is the difference between Accredited Investors as LPs investing in funds, versus making direct investments. And in theory, if we wanted to really expand the pool and open up the ability for first-time fund managers, we could radically reduce the definition of Accredited Investor, for somebody that is investing into somebody that is maybe held to a higher standard, like an RAA or a, you know, a fund manager.

So, just as a radical idea, think about splitting the Accredited Investor definition for making direct investments in the company, versus investing into a fund.

MS. DAWOOD: I love that idea, because the diversification piece, I think, is a big problem, and to point a lot of the things that you said, Erica. And I also think that we have a lot of -- there's several misconceptions out there about this asset class. The biggest one, I think, is that it's only for the rich and it's only for the well-connected, so that you have to really know somebody in order to get into these deals.

But when we think of the word investing, back to your point about why people do this, the word "investing" has been put in our brains from a very young age, that investing equals a financial return. And in a lot of cases, it isn't just the financial return that angels are after. They really are after helping entrepreneurs, being a part of something.

I tell the story about my husband is a big golfer, and he would have these networks that he would find on the golf course, and I didn't have things like that, other than the people I worked with in a corporate job. But angel investing kind of gave me a different kind of golf course, because I met people that I would have never met otherwise. Not to mention, all the things that, you know, all the entrepreneurs who really need the help of people who are willing to give their time, and some angels don't invest money. Some angels only invest their time, and they're Advisory Board members or Board members, and all those things are great.

I really like this idea of having a way that we could have -- maybe it's videos or something that would help to educate people.

You know, Kenisha was talking about the phone and line that they have, and how there are places that people can go that they navigate them to.

The other point I'll make is just that every -- I feel like -- I try not to use big words, like everything and all, you know, but it seems like there are so many things that are just very fragmented in our entire asset class, when it comes to entrepreneurship. So, when I think about, you know, the educational pieces that are out there, I mean, Kenisha has people calling her office saying, I think I have to worry about people that invest in my company, you know, and we're like, of course, you do, you know.

But a lot of entrepreneurs, who are starting off, they don't know that. I mean, thank goodness there's a line that they can call, if they even know that it's there. So, you know, how can we be more proactive to kind of bring all of these things together and have there be a channel that people can really learn from?

MS. DUIGNAN: I love that. And, you know, I think one of the things that we're dealing with here, which makes this so challenging, is that this is probably one of the most aggressively low-information environments, we could, you know, try to tackle, because the truth is, founders have not a clue and most of these investors also have not a clue, and so between the both, you know, the opportunity for challenging outcomes, becomes really large.

So, is there, you know, a way that we could work to increase sort of information on risk levels, risk tolerance, you know, maybe even appropriately compensating investors for the risk that they're taking with the founder side, you know, before they issue to these, you know, people that they maybe have to worry about, so they can understand, you know, what type of information should I be providing my investors with?

Maybe, you know, I should actually have a Board, once I have investors, and have somebody from the investor class representing them on the Board. You know, what metrics do I need to track and make sure that they have access to? So, I think there could be a component in which, you know, we raise, we also provide some sort of certification, I guess is the word we're using, for the founders that are issuing in this early-stage private market, as well as to the investors, because the other thing -- I know this from a structure standpoint, is that early-stage founders are there to build their businesses, you know, they're not financial experts and they don't necessarily have a team of folks who, you know, can give them the information they need around these issues.

So, you know, we have to kind of expect that if we want this transaction to go a little bit more seamlessly, there needs to be, I think, resources on both sides, so the outcomes can be fair.

One thing, you know, that I've seen over the course of my career, is the lack of expectation really, for compensation for the investors, that is out of line with the market. So very often you'll see a founder, who thinks okay, great, I'm going to take investment from this person, and, yes, like I promise I will double your money so, you know, in sort of the greatest upside scenario, you know, they're going to provide a 2X return on the investment.

But, you know, obviously, when the odds of failure are probably closer to 85 percent, you know, clearly, even if we look at sort of weighted average probably of returns, this is till, you know, ending up with a negative.

So I think that, you know, we sort of need to figure out how to provide the issuers with the resources they need around structure, potential information rights, and appropriate levels of return potential for early-stage investors, as well as for the investors, and more end up with, I think, an ecosystem that functions a little better.

MR. DRAYTON: I'll throw in some additional thoughts. You know, as you guys are talking, it reminded me, when I, during fundraising, it hit me that a lot of these guys are asking me the same questions, and so I started to catalogue all the questions, and I came up with about 75 questions, and I was able to slit it out. I'd say the not-so-smart LPs, they ask like the same 25 questions, and then there's this batch that asks sort of next order questions, so there's 50 questions for the smart ones and the 25 questions for the ones who are early on.

I think as a part of this education process, we should make sure we share with the investors the things that they should ask. Your point about a Board, I've walked away from a number of investments because they refused to have a Board. Most have vanity boards, right, name, you know, organizations, but when I tell them you need a Board that can fire you, you know, CZ and Sam Bankman Fried, you know, you need a Board that could fire you and hold you accountable, but not necessarily take your company away from you, but you need to step off, we're going to bring in some adults and let them do it.

I think that type stuff, we should educate investors on, and if they're unwilling to have a Board that's going to hold them accountable, then they should walk away from it. If they find that they're lacking some skills in the financial space or marketing, they should be open to bringing in a professional executive to help them walk through those things.

The last thing I will say is, I serve on a number of non-profits and, you know, one hospital system, they send out annually, this conflict, well, you have to sign a conflict of interest statement. And in most cases, it's just, you know, some bullet points you read and you sign.

But the hospital system actually walks you through training. You have to ask -- you know, they give you scenarios, and then you have to answer questions. And you have to pass to serve on this Board. It's just pass/fail. And even if -- I think the pass rate is like 80 percent, and even if you get the 80 percent, it prompts you to go back to answer the questions that you missed, and it educates you on why this scenario is a conflict of interest, something as simple as have you done business with this organization, where you've been paid? No. Has anyone in your family done business with this organization?

And most people don't think about their cousins, their brother-in-laws, and that type stuff. So, those things are listed out for them. So anything that we do to educate potential investors, we should make sure that we're giving them examples, so that they can make it more real-life for them, as opposed to abstract.

MR. COOK: So there's been quite a few conversations around kind of equity investments into privately held small businesses, and I'll make my point, as I always do.

Private capital markets are a lot more than just equity investments into small businesses. Private debt markets are absolutely huge. Increasingly, there's all sorts of fractional asset investments into rare art or wine or aging whiskey. Like you name it, you can buy fractional shares of things now.

And so one thing that I worry about, when we talk about this kind of certification of sophistication, is just how broad private capital markets are, and just training someone on how to invest into a privately held start-up. I think that's important training and absolutely, those resources should exist. But I don't know if that training necessary qualifies you to invest in rare artwork, right? And so I just -- I do want to -- I think Bart made a really good point, that the education probably is less about how to assess the risk, and more about the risk, and understanding the nature of the risk.

And also, as a former government employee, I also, with all due respect to the SEC, having gone through annual compliance trainings in the federal government, I worry that is a one-hour course that kind of walks through the danger, is that enough to certify someone as a -- and so I think Aren made an interesting point, that this could be combined with some sort of continuation of income and net worth requirements, you know, could someone get a certification that lowers the income and net worth thresholds?

So that's something to think about, as well. Right? I think there's potentially kind of a belt and suspenders way to think about this, and not just say yeah, I took an online quiz, and I'm accredited now. That does make me a little bit nervous.

MS. DUIGNAN: Yeah, absolutely, and I think, you know, at least from what I gleaned, that the thinking of the altercation component is in addition to, you know, the other income and asset tests and requirements, so -- but more as a prophylactic, because we know that the income and asset tests alone, you know, there's still a lot of people who will pass those, and yet be completely surprised that you cannot sell your position, you know, next year back to Herbert for even money.

MS. NIKLASON: Just with her, just with her.

MS. DUIGNAN: Unless you're very powerful at church.

MS. NIKLASON: But yeah, I mean, this has been -- for me, this has been a great conversation, because it's really clarified, I think, for me and maybe for some others, that the tool of asset, you know, requirements, is kind of a blunt instrument, and really what we've all been trying to get at, and what the Commission has been trying to get at, is reducing risk and reducing lack of understanding, which can be got at in other ways, which frankly would probably increase the number of potential investors, and frankly, also be less discriminatory or less sort of, you know, exclusive, as far as who can participate.

So this is wonderful. Yeah.

MR. COOK: One thing that came up in a

couple of points, that I really kind of like the idea of, and I know Erica, you kind of talked about diversification is such an issue, in privately-held assets. And having ways for people, non-Accredited Investors, to invest in funds of privately-held investments, at a different threshold, seems very interesting to me, to give people access to diversification.

Definitely something we run into in Regulation Crowdfunding, right. It's -- these are risky investments, and so we try to encourage people to build portfolios, but there's regulatory constraints on how we can do that, and so we make it easier for people to build a diverse portfolio of privately-held assets, then it's a great way to get more people in, in a relatively low-risk way.

MS. DUIGNAN: And, you know, I so agree with you, and, you know, as somebody who manages a venture capital firm, it would be in my interest to be like, yes, let's do that. But at the same time, you know, I think, as well, even within the funds, you know, there is the same problem, if not even a more magnified problem, right, so I know so many early-stage funds, you know, that are ten years in and haven't returned any capital to investors, so same thing, like very unpredictable cash flows, zero liquidity, and a blind pool of assets now, that you, you know, have no idea what's going on with, so it is a really good idea, but I think, you know, at the same time, you know, when we think about it realistically, it is still an asset class that presents a lot of the same risks that the other private market assets do.

MR. COOK: One thing that Jasmin mentioned, and apologies for kind of continuing to call back Reg CF. I think there's a really interesting analogy here, because within Regulation Crowdfunding, there's a calculation of how much you're allowed to invest in Reg CF assets. And it's anyone, anywhere in the United States can invest up to $2500 a year, and then based on your income and net worth, I believe it's five percent of the greater of your income or net worth, under $100,000, and then ten percent of the greater of your income or net worth, above $100,000, is what you're allowed to invest on an annual basis, into Regulation Crowdfunding.

And I know we've had some kind of tangential conversations around making it a sliding scale, and so that is also a way to think about this.

MS. DUIGNAN: Yeah, and I think Jasmin, you had maybe had some sort of specific ideas around that.

I don't remember that from the feedback.

MS. SETHI: Yeah. I mean, I think it could be modeled around Regulation Crowdfunding. It's interesting, because I think, you know, Erica and others have mentioned, you know, it may be somehow incorporating diversification into that, so even in that minimum. And that would be great. It is hard administratively, I think, which is -- so I do like, like, you know, that 2500 that George mentioned, you know, some small amount, you know, if you do want to invest. And my sense is right now, this probably isn't really in force, with all due respect to the SEC, but these small amounts that are probably given to family and friends, where people are self-certifying, is it's probably not really, you know, something that's worth kind of government enforcement resources, but it, you know, just to kind of just allow it and say okay, up to this amount, you know, people can just put in, and we're not going to really worry about where it goes.

So, you know, I don't know whether that's an amount, or there's a dollar amount or it's a percentage, I think, you know, based on the experiences of the people on this Committee, might have a sense, but having something like that, and then, you know, maybe the sliding scale could incorporate diversification. It could incorporate also consultation with a registered investment advisor, as well.

So, you know, as an alternative to certification, what if, you know, you have an RIA, somebody who doesn't have a conflict, they're not actually making money off of your investment or maybe you're just paying them a flat fee, but they're not gaining, you know, based on how much you put in. They're just giving you sort of an independent consultation of, you know, what can you afford, and what kind of, you know, risk/diversification makes sense for your portfolio?

So, you know, something like that is also another possibility as a barrier.

MS. DUIGNAN: Yeah, I love that idea and, you know, I think for that information, that's actually something that could be automated, based on a questionnaire, you know, that you fill out, like while you're doing this thing, right, so what's your income, what are your assets, what are your fixed expenses, what are your -- and I think Angel Capital Association, like add some stuff like that. So, you know, I think just even kind of giving people that guidance will be very valuable.

So one thing I'd love for us to do now that we've had a chance to brainstorm a bit, is to start kind of seeing how we can get some consensus on recommendations. So, why don't we start off first with the educational/certification component part of it. You know, who here sort of feels that it would be a good idea to offer such a thing?

Alright, looks like everybody is in favor of that, so we can definitely add that to the recommendations. And who here would be in favor of offering -- and by the way, our attendees, if you want to do a hand raise on that, you can do that too, so we can see you. Who here would -- so that's for the investor side. Who here thinks it would be interesting to offer sort of a similar certification for the issuers of the equity?

MS. NIKLASON: Education or certification, or both?

MS. DUIGNAN: Yeah, so education/ certification, like, you know, you don't get approved until you've answered all the questions right, but I assume people will get many tries to figure it out. Okay. Looks like maybe with the exception of George.

MR. COOK: Just thinking about like what it would actually look like, from an entrepreneur raising funds. I'm not opposed to the idea. I worry about execution.

MS. SETHI: Same. Yeah -- sure how that would work.

MS. DUIGNAN: Okay.

MS. DAWOOD: I do like the idea -- I do like the idea of like -- to Kenisha's point about, you know, people call her and there's not like a standard place that they could go to be educated. I don't know that they need to have a certification. That could be a little challenging to enforce or try to figure out, but if there was a central place that people could go to get this information, and it sounds like there is, but it's not very well known, so maybe it's an awareness problem more than anything. I don't know.

MS. DUIGNAN: Yeah, absolutely. I mean, I think, you know, from my perspective, while I think it's really important for the investors to validate that they understand the risks that they're taking, I think it is also equally important for the issuers to understand the responsibility that they're taking on so, you know, not necessarily some sort of like a got-you quiz, but just, you know, right, you're issuing equity to people you know, like, you know, are you going to provide them with quarterly financial statements, you know, will you provide an investor update, you know, what is your expectation as to how you're going to return the money to them?

I mean, I just think there are such basic things that a lot of founders, when they go to raise money, have not even thought through at all, and I think, you know, offering information on both sides -- and when we say certification, I think even for the investors, the idea here isn't to be exclusionary, you know, to give everybody the chance to get all the questions right, but just to make sure, you know -- through the content -- agree with you guys that, you know, the execution does not need to be a Series 7 or a Series 63 level exercise, but, you know, sort of a simple online type of interaction.

MR. DRAYTON: Erica, I'll throw something -- the SEC site has got a lot of information that I think entrepreneurs should know about. I mean, branch loans, and literally a roadmap on that page, they've got a graphic, with the cars, driving -- I mean, so I think just making sure that entrepreneurs are aware of the resources that are available, and that may be something that the SEC could figure out how do you get this information?

I mean, that's for you guys to figure out, you know. I think just making sure that the -- we can create this examination or this education process around the data that's already out there. Now, what's not out there is the reporting piece that you mentioned. You should give folks an update, because a lot of times unsophisticated investors, they will give money, and then it's like pulling teeth, trying to find out what's actually going on with the business. But before they write that check, they should make it clear to that entrepreneur, can you give me a quarterly report or an annual report.

But I think a lot of it, the information is already out there. You've just got to figure out -- set out and get it out on a consistent basis.

MS. DUIGNAN: Laura, did you have something?

MS. NIKLASON: Yeah. You know, I -- and I think to Herb's point, I think part of the investor education could be not just you could lose all your money, but you should know to ask the founder for updates, and you should feel that's within your rights to do that, and akata, akata.

So, that can all fall in the education bucket. I am a little squeamish that -- I think educating founders is a good goal, but once you start to use the word "certification of a founder," I'm imagining a guy who's opening a carwash, you know, on the corner, and, you know, if he has to go through a certification process, I can see him saying that's too hard, I'm not going to open my carwash.

MR. COOK: Or worse. He takes private capital for his carwash, but didn't get the certification, and then gets his carwash shut down because he wasn't certified, right. That's where I get very, very nervous.

MS. DUIGNAN: Okay. Interesting. All right. This is all really, really great feedback.

Okay. So moving on to the second portion, which is -- well, I guess we'll start with the --

MR. DRAYTON: Erica, can I ask a question? I'm sorry. Where did we land on educating the entrepreneurs? Did you get a consensus that we should recommend that?

MS. DUIGNAN: I don't think we have a consensus yet. We just have had some opinions. I think we are going to aggregate recommendations, and then in the interim, make decisions on which ones we say, yeah, yeah, me too.

MS. SETHI: Yeah. So, I think in terms of process, I think, as Secretary, what I'm going to do is, you know, review the meeting notes and based on what comes out of this meeting in terms of, you know, ideas we want to support and move towards recommendation, we will circulate some language before the next meeting. We will not vote until the next meeting, so everybody can give input onto the language of the recommendations. But this way we, you know, kind of -- we're not going to put into it something where it's very unpopular, but if something seems to have strong support, we can kind of prioritize that in terms of putting into potential recommendations to vote on in February.

MS. DUIGNAN: Okay. Thank you, Jasmin. Does anyone else have more comments on the education portion, or should we move onto the -- okay, great. Moving onto the next.

So, talking about any recommendations around adjustment, strictly of the income and asset test. Thoughts?

Okay, I'll go around. Who here believes that we should leave it as is? Okay. Does anybody here believe that the income or asset limits need to be increased or decreased? Okay. Jasmin, we'd love to hear your dissenting opinion.

MS. SETHI: I think that whatever thresholds we set, should be indexed to inflation. I think the current thresholds should be more of a sliding scale, like I mentioned before. So, we may need more than one threshold. So, I think we should have some sort of continuum on thresholds. The current ones may be appropriate for certain levels of investment, but not necessarily for every level.

MS. DUIGNAN: Okay. I love that. You know, my only sort of feedback on that, as somebody who has kind of been in the angel world, is that it might be a little frustrating, if the number keeps changing to some sort of like random -- you know, decimal batch number, like a million and 200,000, that's, you know, very round, very easy to remember. So, from an execution standpoint, that might be a little bit challenging, but, you know, absolutely understand the motivation for that portion of recommendation.

All right. So moving on to --

MS. HASELEY: I think Aren has his hand up.

MS. DUIGNAN: Hi, Aren.

MR. SHARIFI: Hi. Sorry, I know I'm virtual, so I'm trying to raise my hand, so thanks for calling that out.

Just a couple comments on that. I think with the income threshold and the net worth test, I think we need to be cognizant and careful that these rules protect the classes of people that we're trying to protect, and I think an interesting thing that the Department of Labor recently reduced -- sorry, published some proposed rules on fiduciaries, with regards to employee benefit plans.

So, I understand this is a little bit outside the scope that you're talking about, you know, like benefit plans and 401k's, but there is some interesting discussion in that proposed rule, regarding the reference as an expert customer.

And, you know, they are finding that, you know, that many Americans tend to have very, you know, low levels of financial knowledge, and we need to put safeguards in place, in order for -- to protect these classes, and, you know, the focus in that proposed rule is, you know, people that are over the age of 50. So I think that's a really important thing to look at and kind of look at their analysis and kind of their reasoning on how they are assessing the risks to this group of people, and I think we need to -- to Commissioner Crenshaw's point earlier, these rules could have effects on other classes of people and certain demographics, as well.

So, I think any rules that we do propose, we need to make sure we're keeping in mind not only the benefits, but how they could also have a detrimental impact, among different classes of people.

So, for those reasons, I think the, you know, the threshold should be increased, but I also think an interesting thing to consider is perhaps removing retirement funds, so your 401k and things like that, in determining whether the net worth test is met.

MS. DUIGNAN: And can you just explain a little bit more the rationale behind removing 401k?

MR. SHARIFI: So as it stands now, your primary residence is excluded, when they're determining a net worth. So, you know, to protect this class of people, these older generations, who are maybe more susceptible to scams or things like that, we'd want to consider, you know, we don't want them to fall prey to something that would -- they cash out their 401k, savings, their life savings, to invest in something, that goes to zero. And, you know, if someone has a 401k they've been contributing to slowly over time, I'm not sure, and again, it depends on where the threshold is at, but at the current threshold, you know, having a million dollars in your 401k automatically makes you quote, unquote, an

Accredited Investor, and I'm not sure that's a sufficient metric for someone to be a sophisticated investor.

MS. DUIGNAN: Okay, wonderful. Thank you for that clarification.

MR. SHARIFI: Sure.

MS. HASELEY: Erica?

MS. DUIGNAN: Yes.

MS. HASELEY: Apologies for the interruption, but I think Wemino would also like to contribute.

MS. DUIGNAN: Thank you. So I don't know why I'm not seeing these hands, but Wemino.

MR. ABBEY: Thanks a lot. I think -- and thanks for your perspective on that. You know, I have a contrary perspective towards this, and this is just from my own sort of personal experience here.

When I think about founders and folks that bet on us earlier -- through a network, right? I love the golf course analogy and now the angel community analogy. I speak of this because 75 percent of folks are not -- people of color or women. And some of these people actually invested, you know, 2,000, 3,000 dollars, and some of them put off, you know, doing things like buying a house, to invest in a company like ours, when it was valued at 10 million and it's a billion today.

So, you know, I want us to be very, very thoughtful about protecting a class of investor, but I also don't want us to be too extreme, that we leave them out in one of the fastest wealth building that we've seen in recent time. I am for adequate disclosures, and caveat emptores. I'm saying what you're getting into is incredibly risky, and you can lose it all, but what this country is also all about is the liberty and freedom for people to do what they want to do, and us not, you know, hiding a lot of obstacles.

So, I think I am all for disclosures and making it very clear, but I think additional measures, like not counting things like their 401k, even if they once engage, might leave a lot of people out that we intend to protect from, you know, wealth -- especially as we think about the third inning of, you know, technology investments with the advent of AI.

So, we want our community source of benefits, but with the right disclosure and information, and I don't think we are in a position particularly to tell people what to do. There are a lot of guidance and place -- we can give them as much information on the risk level of this -- sort of -- so that's one caveat I would give, a real-life example of folks that have incredibly benefitted from investing in companies like ours, obviously realizing in some cases where people realized already, but I just don't want people to also miss out on the wealth-building journey.

MS. DUIGNAN: That's a really great point, and thank you for sharing, and I think one of the ways, you know, one of the mechanisms that we're looking at, that can increase inclusion, is the sliding scale percent of asset stuff, so why don't we move onto that, around how we would feel about the number let's say five percent? I feel like, Marcia, you probably know more about this, you're probably familiar. I think the consensus, and luckily we have Anna with us today, so we can probably double check this with her, but the consensus is usually not more than five percent of a portfolio, into, you know, these highly illiquid assets. Does anyone feel that number should be higher or lower, or does that sound about a good number to work with?

MS. DAWOOD: We usually tell people five to ten percent. It kind of depends, if you're somebody who is like a billionaire, ten percent probably doesn't -- five to ten percent isn't going to make a big difference, but if you're barely hitting the Accredited Investor definition, then I think people just need to be a little more cautious.

MS. DUIGNAN: Any other thoughts?

MR. DILLASHAW: What's the specific recommendation that we -- creating new thresholds that you can't invest more than five percent, or --

MS. DUIGNAN: So I think what we are looking for is a mechanism to be a little bit more inclusive to people that Wemino sort of mentioned might be under or just barely clearly the current income or asset test, whether it's including their 401k or not. You know, could we create a sliding scale, where okay, maybe you don't have a million in assets, but you would be allowed to deploy to five percent, and I know five to ten percent is the entire -- so maybe we're saying, you know, in the course of a year, right, you could deploy up to five percent of your net worth, excluding primary residence or five percent of net income.

MR. DILLASHAW: For those that are below -- otherwise below the million dollar to -- yeah.

MR. COOK: Just one real quick clarification, that was kind of a major issue within

Regulation Crowdfunding. When the rules were initially released, it was the -- the five or ten percent was based on the lesser of your income or net worth, and that excluded a lot of people. We had very wealthy retirees, who had low income, who were excluded. We had very high income, recent med school graduates, who had negative net worth from student loans, who were excluded. So as with think about income versus net worth, I would strongly encourage us to think about the lesser of the two.

MS. DUIGNAN: Do you mean like greater of the two?

MR. COOK: Sorry, yes, the greater of the two.

MR. ABBEY: The greater of the two, and one thing I would also add is the underlining factor should not be net income. That's a dangerous territory. I think we should talk about net assets. If you have people that have real estate, for example, enough possible income through real estate, and they can lever that, we don't want to exclude those folks, right, because if I want to make an investment in my company and, you know, I have passive income and my property is valued at X, right? I don't want -- we don't want him to be like net -- if that's what I heard, correct, yeah, I just want to make sure that's what we are talking about. Assets would be a good way to look at -- and just like the net income, because that would consistent to what we do in the mortgage world also, so I just -- I want us to, you know, hopefully clarify that. Assets versus income, I think, that would make a significant difference for folks that we're trying to get involved here.

MS. DUIGNAN: So, I think the proposal is five percent annually, of the greater of either your assets, excluding primary residence, or previous year income, whatever is just on your tax return, so we're not looking at, you know, versus a business' gross income, just what was the income on your previous year tax return, you can do up to five percent of that, you know, this year.

MR. ABBEY: Got it. Not just income, but your assets also, right?

MS. DUIGNAN: It would be an "or," so greater of either five percent of your assets, excluding primary residence, or five percent of prior year's reported taxable income.

MR. ABBEY: Got it. Thank you.

MS. DUIGNAN: Okay. So, I think that's a really interesting way to address the inclusion angle, without necessarily putting people at unreasonable risk. I think that, combined with, you know, the education, the videos and quiz, hopefully will get people in the right direction.

Does anyone have other inclusion mechanisms that we may be overlooking, that they would like us to perhaps add to the recommendation? Bart.

MR. DILLASHAW: Somewhat related to that, speaking outside the definition of Accredited Investor, within Reg D 506, it actually permits up to 35 non-Accredited Investors, but it says that you have to provide them all this information, equivalent to Swiffer [ph] Reg A, the type offering, which is a lot of information.

I think one thing that the SEC could look at would be to say within the existing framework, for those 35 non-Accredited that they're already permitting, they're already permitted, to reduce the information requirements and maybe conform them to something like the Reg CF standards, which would add a little bit of harmonization, you know, within the exemptions, and allow non-Accredited Investors to pay back onto the existing angel infrastructure, that I think would actually open up quite a bit of folks come in, so at least anecdotally, for a lot of the clients that I see that are raising, doing an angel round or VC round, and they say my cousin, roommate, friend, you know, whatever, wants to invest, but they can't because they don't make enough, that would be a mechanism to maybe get them in on this round.

MS. DUIGNAN: Okay. All right. And which portion of the information requirement do you feel is too onerous?

MR. DILLASHAW: Right now it says if you are not accredited within 506, you need to provide the equivalent of information underneath Regulation A, and then there's a whole list of audited financial -- audited or unaudited financials, disclosure requirements. There's sort of a big list that it refers to, and my suggestion would be to say take a look at that list and maybe look at what we require for Reg CF, or nothing at all, and see if that makes more sense.

MS. DUIGNAN: Okay, great. Any thoughts on that?

MS. DAWOOD: Do you have any data on how many people use that in -- how many people do it?

MS. REISCHAUER: Do you mean do -- well, 506 offerings with un-Accredited Investors?

MS. DAWOOD: Yeah.

MS. REISCHAUER: And provide that --

MS. DAWOOD: Yeah, just curious.

MS. REISCHAUER: It's very low, and I previously probably had it on the tip of my tongue, but it is a very low percentage.

MS. DAWOOD: That's find.

MR. COOK: I think more people would use -- we, as an organization, would have used it, if the requirements were not so high.

MR. DILLASHAW: The Reg A requirements are -- that's no small hurdle, is the major point there.

MS. DUIGNAN: Okay. And I think one thing that might be interesting there, since we haven't had a lot of time to kind of discuss that particular mechanism, is to maybe do a little research on how many people would be affected, and in what way, by such a change, like whether to the positive or the negative, so maybe we figure out, you know, what portion of the universe would that potentially comprise or at least a hand on it -- okay, wonderful, inclusion.

All right. Any other ideas as far as widening accessibility for specific groups? I know, Diego, you had definitely suggested some around community investment and some other things, so I don't know if there were specific things that we would like to consider raising in the recommendations?

MR. MARISCAL: Yeah, I would probably want to think more about what language to specifically recommend, but I think exercise of Jasmin sort of capturing the main points, and then us being able to kind of comment via email, to me, sounds really useful, because I think there's a lot of good information here that I just would need more time to digest, and certainly to that point, I would want to do a little bit more research as to how that would actually look in practice.

MS. DUIGNAN: Okay, wonderful.

MS. DAVIS: This is Julie. I just want to quickly say, as a procedural matter, the Committee needs to do deliberation in an open meeting. That doesn't mean you can't do prep work ahead of time. So, I just want to say, like maybe from what you're talking about, if at the next meeting you want to go through a list of things that have been written out, and you've all had a chance to contribute to, if you do that deliberation in public, then I think you've met the requirement to do it in the open. I just want to make sure we understand that we can't just decide something on email, and then bless it, right, and then vote. The blessing part of it will need to be done in an open meeting.

MS. DUIGNAN: Absolutely.

MS. DAVIS: That's totally doable.

MS. DUIGNAN: We only bless in public. Okay, great. So one other interesting, out-of-the-box idea, and I forget who suggested. I don't know, I can't remember, but on the exclusion of 401(k) assets, I think that was actually maybe Aren online suggested it.

How do people feel about excluding 401(k) assets, you know, perhaps for the -- you're over a million, you know, over 200k, sort of you have the freedom to do what you like category?

MS. SETHI: Excluding a part of them, like I wouldn't exclude them completely, because, as George pointed out, there are some very wealthy retirees that have 401(k)s and IRAs that, you know, a lot of people already invest in, you know, what could be characterized as alternative assets, through their IRAs, even some 401(k)s. So I wouldn't -- if it's up to a certain threshold, maybe, but not completely.

MS. DUIGNAN: Okay.

MS. NIKLASON: I would worry that it would have the inadvertent outcome of essentially excluding many or most retirees from making investments, which I think it has a tremendous positive impact on the community, and so by shutting that door, I think the negatives would outweigh the positives.

And again, I think investor education, about, you know, we worry about the elderly 80-year-old woman, who is going to sign over her 401(k), but I think that's where the education really comes in.

MS. DAWOOD: I'd agree with that, plus in a lot of cases, if they are educated, to your point, they may want to be investing in these types of asset classes, to be able to give to the next generation too, so I've seen a lot of times where an un-accredited, let's say granddaughter, and the grandmother, get together to do an investment together, where the grandmother is putting in the money or, you know, she's the one who is the actual investor, but all of the information and being able to interact with the company, is actually done by the granddaughter, in this particular example.

MR. DRAYTON: Yeah, I think part of the irony here is -- I just chaired a capital campaign fund for my church, and we had some folks that committed six figures, and not once did I circle back with them and ask them to fill out an Accredited

Investor form. So, I think things are happening in the community right now, where we've got proof points that says, you know, we can sort of widen the lens a little bit, on these regulations, and give people greater access to invest in folks.

MR. SHARMA: Question on that point. Not to complicate things, and I'm not a tax lawyer, but would you consider a distinction between accessing 401(k) assets, pre-age 59 and 1/2, where penalties might apply, to withdrawals versus post-age 59 and 1/2?

MS. DAWOOD: So, I only know enough about this to be dangerous, but from my understanding, because I did actually convert an IRA account, from like a big company, over to a self-directed. The age doesn't really matter, about when you invest it, because all the returns would go back into the IRA, and then that would function just like if I invested into the stock market, or whatever.

The tricky part comes when you get into the part about mandatory distribution, and you actually have to carve off a piece of the IRA, which is if the entire IRA is tied up in angel investments, for example, would be very illiquid.

So there would have to be a way that you could actually make those tax payments on an asset that is very hard to value. So that's kind of where it gets tricky, but the people who run good, self-directed IRAs, have a very good understanding of this, and have, you know, several options around that, because I know that has been a problem in the past, but there's several ways that we can, you know, change that.

MS. DUIGNAN: Yeah, and I think, you know, we're not recommending here that people make the investment within the IRA for 401(k) vehicle, and I don't think you can actually do it in 401(k)s. I think only IRAs. But just should we cap that as part of their overall assets? You know, or should that be like a protected area?

It sounds like the consensus is that we want to let people include it. Okay. All right, great.

So, any other protective measures for changes that I'm perhaps overlooking, or that we want to discuss?

MR. BAIRD: Hi. This is Donnel. I want to go back to one of Wemino's comment, but I think that there has to be some kind of mechanism where, whether it's the SEC or some trusted intermediary, that indicates to new first-time diverse investors, hey, you're investing in a company that fits the profile an

Esusu, in Wemino's company. This is like it's -- it's relatively reasonable that this has been additionally de-risked. I don't think we can just leave the full burden of risk assessment on diverse communities of first-time investors. I don't -- there must be some additional guidance that some trusted intermediary can provide, in my view. I think that's really important.

MS. DUIGNAN: Yeah, I mean, I think that sounds like a wonderful, but perhaps a wildly impractical idea, because, you know, there is no way to provide that assurance, unfortunately. And, you know, this is why companies go public, is so that they can be covered by research analysts, whose job is to do that full time. But, you know, sadly there are not enough resources on the planet to do that, you know, for every --

MR. BAIRD: Well, I'm not looking to create a market of analysts to cover private sector securities, but I think that, you know, as I suggested earlier, like hey, here's a clear indication that a company has raised capital from a professional venture capital investor or professional angel investor, and that's like clearly outlined, and clearly communicated. It seems really important.

And I don't think that first-time investors should have to hunt that information down themselves.

MS. DUIGNAN: Well, I think the idea is that this is the type of checklist that we would be including in the Accredited Investor, you know, educational video slash -- right? Like, here are the things that make an investment potentially less risky. Here are things that make an investment potentially more risky. You know, having a lead investor, who structured and priced a deal, and is going to go on the Board and represent the investor class, probably makes it less risky.

You know, the issue is that there's a tremendous amount of liability taken on to say anyone is going to go in there and say, oh, yeah, yeah, this one is probably going to be the next Esusu, you know, or whatever, or like, yeah, this one gets our stamp of approval, because, you know, truthfully, most of them are gg to fail, but, you know, obviously I see where you're coming from, you know. Unfortunately, there's a reason that people -- investment managers, is that if you want someone to give you that approval, you invest -- you know, you invest in a fund. You let them do it, or you have an investment manager, and you're paying them to do that for your assets.

MR. BAIRD: Yeah, I'm going to keep pushing on this. Like, as the SEC, right, clearly outlining in our educational materials, to folks like hey, like historical -- historically, like these are the kinds of or categories of things that perform. And, yes, you should look for them, but here's some kind of categorization that's -- we're labeling that's easily defined and found, and doesn't have to be identified solely through the independent diligence of independent first-time investors, like that's kind of where we need to end up landing. Otherwise, we are going to continue to have, you know, some outliers who do well, because they invest in Esusu, but, you know, dramatically less of capital overall from diverse communities, which we've seen over the last few years.

MS. DUIGNAN: Yeah, so let me understand from a practical execution standpoint, what you would be suggesting.

MR. BAIRD: I mean, you could just, as part of, you know, receiving Crowdfunding, you know, exemption from the SEC, the broker dealers and Crowdfunding platforms could label, you know, start-ups that -- with a P, that have been structured by professional investors, or the -- structured by a professional investor versus ones that aren't, for example.

MS. DUIGNAN: Okay. So, I think right now we're looking at sort of non-Crowdfunding opportunities, but, you know, certainly yes, that is one of the, I think, benefits per se, for an Accredited Investors, doing Crowdfunding deals, is that ostensibly the broker/dealer has done diligence on it, is going to summarize all the stuff for you. And, you know, within sort of the category of private market opportunities, that we're discussing right now, you know, there is no sort of quote, unquote, independent third party that is validating any of the items in the opportunity. And, you know, maybe there's a way for people to get some of that. I mean, as somebody who has been in this sector of the industry for a long time, I think that would be really hard to do, and there's a tremendous amount of conflict of interest, you know, kind of like the rating agencies are getting paid by the bond issuers, type of thing.

So I'm not sure how valuable, you know, even the rating would be, just because of adverse action, but a really interesting idea to think about. Perhaps outside of the SEC's regulatory scope, but within a scope of, you know, potential protections for early-stage issuers. Marcia, I think you had some thoughts?

MS. DAWOOD: No, I just -- yeah, I think it would be very hard to regulate that. And like, even if the ACA were very careful, we have several different syndication efforts, based on sector, industry, whatever. And we're very, very careful to make sure that we aren't recommending, or that we aren't saying that one is better than the other, or anything like that. We're extremely -- we probably go to the other extreme of careful, you know, to be so, so careful, that we are not putting a label on anything, because to your point, the conflict of interest is just -- it's a huge problem, and then also the -- just how do you even enforce it or what would make one company necessarily better than the other, because they're all just so different. I can't even --

MR. BAIRD: Yeah, I think you can detach -- I think you can detach labeling from evaluating, I think transparency, about like hey, this is an investment that's structured by a professional investor, is different from allocating any additional evaluation, as to the riskiness of that security. It's certainly implied, but certainly in my ten years in capital markets, like, you know, if Andreessen Horowitz invests in a deal, it's a good deal, it's kind of binary, and I think that regular investors should be -- have knowledge that that kind of information is critical to deals that people do.

I don't think it should be a secret that only professional investors have. And so, figuring out how to square that is really important, and that is why so many black people have lost money in early-stage investments.

MS. DUIGNAN: Yeah. You know, the truth is that the vast majority of Andreessen Horowitz investments also -- so that's kind of what the -- is here, that you can't just use something like that as evaluation metric, because, you know, it does not even validate the investment in any way that is meaningfully less risky, that somebody would be able to, you know, go out and sort of hang a shingle on, if a thing meets these criteria, you know, and somehow less risky.

But I think it's, you know, an interesting area for us to explore and think about. You know, I do love that you brought this up, because I think that the reality, you know, when you're talking about communities of color or, you know, folks who are losing money, there's an unfortunate truth in our society that for things to be created, and for people to win big, a lot of people have to take a lot of risk and lose, as well, right? So, you know, we have not yet created a system where, you know, people can take vast risk and, you know, simultaneously, protect it from downside in an effective way, so it might be, you know, just a part of the cost of building -- and certainly, as somebody who’s in the angel investor community, particularly among female investors going into the market, you know, obviously -- executive director of Golden Seeds, when it started back in 2006, and, you know, a lot of women had to lose a lot of money for female-founded start-ups, to get funded, and for us to, you know, now have -- like Bumble going IPO, so, you know, certainly want to protect people, but, you know, unfortunately this is something I think is a little bit inescapable from the asset class.

And as communities of color or, you know, women investors grow their own networks in communities on their expertise, by that -- it's one of those things where you can really only learn things the hard way, and that's usually by losing some cash and experience.

So something great to think about.

All right. I do want to make sure we have a chance to eat food. I don't want anyone dying on me, so we shall take a break and see everybody back at 1:15. Thank you.

(Lunch recess at 12:25 p.m. until 1:16 p.m.)

A F T E R N O O N S E S S I O N

AFTERNOON REMARKS

MS. DUIGNAN: Okay, great. Good afternoon. Welcome back to everyone who is rejoining virtually, and our SEC webcast viewers. We're really excited to have you with us.

This afternoon's agenda focuses on a broader topic that we began discussing at our last meeting, rooted and exploring the rules that funds play in allocating capital to small businesses.

The State of California recently passed a law that starting as soon as 2025, will require venture capital firms with a nexus to California, to make certain disclosures about the diversity of the founding teams of the portfolio companies, in which the fund invests.

Today we have speakers from institutional investors, who will help us explore the role that disclosure of diversity metrics can play, and how they incorporate diversity metrics into their investment processes.

But before diving into that exciting

discussion, we thought it would be helpful to get some grounding in the relevant securities law framework, from the staff in the SEC's Division of Investment Management. Marc Mehrespand is joining us from the Chief Counsel's Office in the SEC's Division of Investment Management. Marc, we so appreciate your willingness to join and speak with us today. Many of us are pretty new to the Committee, and would really appreciate it if you could share a bit about the role that your division plays in the SEC's mission, and after helping to illustrate that broader picture for us, we'd also welcome some more detailed background on the regulatory and disclosure framework for investment advisors and funds.

Thank you, Marc.

MR. MEHRESPAND: Great. Thank you very much for inviting me. My name, again, is Marc Mehrespand. I'm a Branch Chief in the Chief Counsel's Office, in the Division of Investment Management.

So, I'm going to give a little bit of background about our division, what we do, what we responsible for, and then I'll go into some of the substance. So those are my objectives for these 15 minutes, and hopefully allow time for questions at the end.

So, the Division of Investment Management is actually very small. We're one of the smallest divisions here at the SEC. But yet, we are responsible for two of the four major federal securities laws, the Investment Company Act of 1940 and the Investment Advisors Act of 1940. You may occasionally hear me refer to them as the '40 Act and the Advisors Act, because that tends to be our lingo.

But it is striking that we're a small division, but yet we're primarily responsible for two of the four. And hopefully in this presentation, I'll explain why that is.

As you might guess from the names of these two Acts, we're responsible for two broad categories of registrants. The first are investment companies and the second are investment advisors.

Let me start with investment companies. Investment companies include things like mutual funds, ETFs, closed-end funds. These are typically -- they're not always, pooled investment vehicles, where a bunch of people who may or may not be related to each other, will pool their money together in the pursuit of a common investment objective. That's an investment company.

And investment advisor is basically an asset management firm. Technically, it must be an asset management firm that provides advice about securities, and it must be doing so for compensation.

As I'll explain in a second, there's a reason why we are responsible for both advisors and investment companies, and the reason is they're often quite linked.

One key point I want to make at the outset though is that there's a large number of investment companies and a large number of advisors, thousands and thousands, but we don't regulate all of them. There are some investment companies and some investment advisors that are SEC registered, but there are some that are not. They might be registered with states or they might just be simply unregistered.

A good example of this are hedge funds, private equity funds, VC funds. These sure sound like investment companies, as I referred to at the beginning. They're pooled investment vehicles, but they happen to not be registered with the SEC, because of various provisions in the two Acts that I mentioned earlier, the Investment Company Act and the Investment Advisors Act.

Okay. So, before I go too much further, I thought it would be helpful to give you a very basic structure of how an investment company normally works, because hopefully by doing so, it will allow you to see how investment companies and investment advisors are linked in a typical structure.

So let's start with investment companies. I mentioned earlier, it is a pool of assets, in its simplest form, but investment companies typically are also set up as legal entities, so it's not just the pool by itself. It's set up via a legal entity. It could be a corporation. It could be a limited partnership. It could be a business trust, statutory trust. There's quite a long list of entities it could be. But almost invariably, at least the larger ones, they are set up as legal entities.

So then, whoever sees this legal entity, who is responsible for it? As you might expect, if it's set up as a corporation, it will typically have, always have, a Board of Directors. If it's a trust, it will have a Board of Trustees.

So, there are a lot of similar concepts with public companies, you know, a lot of these investment companies are corporations, they have Boards of Directors, Boards of Trustees, very similar to many public companies. But as with the typical public company, the Board of Directors or Board of Trustees, is really acting in sort of an oversight role. They're not involved in the day-to-day management.

So who does handle the day-to-day management? Well, investment companies have, in some cases, officers. Sometimes there's a secretary, there's a president, there might be a CEO. But they almost never have employees. It's very, very rare for an investment company to actually have employees.

So that begs the question, who actually runs an investment company? And the answer is, service providers. Investment companies are serviced by a whole host of service providers. Many of you have heard of these firms, auditors, administrators, transfer agents, distributors, and most importantly, investment advisors.

Let me focus on the investment advisor. The investment advisor is the party responsible for implementing the fund's investment strategy. Obviously, the auditor worries about financial statements. The distributor is out looking for investors, but it's the advisor that actually is responsible for the core day-to-day function, which is trying to achieve the fund's investment objective.

But the advisor is even more important than that, because typically the party that sets up the fund in the first place, is also the advisor. If you think about it, if you want to set up an investment company, someone has got to go to Delaware, the Caymen Islands, and form the entity in the first place. As I mentioned, they're legal entities. Who does that?

It's usually the investment advisor or an agent of the investment advisor. The advisor will have an investment idea, they'll think they can market a product. They'll start the ball rolling.

So that's another reason why the advisor is really integral to the investment company structure.

Why do funds exist? Why do we have thousands and thousands and thousands of funds? Well, multiple reasons. From an investor perspective, it's a great way to get access to a professional money manager, and not have to spend too much money. Many mutual funds, for example, have $1,000 minimum investments, 3,000, 5,000. You could buy an ETF or closed-end fund on a secondary market. You can just buy one share, if you want.

So, lower investment minimums are very attractive, and for investment advisors, they like funds, because they can pool money together and thereby simplify the trading process. If you think about it, if you're an advisor, if you had 10,000 accounts, and you want to buy the same security, you'd have to place 10,000 orders, whereas if you pool all those people into a fund, you just place one order. It simplifies the trading process immensely. It also creates opportunities for investment, because you can buy -- you'll have more money to spend, so you can buy a larger position, if there's something you like.

There's many other reasons for having funds, but those are some of the main ones.

Fund, of course, invest in all sorts of things. In the old days, stocks and bonds. That was the classic format for most funds. But these days they invest in derivatives, real estate, digital assets. Some funds, like private equity funds, will actually take interests in underlying private companies, and help to operate them. VC funds are also quite similar in that respect.

But regardless of the strategy, it's always disclosed to investors, so they know what they're getting into.

So this structure that I just went over, which incidentally, applies to hedge funds and VC funds and PE funds, hopefully shows you the linkage between investment companies and advisors. If you don't have an advisor, it's very hard to run an investment fund. It's the advisor that's running the show from an investment perspective. And sometimes you have multiple advisors. There's lots of fund that have multiple advisors for various reasons.

So, let me now move to what it actually means to be SEC registered. As I mentioned, there's a lot of these firms that are not SEC registered, so I'm going to not talk about them very much, because that's subject to state law, and other things that I'm not an expert on. But I can talk about SEC registration and what it means.

Let me start with what it means to be an SEC registered investment company. I'm not going to spend much time on this, because my sense is that the Committee is more interested in the advisor side, but just very briefly, a lot of the kinds of funds you've heard of, investment companies, such as mutual funds, closed-end funds, ETFs, these are registered investment companies, so our division is very hands on with these companies, because they're subject to a whole host of substantive requirements. Being a registered investment company is subjecting yourself to the Investment Company Act. And if you compare the Investment Company Act to the Investment Advisors Act, if you actually printed them out and put them in front of you, you'd notice that the Investment Company Act is about two or three times as thick. There's a lot more rules, a lot more substance, a lot more detail. The Advisors Act tends to be much shorter.

So that's why even investment companies is subjecting yourself to a lot of restrictions. There's restrictions, for example, on affiliated transactions, and Section 17. There's even substantive restrictions on the portfolio of the investment company. There's limits on the amount of borrowing. The list goes on and on and on, and that's really a whole other presentation. But suffice it to say there's a lot that goes into being a registered investment company.

But registered investment companies have to register with us. There's lots of different forms available. Form N(1)(a) and Form N(2) are some of the most common, but if any of you have invested in a registered fund, you probably will have received a prospectus, which is the document that describes the fund's investment objectives and strategies and fees. That is all part of a Form N(1)(a) or a Form N(2). That's where it all comes from.

And registered investment companies also are subject to a whole host of other requirements. There's a little alphabet soup of forms they have to fill out. Form N-CEN, Form N-PORT, Form N-PX, and on and on it goes.

So, I think in many ways registered investment companies are similar to public companies, in terms of the volume and frequency of reports they have to make. As I said, there's a lot there, once you subject yourself to SEC registration, once you have to register.

Let me then move on to investment advisors, which I think is what probably the Committee is most interested in. Investment advisors is --

MS. NIKLASON: What is the trigger for having to transition from an advisor to an investment company, and be regulated?

MR. MEHRESPAND: It would be very unusual to transition from one to the other.

MS. NIKLASON: Okay.

MR. MEHRESPAND: Because it's a different business model. An investment company is just the pool of assets, and the advisor is the firm that invests those assets. So they're fairly distinct business models.

There are firms that transition from being state registered advisors to SEC registered advisors, so that definitely happens, or vice versa.

Investment advisors, as I was mentioning earlier, are fundamentally asset managers, so they provide advice about investing in things. Could be securities, could be bonds, could be real estate.

I used to work with a company that provided advice about investing in timber. So there's all sorts of niches in the industry.

In order to be a registered advisor, you have to fill out a form, just like with investment companies. In this case it's a Form ADV. This is public, by the way, so anyone can go online and find a Form ADV for any SEC registered advisor. The Form ADV has three parts to it. Part 1 is a check-the-box form, which has the advisor's name, the estate where it's formed, and also information about its principals.

So if you own an advisory firm, or if you're say a chief compliance officer, that's all public. The advisor has to note who owns it, even going up multiple levels on the org chart. All of that is public, and it's disclosed in the Part 1.

In addition, Part 1 has disclosure of disciplinary events. So if you look at some of the larger firms, with thousands and thousands of employees, some cases they have to disclose disciplinary events, which is in part a function of having just so many employees.

There's also a Part 2, which is a narrative document. That's called the brochure. That's more of a plain English document. It's also often distributed to investors. That will have additional information about the advisory business, some of the risks of investing with that advisor, fees. It will have conflict of interest disclosure, and there's often a supplement, which requires the advisor to provide key information about the personnel involved in managing a particular investor's money.

So through the Form ADV, if someone reads it carefully, you can figure out who are the principal people at your advisor, who's the compliance officer, who are the owners, who's providing the funding, and also who's actually responsible directly for managing your money.

All that information is available. It's public, and I think that's one of the nice things about the advisory regime. There's a lot of information available to investors, that they receive, and also that they can access online at their convenience.

There's a bunch of other reporting

requirements applicable to advisors. I want to be mindful of time, but I want to just mention one, which is a Form PF. Some of you may have heard of this, but this has been around since the Dodd-Frank era, but it's a form where SEC registered advisors, who advise private funds, have to provide information about the private fund, including some portfolio information about the private funds.

But one of the key things about the Form PF I want to mention, is that is not a public document. That's filed with the SEC. We do publish some information about Form PF, sort of on an aggregate basis, but the Form PF fundamentally is non-public.

Okay, so I think I'm probably at time or perhaps over. I wanted to see if anyone had any questions.

MS. DUIGNAN: Yeah, online folks?

MS. DAWOOD: I was just wondering, how do you then make sure that everybody is doing what they're supposed to be doing, now that they've outlined it so beautifully in these documents?

MR. MEHRESPAND: Oh, sure. Well, that's where Exams Division comes in, so advisor firms are subject to examination and they're examined every, you know, every so often, and at that time there's a substantive review of the advisor's program and their compliance procedures, and so on.

In addition, as many of you know, on our website we have ways for investors to reach us, reach out to us, if they have any things that they think we should know, and sometimes people let us know things that are of interest, shall we say.

MS. DUIGNAN: All right, great. Well, thank you so much. We really, really appreciate that incredibly helpful background, and want to thank you for your time today, Marc.

Before we move on to our esteemed outside guest speaker, I did want to give Kristen Hutchens the opportunity to have the floor for a minute. I think Kristen had some things she would like to talk with us about.

MS. HUTCHENS: Thank you so much for fitting this in. As you all know, Bill Beatty is a member of this Committee, and unfortunately, he could not be here today. He had a conflict he just couldn't move.

I'm Kristen Hutchens. I'm NASAA's Director of Policy and Government Affairs. NASAA, as you all know, has a representative that serves on this Committee, but also the Investor Advisory Committee to the SEC. And I just wanted to take a moment to thank you all for circulating the testimony that we submitted in connection with the panel they did a few months ago, on the Accredited Investor definition.

If you all have time, as you continue to talk about this important question of policy and law, please consider taking a moment to look at that testimony. It was by Amanda Senn, who presently is the Director of the Alabama Securities Commission, and she works very collaboratively with Bill and other state securities commissioners.

In that document, we do endorse the idea of indexing income and net worth to today, and also going forward. In addition, we do call for backing out retirement accounts. Obviously, we have listened today with great interest, and will certainly continue to reflect on the comments today, but I do want to highlight that is our present positions on this, and are just grateful for you all taking a moment to look at that testimony.

MS. DUIGNAN: Thank you so much. Appreciate your thoughts there. And as we move on to outside speakers, I am really excited to welcome in person, joining us, Anna Snider, Head of Investment Selection for the Global Wealth and Investment Management

Division of Bank of America.

In this role, Anna is responsible for manager research across all asset classes for the Wealth M ng Business, so she clearly knows a lot about a lot of different things, is exciting. Anna has had a number of roles with B of A, including Managing Director out of Global Equity Due Diligence, and began her career as a bank examiner at the Federal Reserve Bank of New York.

So, welcome, Anna. We're really excited to hear from you today.

MS. SNIDER: Thank you. And thank you for letting me sit in on this morning's discussion, because I think it has a very large linkage to -- as it relates to your conversation around inclusion and the difference between eligibility and suitability, that people in my seat in the industry face, and I will say, you know, the comments that I'm making today are from sort of the vantage point of my seat, but I think they do represent some of the constraints that institutional investors have, in thinking about how to be more inclusive in selecting investments, in particular, both diverse lead investment firms or funds, but also in underlying diverse founder, you know, founders, et cetera.

I think one of the interesting, to carry on this discussion, this morning's discussion on the Accredited Investor, at Bank of America in the Wealth Management Division, and I believe at most large intermediaries, so I'm considered a wire house or a large intermediary, in the context of Marc's comments. I basically pick '40 Act and other types of funds, and we are an advisor, right?

So, in that advisory role we are playing -- for the people who are lawyers in the audience or on the phone, there's fiduciary responsibility that's a large F, and then we call it sort of a small F, fiduciary responsibility, which I'll get into. But essentially, my team is responsible for selecting investment solutions across asset classes, that meet a certain set of standards.

And the first clarification I'll make, and again, I believe this is the case in many of my counterparts' platforms, as well, and these are very large platforms. We manage -- we represent large amounts of quote, unquote, retail assets in the United States and globally. And all of the investments that you mentioned this morning actually do not -- are not eligible for Accredited Investors. They are only at our firm QP investments.

So, the first thing potentially could be, you know, once the wonderful recommendations that this Committee has made, you know, become enacted, I think clarification --

MS. DUIGNAN: And just for clarification, for everybody here, as well as those maybe --

MS. SNIDER: QP --

MS. DUIGNAN: The difference between a QP and an Accredited Investor, as it stands?

MS. SNIDER: All right. Someone is going to have to correct me about the like thresholds today, but basically, I think right now -- let's just say as a baseline, a QP is a qualified purchaser. That's also a qualified client, which is the middle of Accredited Investor, but a qualified purchaser has about 5X, the asset/income threshold, right, so -- so the Accredited Investor definition, you know, and, therefore, and then what could happen under qualified purchasers, probably both need to be -- I would say that they both need to be examined, because in large institution or intermediary businesses, the qualified purchaser is what we're talking about, when we're talking about venture capital, private equity, private credit, really, any of the things that we are discussing.

And it is also -- and that threshold actually, often just for context, when we're dealing with single investment, so we have a qualified purchaser requirement for diversified pooled funds, which were being discussed this morning, as the more diversified, therefore, slightly less risky, way to go about investing. When you're talking about individual investments, those requirements in many places, in many intermediaries, actually get put a large multiple on top of the qualified purchaser, for investing in single companies.

I'm not a lawyer, so I don't know all of the reasons I will say, but I've never seen a private equity fund anywhere -- that has been offered, you know, in sort of the institutional, intermediary community being offered as an accredited investment, and so some of my comments today actually are about thinking about that, you know, where these two conversations come together, just sort of given the role of intermediaries in this echo system, and, you know, not to be -- not to pat ourselves on the back, but some of the conversations about, you know, having investments that are vetted by sort of institutional processes, or more sophisticated investment teams, like I may represent -- I won't say I do, but as I may represent, right, in that context, I think those two conversations should be put together, just as a point.

But outside of eligibility and suitability decisions, and again, not a lawyer, just an investment person, but I think that even -- even if the, you know, let me take a step back.

So, one of the questions on the table here is around disclosure, and I think that, you know, certainly disclosure of diversity information, and evaluation of diversity and inclusion, practices and policies, and trends, is not a new thing in the institutional world. It has been -- it is being asked by many institutional investors more than it was today, than say pre-2020, but emerging manager programs and institutional investors, like pension funds, have been asking for this information for a very long time. I would say more than a decade, and in many cases, and the comment that often gets made, which I do think is true, is that, you know, a large investor, a group of large LPs, asking for this information, really changes the way that then general partners or fund managers think about diversity inclusion.

I think that is in part true, but factually the numbers, and you all know them, because that's why we're here and discussing it, but the numbers have not changed at all in terms of capital allocation to diverse fund managers or diverse founders, even in the midst of dedicated emerging manager programs and disclosure requirements.

So, I think the California rule is a really important -- the venture capital rule, more specifically, is a very important consideration, or potentially a model, but I do think that there are other constraints that then occur after disclosure, that we have to consider, as well.

So, just some observations on that, and again, not at all being critical of the programs that have existed that have served to fund many diverse owned and founded investments, I think that there's a set of additional considerations though, that still keep people back from really going head long into that, even with the best intentions.

So, one of the things -- one of the major concepts that say my team and others like me in the industry operate on, is this fiduciary rule, and that -- and in pension plans, it's sort of DOL, and that's not my world, but there's obviously, you know, 401(k), that was mentioned before.

I operate under a rule called the Best

Interest Rule. It's an SEC rule, and it is a fiduciary type rule, where you have to really prove that -- or demonstrate that the investment that you've made, right, is suitable and that you've sort of vetted, done everything you need to do to really understand the risks and vet that investment, and understand who it's going to certainly. Maybe that last part is not Reg BI, but the suitability is. Anyway, again, not a lawyer, so don't hold me to all these things.

But within that -- so, I'll give you an example. So say that I want to look at an emerging manager, and like for me that could be -- and I know that this is even large for some of the funds that you're discussing, but say I want to look at $100 million venture capital fund, that is on Fund 2. All right. We -- that's still considered, in the institutional world, an emerging manager. And so for me to do that, I have to put them through the same process that I put -- and I won't name other names, but some of the managers that were discussed this morning, that are, you know, I have to put these funds through the same investment process that I have to put any like household name fund, which means in the private equity -- venture capital world, venture capital world, that they have to have a -- not only a, you know, an investment thesis and a track record that I can at least understand and view. It doesn't have to be extensive, but at least there's something that I can understand about the probability that they are going to at least achieve their investment objective that they've set up.

But they have to have a pretty rigorous infrastructure operational, so even VC exempt -- even venture capital companies that are 150 million and, therefore, potentially exempt from -- they call it the VC exemption, still -- to be offered to a platform of the client base, right, which as you can imagine, for a Merrill Lynch Bank of America, is a very -- in the millions of clients. To be considered for that client base, it has to meet all of the -- it has to have all the service providers. It has to have the boards. It has to have the -- really, the infrastructure that allows me to say, yes, this is an investment, and it could be -- it could be -- it's risky, right, and so we, I think, do a good job, at least at a firm like mine, we do a good job at really talking about the risks that an investor faces in these securities, but the constraint about even being able to offer them, is that they cannot meet, right, because it is such a cost burden, potentially, for managers to implement $100 million, to implement, you know, a whole set of, you know, tier one service providers. Right?

It is really difficult, but it's not, you know, it's not compliance or for compliance sake. It's because, you know, we deal in investments and investors can lose money on investments, because that's what investing is, but if you were to lose money, based on operational failure, or fraud, that's a very different reputational and business prospect for us and it's -- essentially, you know, not fulfilling our fiduciary obligation.

And so, all that being said, back to my -- so this $100 million venture capital, you know, team of three people, the Chief Compliance Officer is also the chief legal officer, is also -- you know, the CEO's running the fund. You know, they have -- they're self-administered, and all of these things mean something.

That ends up in a risk profile, that while very -- it would be very common to see with a fund of that size, it ends up that it looks like a risk profile that is very much -- so much riskier than the mutual fund, right, or even the large private equity or private credit manager, that we put on the platform, and so I would essentially have to -- if it even would pass, sort of, the minimum standard I have as a fiduciary for inclusion on the platform, it would probably be rated as extremely risky and maybe not even, you know, eligible to many different types of clients.

So it is the -- it's not just the disclosure, it is the standards by which large sort of multi-stakeholder firms, right, which control a lot of capital and retail capital, in this country and globally. It's sort of, you know, while the SEC and other regulatory bodies obviously are trying to protect investors, you know, and Reg BI is an extremely good regulation for many, many, many reasons, it does cause this friction in terms of opening up investment platforms, to, you know, or having inclusion, right, in investment platforms.

So let me just -- I have a couple of things that are not my recommendations, but, you know, points for your consideration, potentially, and how to think about this, but I'm happy to take any questions, if that's okay, just to clarify anything that I said.

MS. DUIGNAN: I do have a little question.

MS. SNIDER: Yeah.

MS. DUIGNAN: You know, I think that's so interesting, what you're saying about the service providers, and as somebody who runs a $700 million venture capital fund, you know, I definitely understand the cost impact.

How do you see the sort of fast development and integration of technology, in the service provider world, for running these funds, impacting your ability to maybe feel more comfortable or, you know, sort of being able to provide more for less, and potentially make smaller funds available to your clients? Do you see technology being able to solve some of those issues?

MS. SNIDER: Yeah, I do. I think that eventually, I mean, I don't know how long that will take versus how much time we want to have the numbers not move, but, you know, and things, you know, I think rightly so, in -- like in my opinion, not the opinion of Bank of America, but, you know, things -- the financial services industry is conservative, because we have a lot of people's money at stake, and we're trying to do the best for them, and so we don't step into things very quickly, right, we take time to understand how technology, you know, what are the risks of that technology, as well as the benefits, obviously, from a cost perspective, but I certainly thing that it will -- you know, whether it's blockchain or tokenization, or just, you know, more efficiency from AI or other types of, you know, self-enablement, that's going on in service providers. I do think that that's certainly something that will help, but, you know, sort of timing-wise, you know, I don't know if that, you know, I think that plus maybe more clarity around what you were discussing this morning, in terms of eligibility, suitability, and sort of opening up that aperture a little bit, would be helpful in conjunction with that.

MS. DUIGNAN: Herb.

MR. DRAYTON: And I have a question. You did a very good job of explaining the asset test, that you have to put all of these funds through, whether it's a million dollar fund or $100 million fund, you still have to take it through that same process.

Why do you think most other financial institutions don't take the time to share that information with -- so that the $100 million funds that are reaching out to them for investments, not under the CRA, you know, bucket.

MS. SNIDER: Right.

MR. DRAYTON: Because that's where a lot of financial institutions want to force funds, smaller sized funds. They want to force them into that CRA bucket.

MS. SNIDER: Right.

MR. DRAYTON: Which doesn't -- to ask, you know, are you a CDFI. They're asking these questions but not really explaining to them why they can invest in them.

MS. SNIDER: I can't speak for the entire industry. I don't know what, you know, nothing that I just said -- everything that I just said is factual and not -- like I said, I don't -- I'm not representing everyone that sits in my seat everywhere, but these are pretty common constraints, and, you know, and the difference, and I think a lot -- because I think a lot of say $100 million -- so $100 million VC funds, they go to family fund -- you know, they go to a family office, and the family office can just write the check, because they are -- you know, they're their own decision-making -- they're their own fiduciaries, right, essentially, and they have a set risk tolerance and they have a set ability to say we can lose or, you know, this much money.

Pension funds also can have, you know, have their own -- obviously, they have multiple constituents and boards and their institutional investors, but the reason that they have emerging markets programs is that they actually are a single pool of assets that can take certain levels of risk in parts of their portfolio, as long as, obviously, the board is okay with that.

In cases like -- for intermediaries, and I don't know -- so often people say to me, well, those people can do this, why can't you? It's because I have a platform -- I have a platform that is -- that I have to fulfill. Yes, we have different risk tolerances and we understand, you know, what different client -- the tolerance that different clients might have for risk, and that some might be able to bear and be sophisticated enough to understand the risk of, you know, more risky investments.

But I still have this standard, right, that sort of has to fit -- a minimum standard that has to fit the multiple -- like it has to fit into -- it has to have -- it's a minimum standard, that basically has -- everything has to at least meet, and then we overlay sort of the risk tolerance and everything on it, which is -- so it's a multiple investor pool, you know, pool of capital, rather than a single pool of capital that has one risk profile to it.

And that's sometimes the -- that's why often we'll say to smaller funds, you know, go to these single decision-makers, family offices, endowment foundations, et cetera, you know, and, you know, before you come to these larger platforms, but, of course, we have a, you know, we have a critical role in the ecosystem, in my opinion, as well, and I think there's more clarity that we can all get from both a regulatory perspective, you know, and being able to -- and to enable us to do more, you know. Maybe we're not going -- we're not going to be the first -- we're not going to be angel investors, like they were not going to be the first capital potentially in something, you know, with client assets, but certainly there are constraints that I think that can be worked within, that we -- that could open the aperture today.

MS. DUIGNAN: Bart.

MR. DILLASHAW: Could you come to a little bit -- it sounds like you're talking about two sort of dynamics of evaluation. One is sort of a parameter of just operational checks and balances.

MS. SNIDER: Yeah.

MR. DILLASHAW: But also, even within just the fiduciary or the investment risk, are you limited in your ability to choose other factors, other than maybe financial return? So, for example, if you have, you know, maybe there's a class of investment that is perhaps more interested in some social aspect than investment aspect, and are you limited in your ability to sort of say well, you'll make more money investing in oil companies, but you don't want to do that, so you'll invest in the environmental company, or maybe go into a little bit of how you balance those risks?

MS. SNIDER: Yeah. So if we have one or more clients that have a specific mandate, where they're specifically saying, right, in your role as our investment advisor, you know, we want you to prioritize these characteristics of an investment, you know.

I don't know if I would go -- say over financial return, but a more balanced set of, you know, where we're looking for multiple objectives. Yeah, we certainly have multiple of those mandates, and have a platform of investments that will meet that, but it's a very defined set of clients, right, that would be looking for that.

MR. DILLASHAW: But yeah, that kind of gets to the core of my question, is with -- under Capital F fiduciary, would you ever be permitted to choose the blatantly worst investment, because it tracks higher along a different parameter, that your investors may say, that's a parameter that I care more or are you, because of Capital F, fiduciary, sort of duty-bound to -- so, prioritize financial return, or does it not work like that?

MS. SNIDER: I mean, it tends to -- and again, this is where, like the big F and the little F, which like the general public, I understand, but -- doesn't understand, but like when you're talking about trust law and ERISA law, and things like that, those are actually -- I can't comment. I can't comment on that, but in the context of the fiduciary that -- we can't have client directed investments, but again, that's, you know, to have a more included right to sort of be able to say, here's a playing field, right, where these are the most risky investments, and, yes, you're going to take more risk doing that, and, yes, they don't have all the features, like there's also an operational risk component. They don't have all the features or sort of they're not de-risk to the point where others are, and go along that spectrum. It is actually hard in a fiduciary environment to do that. I don't know if that answers your question.

MR. DILLASHAW: Yes.

MS. DUIGNAN: So one of the things, you know, that we're working on is brainstorming ways that we can hopefully help address some racial and gender equity issues in the capital markets, and particularly in the private markets, through various mechanisms, including disclosure and reporting. So, we'd like to, you know, get an idea of your thoughts there on what kind of disclosure and reporting has maybe made your QP, qualified purchaser, clients think about how they're allocating, or if it's really had any impact, or if you think there are some creative ways that the industry might be able to make people more cognizant of the sort of additional dimension of data around their investments.

MS. SNIDER: Yeah, I -- there have been a lot of institutional consortium to have, you know, beyond sort of the California rule, to have them -- an association to have people disclose data. I think that -- and again, my personal opinion, I think without some incentive or decentive, associated with, you know, saying well, here's the baseline, and we do this -- so we actually ask for data across all of the investment managers that we cover, regardless of asset class, we ask for this data, and we have been for a number of years.

And it's included as part of our very -- very multi-dimensional, but part of our establishing conviction in an investment manager, because with the -- well, some might question how that fits into an investment process, I would argue that they may not know or understand that the data around diversity of background thought, et cetera, in the context of decision-making, is a pretty well-researched and evidenced field, right, that decision-making processes are better, right, and so what am I doing every single day, but making assessments around the efficacy of investment teams' decision-making processes, across asset classes, and so it figures that if that is something, right, if it's been proven that that is something that, you know, whether you're talking about the company level, leads to lower risk or higher profitability, or potential -- even a potential for better return, why would I throw that data out, in the context of a decision-making process?

Now, it's not the only factor, right, that we use to assess investment managers, but it -- the point is that it matters, right, how -- and again, we don't -- because the industry may be behind, right, in its sort of diversity profile, we don't -- we start with the managers sort of at the baseline that they are at, and look for positive trends, rather than just more and more onerous data requirements, which I think, you know, is some of the pushback that we've seen on recent regulations, because anything that's like we're extremely reporting heavy, where you may not have kept the data, now there's a rule to, you know, we get it.

So, we try to work with managers, at least to create a simplistic baseline of where they are, and whether they're improving, but it is -- but it is just like any other performance or other organization of our team data that we ask for.

Now, I don't know -- again, I cannot speak for others, who are collecting this data, as to whether it's used in that much of an active way in the context of their own decision-making processes, but I think that is -- that may be, just this is a posit, I'm positing that that may be why the collection of data, that the results haven't necessarily been there.

MS. DUIGNAN: Thank you.

MS. SNIDER: I didn't answer that question directly for a reason.

MS. DUIGNAN: We understand that happens in here sometimes.

MS. SNIDER: Just to call myself out.

MS. DUIGNAN: Would love to see if any of the online folks have questions? Any hands raised there? No?

MR. DRAYTON: I have a quick follow-up. Anna, on the positive trends that you mention, can you give a little bit more color as to what you guys are saying at this point?

MS. SNIDER: Oh, sorry. I'm so sorry. We're seeing changes in the large, publicly-traded asset managers in the industry. We're not seeing much change in privately-owned and smaller funds or investment managers.

One of the reasons though for that is a smaller team often doesn't go through the kind of -- like investment management shop does not go through the kind of turnover or like is not hiring in like large scale, right, so the profile of say their investment team or their organization, actually does change, tends to change more slowly than a larger asset manager, who's, you know, hiring hundreds, if not thousands, of new people a year. People are sort of -- there's attrition and they can promote and then -- so it's not, you know, it's not necessarily -- there's -- and by the way, you know, the setup of this industry is like if senior investment team members leave, it tends to be not a good thing for getting future investment dollars, so you have to be very careful about how investment teams change the, you know, change up the decks, if you will -- that's a mixed metaphor, but, you know, in terms of the diversity profile of their teams, but we just at a macro trend level, that's what we're seeing, sort of more publicly-traded, larger asset managers, moving in that direction faster.

MR. DRAYTON: But do the small institutions lag the larger ones in terms of performance?

MS. SNIDER: Return?

MR. DRAYTON: Yes.

MS. SNIDER: No.

MR. DRAYTON: No? Okay.

MS. SNIDER: I mean, not -- I mean, it would be hard to link that one -- just to your point, it would be extremely difficult to link that one factor though, there, and because we have a select -- because we're highly selective, I'm not also talking about the average universe.

MR. DILLASHAW: You talked a little bit about the sort of -- you know, fund meetings, sort of a bare minimum of operational control in top tier service providers. Do you have any sense of what that costs, like what that sort of results do in terms of just actual administrative cost?

MS. SNIDER: I mean, you probably know better at -- yeah, I don't -- like, it would be like what is the cost per, like -- I don't know like cost per revenue. I wouldn't know how to like put it in a relative --

MR. DILLASHAW: Even at its --

MS. SNIDER: It's hundreds and hundreds of -- it's likely hundreds and hundreds of thousands of dollars. Like a completely -- like conflict -- you know, something that would look completely like -- separate CC -- you know, C Suite plus the board plus all the different service providers, I would imagine would be in the hundreds of thousands, if not millions.

MS. DUIGNAN: Yeah, it's a lot, and I think, you know, the issue is that for the smaller firms, you know, management fees can't support providing all that infrastructure, and, you know, even if you were to hire service providers, and you can charge back to the fund, it still would be a pretty significant chunk of your fund, and please don't quote me, but I believe we told our LPs that we wouldn't spend more than like a million dollars on kind of fund formation and other types of, you know, just extra coming -- the fund fees, so we are limited of that.

You know, one of the things I'd love to get your perspective on is, you know, the new California reporting law, and, you know, first of all, I think it's amazing because so much VC money comes out of California. They sort of handled it in one fell swoop, pretty much.

MS. SNIDER: I'm going to those in -- you know, so -- yeah.

MS. DUIGNAN: So I'm actually excited because, you know, we will get a large amount of information, but I am curious, yeah, you know, like a little bit to your question, is it really such a cost to these folks to actually collect the data, and would there be some benefit, you know, on having this information on a more national level?

MS. SNIDER: I mean, again, not the opinion of Bank of America, but, you know, from my seat, having data is phenomenal, and you can make certain set of decisions, but having more of the constraints that I just said moved, right, or alleviated, in some shape or form, at least for some set of clients or for some portion of our platform, would be more beneficial than, you know, disclosure.

I don't know what the cost infrastructure of setting, you know, it's getting easier.

MS. DUIGNAN: I am filling out your little Excel spreadsheet. You'll get it before the 12th.

MS. SNIDER: Yeah. No, but I do think some of these constraints that actually stop things before they even start, even if you do provide data, are the more -- the more complex, but really sort of what's holding a lot of allocators back from, you know, from wanting to and being able to be more inclusive in terms of their investment platforms.

I mean, so and just as a point of note, the -- like, the ability for something that was more -- was more clear around what were the minimum infrastructure requirements that are needed, right, to say something is de-risked enough, right, for fiduciary, like me to then say, this fits into my standard, rather than me having to sort of guess what that might look like, would be really helpful.

You know, and certainly where, you know, having either platforms or, you know, Fund-of-Funds are sort of next generation Fund-to-Funds, that, you know, maybe have -- you know, where there's the ability to scale an aggregate capital, because there is also a, you know, the work that goes into raising $25 million for $100 million fund, is the same or more work that goes into raising $500 million for a $4 billion fund.

And so that -- and that is just an economic reality of a business model, because we have to do all the same work for everything else, and so, you know, where there are industry, like creating ecosystems in the industry, that allow for scale and aggregation, which doesn't necessarily mean that investors are off trying to find and that, as we discussed -- you discussed this morning, investments on their own, but where there's some vetting or institutional process applied, and you have the means to scale.

And again, you know, vet investments, but have that, you know, all the individual funds having to invest in the de-risked a little bit, I think that's also -- you know, I don't know if that's a policy or regulation. It's more of a market mechanism, but Fund-of-Funds have become less popular, for instance, in recent years, for a variety of reasons.

MS. DUIGNAN: Yeah, I was going to ask. I would love for you to dig into that, because I think a few years ago, you know, there was a weird sentiment that Fund-of-Funds were going to solve this problem, and be a great way to sort of raise capital for, like a lot of smaller funds to function. And by the way, guys, like truth be told, you know, risk is perceived differently, you know, a $4 billion fund, you know, has a much harder time achieving, you know, a 50 percent plus -- than, you know, a 75 or a hundred million dollar --

MS. SNIDER: Right.

MS. DUIGNAN: So if there's like maybe more risk of the down side, but also, it's harder to make a lot of money, the bigger the fund is. So, you know, there's a reason for existence of smaller funds. I think also, you know, the smaller fund can almost act in a more interesting way, like within a community. Right? Versus a mega large fund, which doesn't have the same sort of close relationship with either a geographic community or, you know, community based on some other attribute.

So, you know, we had high hopes for Fund-of-Funds, you know, being -- I feel like when we were raising our fund, '20, '21, at the end of the pandemic, like so many people I met were like, oh, I'm raising a Fund-of-Fund, like I think they all thought like Fund-of-Funds were going to happen, and, you know, over years, I was like nobody really got in the Fund-of-Funds race.

So if you could tell us a little bit, like why isn't Fund-of-Funds, you know -- our lives in -- and to, you know, is there some way the product could maybe change, so these types of smaller funds might be more available as a diversified pool, to say platform investors?

MS. SNIDER: Yeah, I mean, so Fund-of-Funds are still used by pockets of investors, but not as widely as they once were used. I mean, so the point behind them was to have a professional person pick the -- do the selection and the allocation, based on what the market environment looked like, and you would just do that every year, so that you didn't have to create, you know, create an entire staff to look at, you know, expertise across the private markets, for instance.

You know, and again, we have a number of really good and very longstanding Fund-of-Funds at our platform, but that industry -- this is even pre-GFC, but a particularly post-GFC, Great Financial -- 2008, let's just say -- sorry, that's industry jargon -- were perceived sometimes negatively, because investors thought that the returns weren't high enough, given the layer -- given the fees, right, so in the Fund-of-Funds, you pay for the person to select the funds and allocate the funds, but you're also paying for the underlying manager funds.

And as those funds grew in size, the more line items, the more diversification. To your exact point, the less return, and so the perception was the tradeoff between return and fee, not risk, but the return and the fee wasn't significant.

But there are many, you know, but Fund-of-Funds have grown up, and there are also lots of other, you know, platforms and mechanisms today, to, you know, in an institutional way -- not lots, sorry, but there are -- I think there is an opportunity for that structure to, again, be used, right, in a way that -- where those tradeoffs between fees and the risk, can get into the correct balance, and used to be scale -- you know, used to scale and de-risk diverse manager investing.

MR. DRAYTON: Anna, with all that said, Bank of America figured out how to get resources to emerging fund managers, significant amount of money they committed.

MS. SNIDER: Bank of America, in its proprietary --

MR. DRAYTON: Platform.

MS. SNIDER: Outside of the Wealth

Management platform.

MR. DRAYTON: Outside of the Wealth Management. Well, let me -- and you may or may not be able to answer this.

MS. SNIDER: Mm-hmm.

MR. DRAYTON: Why haven't other financial institutions figured it out, as well?

MS. SNIDER: I'm -- you know, giving credit to -- without naming -- I think other financial institutions have maybe focused less on diverse managers, and some have focused on funders, diverse -- I'm sorry, not funders. Founders, say more than diverse managers, so every -- I think everyone has their pockets -- the team who I work closely with at Bank of America, I'm extremely proud of the commitment that they've made, and obviously the firm, you know, increasing that commitment over time. But actually, for me to take those funds that Bank of America has invested in, with its pool of assets, and again, it's not -- assets, but, you know, with its own capital, and for me to transfer say all of those to the Wealth Management platform, I run into the same constraints that I just explained to you. So we have done, you know, we're constantly looking at that list, because it's obviously, you know, we know the managers, et cetera, et cetera, but for them to be then more offered broadly in the Wealth Management platform, they have to go completely independent review, and are now subject to different -- right, because that essentially is a different pool of capital, with different risk and objectives associated with it, than I have on behalf of Wealth Management clients.

MR. DRAYTON: Well, I think it's helpful to know that you're at least looking at those managers.

MS. SNIDER: Yeah.

MR. DRAYTON: So, there's a bench over there that, once they cross a certain threshold, then you would consider having a conversation with those managers.

MS. SNIDER: Yeah, 100 percent, yes, and we do. We are constantly, yeah.

MS. DUIGNAN: Great. Well, thank you so much, and, you know, I certainly love the idea of maybe even -- I don't know how you'd do this, but obviously I could ask you, but, you know, is somebody even making it clear to people around, you know, what it takes to actually be on an investment advisor platform? You know, as well as the costs and, you know, all of that? I think it's really valuable information to people who are raising funds, and who maybe wonder, you know, why that they're not on it, so really, really useful.

Well, any more questions from the Committee? All right. Anna, I want to thank you so much for your time and expertise today. It was incredibly valuable, and we very much appreciate you educating the Committee, as well as the viewers, on this really important issue. We are hoping to have some recommendations on this issue, probably not by next meeting, but hopefully over the course of the -- so, thank you very much for that.

MS. SNIDER: Thank you for having me.

MS. DUIGNAN: Okay, great. So, definitely we'd love to thank you for coming, and would like to start our discussion on any sort of recommendations we have that might -- we feel might come out of today's work.

So I think we were done with Accredited Investor, unless somebody got inspired over lunch. I'm happy to pick up the Part 2 there. But I think the general plan was to talk a little bit about the diversity issue for the remainder of the session, but feel free to jump in about Accredited, if you have a thought.

MR. DILLASHAW: What I heard from Anna was that one thing that may be helpful is some clarity around what it takes to meet some of the fiduciary standards. It seems like there is a very high admin -- administrative burden, that doesn't scale with fund size, so the lower you go, the bigger portion of your management fees, has to support the same infrastructure, and I think what we've heard from past speakers and what people talked about, is that emerging managers can't start off with the $400 million fund, they have to start off with a $50 million fund, and if you're having to pay the same million dollars for your bare minimum services, that takes up your entire management fee, and this is not my area of expertise, so I don't know enough about how much of that is compliance driver versus sort of market driven, but it sounds like a fairly high percentage of it is compliance driven, so that may be where there's an opportunity to decrease costs and open up opportunities for emerging fund managers.

And, Erica, I don't like talking to you. You probably have far more insight in this than I do, but --

MS. DUIGNAN: Yeah. I mean, I, you know, I'm learning, just the same as everybody else, but, you know, one of my questions was really around technology, so one of the things I'm noticing is that with better integration of technology, some of these, you know, sort of risk protocols, can actually be implemented quite inexpensively, I think, so, you know, for example, we had our first full audit of our fund in 2023, and, you know, I noticed the auditors that we used, who shall remain nameless, I mean, it was like very low-tech approach, and it was laborious and painstaking, and, you know, could have been done so much more efficiently, and so much, you know, more inexpensively, had simple technology, but implemented, and so, you know, we talked to our fund administrator to say hey, you know, do you actually -- are there some auditors out there that are actually integrated with you guys, and they're like yes.

So, you know, I think these things are possible, right, like if you look at the way a lot of these, you know, service provider interventions, have been offered and priced in the past, these are industries that have not been very tech -- and it cost a lot because, you know, they're not using the tools that are available to them.

And, you know, I feel lucky that, I think, in the venture capital industry, with the sort of early 2020 proliferation of smaller firms, there has been some investment in technology and tools, that can enable a smaller fund to operate with similar sort of, you know, service provider level of protection from sort of fraudulent or misoperation.

So I'm actually looking forward to that, and I think it will, you know, could have a meaningful impact on the ability of smaller, more focused, and potentially more diverse led funds, to get on platforms and get endorsement from, you know, the big investment advisors.

And I think that one of the things that we're trying to figure out, as we think about the small businesses that are getting funded underneath, right, as well as opportunities for investors, being a little bit, you know, more diversely open, the more that we can use tech, in order to provide greater retail access to these products, I think we'll be able to kind of kill two birds with one stone. So, I think technology is part of that.

MS. DAWOOD: So I like what you're talking about there, and going back to what we talked about this morning with the Accredited Investor definition, and trying to make sure that we aren't excluding people, that it's more inclusive. You know, if we go all the way back to the, you know, kind of the earliest stage of some of these companies, these founders, especially founders of color, women, like they don't have the -- they don't have the ability to find people that look like them, to be able to make those early investments, and then that just keeps getting worse as you go upstream.

So, when I'm thinking about it, you know, even as -- from where I sit at the ACA, and I don't have insight into everything that goes on in the country, but the -- there's pockets of diverse angel groups even, or people who are trying to get together in order to make investment, but they're -- it's fragmented. It's kind of like what we were talking about earlier. It just seems like there's a lot of information out there, but there -- it isn't all found in one place.

So, when we talked earlier about, you know, even having videos or having education that's available to all, in one central location, like through the SEC or wherever it -- whatever platform it would land on with the government, I mean, I think that would be something that could help people of all people, feel like they were educated. I feel like there's a gap on what people feel comfortable with, and a lot of it is just because they haven't been exposed to it.

So if they're not -- they don't think oh, I could help, you know, an entrepreneurial company, because they don't even think it's something that's accessible to them, but if they had the opportunity to at least get some basic knowledge, maybe then they could, you know, start by dipping their toe in the water, just at least learn about it.

MR. DRAYTON: Just a quick comment. And maybe answering some of your question a little bit, you know, I think earlier this year I recall reading my sixth book on venture capital and private equity. And one of the things it said in the book, if you want to start a venture firm, be prepared not to have an income for two years.

And I read that statement, and it hit me, and I thought well, it has been two years since I've had a regular income already. And as I told one of my early -- it was a business partner, if I had read this book, I probably would not have gone into the space, because sometimes having knowledge creates, you know, fears that will keep you from --

MR. DILLASHAW: So you're saying education is bad.

MR. DRAYTON: No, it's not. Well, but, you know, I had the resources. We had -- I think I shared with someone here, we had sold the last two assets that we had, so we -- so I had some income coming in, had that money coming in, but those dollars were for expenses that we incurred.

I have not experienced a significant, you know, since we did our first close, all of the things that we have needed to run the fund, they haven't been burdensome. Now, that's not saying that I'm, you know, I've got a salary of, you know, $300,000 or anything like that. But understanding, doing research, to find the right fund administrator, to find a good business valuation tool, that you could use, as well, so to Erica's point, I think some of the -- most of the emerging fund managers, we should -- we're probably leveraging technology more so than some of the other firms.

On the auditing side, she's right. A lot of these auditing firms that are coming in, they're doing old school analysis. They might as well come in with, you know, a paper and pen, to do the audit. That's a burden on costs, when, in fact, just let me -- the financials, then we run the analysis and get this back to you in a couple of weeks, rather than two months, is what they're probably taking.

So I haven't -- I understand what she's saying in terms of the cost burden, but that's just not something that I have experienced.

In terms of collecting the data, you know, with California, it's not implemented until 2025, and whenever I hear someone saying that they're collecting data, I default to so what, you know, what are you going to do if that data confirms what we all know already, that, you know, still two percent of VCs -- two percent of the space is by -- women, and only two percent of the money is going into -- women entrepreneurs.

So what are you going to do once you -- if the data shows that yes, we do outperform, does that mean somehow California is going to find a way to get more money into the VCs that are out there? I don't necessarily know if that's the deal, so I agree with collecting the data, but I think it's only going to confirm and reinforce what we already know.

And if there's something that we could recommend to the SEC to do in that regard, that would be great. They can't write a check to invest -- you all can't, right?

MS. DUIGNAN: Yeah, I mean, I think -- so here's what I think, and I'm really excited about what

California is doing and, you know, I think 2025 is fine. You've got to give people plenty of heads up before you sort of ask them for new things, and I don't think it's actually going to be that difficult, right? I mean, these folks are mostly tech investors. It's literally, you could send a Google form around to all your portfolio companies, and get all the data, you know, in a week. So, I don't think it's going to be that hard.

But what I would say is important is that sometimes, just making things visible is more effective than sort of dictating to people, right? So, you know, there's something about, I think, you know, having the information and then potentially, you know, the state making that information public, right? Where it's sort of ranked, or you can sort the data by, you know, who invested the most -- the closest to gender parity, versus who was off the most.

So, I think there's a certain element that, you know, when we know something is clearly unfair, you know, and I think the fact that women make up 50 percent of the population and we're pretty amazing and, you know, for some reason, we only got, you know, two percent of the VC, this didn't, you know, happen accidentally, right? There's a systemic issue, and I think, you know, forcing the people who are, you know, making the investment decisions to sort of look the systemic issue and look the data in the face, every year, when they report it, and, you know, making it available to the media, and making it available to, you know, everyone else who is out there, and, you know, even certainly, you know, like I think about one thing and Marcia probably remembers this.

Probably like ten or 12 years ago, there's this like woman -- I can't remember her name -- I don't want --I completely forgot. Sort of older lady who just made, like realized that women were never on, like, panels at conferences, and so she made some sort of a list and, you know, if she saw your conference and there were no women on the panels, you were going on the list. And then, when social media came -- do you remember what it was, Anna? I don't remember the name. She said it was -- the hashtag, congratulations, you have -- but this one, the one that I am talking about, this lady started like even before hashtags and Twitter and whatnot, but, you know, the point was that it was a certain level of just shaming people, you know, and publicly making it available that, hey, I was at this conference and there were no women on this panel. Why?

And then within a few years all of a sudden, now you go to a conference, the organizers, like call you up, like, oh, my God, I've got to get a woman on the panel, please be on my panel, you know, so I mean, I think that no -- women regulated their way into it, but just, you know, having it pointed out, you know, ended up with the impact, and I do think, as well, you know, there are a lot of men who are making these decisions, who, you know, if they were made more aware of disparity, like, they might be thinking about it, you know, on kind of day-to-day basis.

So that's why I think that the California rule is a great step and let them lead, and hopefully we get the rest of the country to follow suit, maybe even voluntarily, which would be wonderful. I mean, we could start looking into fund the thing, like hey, you know, be like California. And so hashtag, you invested in some women this year, clap, clap.

MR. DRAYTON: I've just got to follow -- to be clear, I support what California is doing, 100 percent. And actually, when I read it, I thought man, wouldn't it be great if we could also pull in these -- advise funds, instead of doing place -- investing, to see how they're performing. And also, the family offices, with the mandate, five percent of our funds will be invested -- that would be great, if we could see those data side by side, with what California is doing.

MS. DUIGNAN: Yeah, that would be amazing. Marcia.

MS. DAWOOD: Yeah. I think this all fundamentally goes back to what we've been talking about today, about the fragmentedness and the awareness piece. You know, so since our last meeting in Boston, I held an ACA women's forum. There were about 60 women there, a lot of the senior angel leaders from Golden Seeds and other places. And we were trying to talk about the trends, some of the things that were happening in the industry, and what we could do in order to try to move this needle off of the two percent number that we keep hearing about.

And two points to make there. One of them is that we feel like, or at least the group, kind of felt that the two percent number was something that we've been focusing on, and maybe to your point about the shaming, and we could even go to the other direction, we're not talking about and highlighting the things that are happening that are good.

So to your point about the data, I really like what you said there, because you're saying hey, you know, if we find that it's true, that under-represented founders are out-performing, which we pretty much know, in this room, at least, they do, what are we going to do about that? And how do we get those stories out there, so it stops being like an us against them, you know, that we're not trying to segregate people so much when we're trying to actually bring them altogether.

And the one thing that we talked a lot about, which scares me, is the lawsuits that are going on right now with Fearless Fund, and we didn't really talk about that yet in this meeting today, but we had a lawyer and a panel of people talk about that at our conference, and it was eye-opening to see how many people have actually started to be, you know, they started to kind of slowly and quietly step out of wanting to be a part of a fund or start to say that they're going to invest in under-represented founders, for fear that they could potentially be sued, as well.

So, it's almost like there's this quiet kind of shaming that's happening, and people are, as a result, leaving, and even though the people who were doing the suing saying, hey, you can't do that, that's discrimination against white men, you know, then they're saying well, I don't -- I don't have to deal with that, so I'm just going to step out of the race.

And that scares me even more, because the less, you know, that we have representative, and it's just going to get worse and worse, so this isn't something that's going to be solved overnight, and if you've been following the story, it's kind of an up and down -- sometimes there's a win and then there's not.

So, yeah, I think it's something though that we should follow closely and make sure that we know and we're making sure that everybody here on the Committee is kind of aware of what's going on there.

MS. DUIGNAN: Is everybody aware? Does anyone have questions about it, or -- everybody, okay. You're obviously aware, and everyone else, okay. All right, great.

Well, you know, I think that obviously it's something that we should dig into a little bit, maybe in the sort of study notes that go out before our next meeting. I would love for everyone to, you know, take a little closer look at what's going on there. We could talk about it, because I think that it's a good example of, you know, when you're trying to execute something that seems like a no-brainer, good idea, what some of the risks are, and I think for us to, you know, pay attention to, you know, where could people possibly push back on some of our recommendation?

So, you know, given that we only have a bit of time left, I would love -- yeah, Diego.

MR. MARISCAL: I was just going to second that. I would love to incorporate a discussion about that on our next meeting, and I don't know if it's in the form of a recommendation or a statement, but certainly thinking about what could we collectively be thinking as a Committee, to just -- because it's so intertwined with what we're trying to do and what we're trying to achieve, and thinking about it from obviously a live -- and from all kind of -- of diversity, I think it would very much worthwhile discussing, so I just want to make sure that it goes on record that I would be very interested in having a conversation of that, and obviously willing to be a part of any pre-work or, you know, as you're setting the agenda for next meeting, not any of the substantive discussion -- as you're studying the agenda for next meeting, to make sure that that is well included.

MS. DUIGNAN: Okay, thank you. We appreciate that, and we will circulate some information, I think, on the case and the progress of the case for discussion, at our next meeting.

So, we have about 15 to 20 more minutes available for discussion. So, I would love to invite people -- so, number one, I would love to hear some out-of-the-box ideas on how we could maybe move the diversity needle. So, if anyone has like a crazy idea, a crazy thought, something controversial, I know there's some folks online, joining us on Zoom, we haven't heard from yet. Would love to hear from the folks that are out of the room, and please be bold, be brave, and, you know, as we run out of people who are willing to vocally say -- I also know that some of you guys submitted some interesting suggestions on the Google form, which I will also share.

But has anyone been inspired by today's conversation of a new idea for solving this problem? I think Dennis has his hand up.

MR. SUGINO: Yeah. So here's a controversial idea. How about having a diverse manager speak to the Committee? Or a couple of diverse managers, and I have a group called the Robert Toigo Foundation, that funds actually scholarships for MBA students, to go into the asset management business, and they've been in -- around for about 25 years, successfully doing this, with sponsors by

Wellington, Carlisle, Goldman Sachs, AKR, and so having groups like that involved in conversing with the Committee.

MS. DUIGNAN: I love that idea. Sue Toigo is one of my favorite people in the world, and was super helpful with us getting our fund off the group, with all of her inspirational motivation for us, so I also went to Columbia Business School, where I was rejected for a Toigo scholarship, so, you know, can't win them all. I was very close to getting it. But I do love that idea, Dennis, and, you know, please also just submit by email, because we want to make sure we have a record, or I guess you put it in the notes, but, you know, that name or any other names, for speaker and clients for future, so that we can have a list and narrow it down for the next one. Thank you. Anyone else? Yeah, Bart.

MR. DILLASHAW: So just in the vein of sort of crazy ideas, I did find it interesting, sort of, Anna, responding to sort of the question of well, can't you just invest in a fund, because it's women-owned or what if the criteria -- that's justification in and of itself. And you could see sort of the struggle, was sort of like wait, no, it's still got to be financially sound.

There's been a new concept in sort of corporate governance, you know, with these benefit corps, if anybody's sort of heard about that, or B corp, and it is essentially trying to deal with this struggle within sort of the corporate context of, you know, hey, can stakeholders and, you know, fiduciaries like Board of Directors, only value financial return to stockholders? Is that the only dynamic with which a transaction can be valued?

And historically, yes, was sort of the answer, at least under Delaware law. But now they sort of introduced a concept to sort of statutorily say you can elect to be a benefit corp and have a secondary or dual or even primary stakeholder group, that sort of specifically enabled to sort of allow the Board in meeting its fiduciary duties, to say even though this is the financially less savvy move, it meets our dual goal, so we're going to choose it. And I don't know how hard it would be to sort of dovetail that concept into the existing regulatory framework, but if we're throwing out crazy ideas, that may be a place to look.

MS. DUIGNAN: I love that idea, yeah, definitely. That's a good idea. All right. Any other crazy ideas?

MR. DRAYTON: It's not crazy, I think it's sane. You know --

MR. DILLASHAW: Difficult to implement.

MR. DRAYTON: I'll go back to the resources that are on the SEC site, that talks about this body of work. I do wish that there's a way that you could push that down to, you know, sort of minority business associates at the state level, because the resources there are great. I don't know if you do an integration where the State of South Carolina, they've got -- instead of referring people to the site, those resources are sitting right there on that site for them, as well, so that folks could walk through and see the resources that are available, not just at the state level, but at the federal level, as well.

MS. REISCHAUER: We are happy to have other organizations or other government sites from post -- to direct our resources, and everyone in the room and everyone listening -- they are free for all. We've already paid for them with our tax dollars, so the more we can do to get them out to end users or, you know, intermediary advisory groups, we are happy to --

MR. DRAYTON: And just a follow-up, is there a way -- would you be open to doing that in a seamless way? It's one thing to provide a link, and then send people out to you, but is there something that could be easily navigable from the, like the state's website, if you will, or you just kind of --

MS. REISCHAUER: Happy to explore that. I suspect that every state's website are -- a little bit --

MR. DRAYTON: I'm only speaking for South Carolina.

MS. REISCHAUER: Yeah, but happy to explore ways to do that.

MR. DRAYTON: Okay, fine. And I do want to comment on the -- I think it was Commissioner Uyeda said that people shouldn't lie, cheat or steal. I don't think most entrepreneurs intend to do that, but most are flexible with the facts, so just keep that in mind.

MS. DUIGNAN: And, you know, I know I didn't have like resounding support for it, but I think, you know, that's why there is a need for a level of founder/ issuer education, because I think truthfully it's not so much that they're trying to be fragile. It's just they don't actually know all of the responsibilities, right, that come with, which include how to let your investors know if things are not going well, and maybe going to zero, and, you know, being honest. I literally had one founder, not in our rain portfolio, but that from years ago, angel investment, who I think ran way to South Korea, right, instead of like telling his investors something was gone, just vanished. So, you know, I mean I think that there is an importance because it does almost seem too easy for people to do a round, without kind of -- the responsibility of doing a round, so maybe we'll look at putting all of it together for the issuers, as well.

Okay, great. So really quickly, I just want to go over some of the stuff that came in through the Google form on increased diversity and investment, and we had some suggestions, including allowing non-Accredited Investor to participate in funds that were automatically invested in offerings, based on demographic and investment targets, e.g., allowing someone to invest a thousand that would be duplicated across dozens of black-owned businesses. Okay. So, yes, that would be -- simply be like maybe investing in a firm, in a venture capital firm, that -- or maybe a debt, part of a debt fund, that's going to, you know, sort of be deployed across more diverse founders.

So, that's kind of an interesting thought.

I thought one of the things that was highlighted from Anna's presentation is that, you know, she talked about eligibility and suitability, and how, you know, she's like, oh, my gosh, Accredited Investor investing in your venture capital firms, you know, heavens, and -- at least five times that -- I was like, wow, these -- the bar is really high, so it is interesting to think that, you know, I mean, their perspective is quite different, you know.

As we're trying to lower the bar, you know, they've already raised the bar by 5X, so, yeah, I think that's food for thought.

Somebody else wrote in, mandatory reporting on diversity metrics, as California is doing. Require investment firms to publicly report on diversity metrics within their own organization, and their investment portfolios, transparency would encourage firms to consider diversity in investment decisions and hiring practices, education and outreach programs, develop targeted educational programs, aimed at under-represented communities, to raise awareness about investment opportunities and financial literacy.

And that one, I think, is actually, like pretty an interesting -- who submitted that? No one wants to take credit? I think it was Person Number 3.

Sorry, the names aren't really -- was that Bart? Was that you? Or maybe Marcia? No. George? No. Okay.

I don't know. Somebody did some really great homework and is not taking credit for it. To basically, to do more sort of local education and engagement in under-represented communities around, you know, the possibility of, you know, on raising and how to invest.

And that's actually a good question. So, we know that the SEC is providing a lot of information on the website. Are there like local offices you guys collab with to --

MS. REISCHAUER: We've worked with a number of regional groups. SBDCs, for example, where, again, share our resources and then, you know, help present and things like that. And the other area of educational -- that I should probably just flag for the group, is, our focus is on primarily the entrepreneurial side, as well as investors, but from a purely investor education side, our colleagues and our investor education division have whole another site called investor.gov, where there is a lot more sort of purely investor-focused education, so to the extent you or folks in your network are -- whether it's topic one or topic two for the day, are looking for ways for, you know, investors to educate themselves. There's a lot of work that the agency does in that area too.

MS. DUIGNAN: That's amazing.

MS. HUTCHENS: Erica, may I jump in on that real quick?

MS. DUIGNAN: Yeah, of course.

MS. HUTCHENS: Just flag that many states, regulators, do have issuer education programs, and we from time to time have an opportunity to collaborate with our partners here across the table. I think most recently we may have been in Vermont, so please do consider reaching out to NASAA to explore what resources we or one of our members might have, that would be of interest to you.

MS. DUIGNAN: Thank you so much for that. And, you know, I think when I spoke with the person from the investors -- what's the acronym for the investor committee?

MS. REISCHAUER: The Investor Advisory Committee.

MS. DUIGNAN: Okay, sorry. That's a lot shorter, the Investor Advisory -- I was like, it's not six letters? That can't be possible. Okay, the Investor Advisory Committee. He was sort of like, oh, it's so nice what you guys are doing, so stay in your own lane, like we thought the -- you know, and you guys, but it was like, yes, you're right, like we are actually here to advocate for the small businesses, and so we are thinking a lot about oh, my gosh, how can we warn the investors eventually -- but I think also really, like the more that we can give the small businesses the resources, to show up with a clear, fair, honest product that will support the market, right, because as Marcia knows, you know, running an angel group, right, the sustainability of your group is really dependent on the quality of investments and the honesty and transparency with which the founders that you bring in, you know, shop.

You know, it's like so different, right, because let's say you make an investment and you lose all your money, but the founder was honest, they communicated, they really tried, like you're cool with it, but if, you know, they didn't communicate, they disappeared, you got ghosted, and you lost your money, you know, then you're less likely to continue to want to participate in the system.

So, I think that from that perspective, you know, there's some investment that we can make on the issuer side, on the small business, but stronger -- to get to entrepreneurs, are a big part of the ecosystem, not just those investing capital.

And I'm sure you have some thoughts there, from experience.

MS. DAWOOD: Well, I just interviewed Dr. Brittany Barreto. She runs a database about all things FemTech, but she had a -- her very first company was a DNA-based dating app, which soon got the kibosh from the Apple store, on giving out DNA, but anyway.

She -- the company was going under, there was a still a little bit of money left, so she divided it up amongst the investors, and she wrote a handwritten note to all of them, saying how sorry she was and that she was going to use her knowledge now to go out and make bigger things, which she did.

And I was like, I can so appreciate the fact that you actually did that. You know, I mean, as an angel investor, to me that's what matters.

Like, yes, we might be the ones who invest and you can hit it big, and we might financially gain from that, but if we don't, at least go out and try to make the world a better place, with what you just learned, you know.

So, as opposed to the guy who I first

invested in, one of the very first angel investment, who, like you just described, he was like gone one day. He's like, oh, yeah, I don't think I want to do this anymore, see you.

But the worst part about it was he won a whole bunch of pitch competition, so everybody thought he was like all about -- but he wasn't. Okay.

MS. DUIGNAN: Be careful of anyone who wins too many pitch competitions. That's professional competition versus entrepreneur. Wonderful.

So, we are just about out of time, but I want to make sure everyone has had a chance to say any important burning thoughts, as well as, you know, to make sure that everyone who is in virtually has had a chance? Okay, great. Well, it looks like we are all done for the day.

I want to thank everyone for a fantastic discussion on two really exciting topics. I'm also really proud of us, because I feel like we're making really good progress on the recommendation for the Accredited Investor rule.

I think we came up with some really interesting, creative and thoughtful things, and I know that our discussion, I think, is helpful to, you know, all the folks who watched us live today and will watch in the future.

Our next meeting is scheduled for February 27th, so I certainly hope that as many of us can make it in person as possible. We'll be in nice, freezing, snowing weather, exciting.

But with that, I hereby move to adjourn the meeting.

MR. ABBEY: So moved.

MS. DUIGNAN: All in favor?

ALL: Aye.

MS. DUIGNAN: Thanks.
much.

(Applause.)

(Whereupon, at 2:58 p.m., the meeting was adjourned.)

* * * * *

PROOFREADER'S CERTIFICATE

In The Matter of: SMALL BUSINESS CAPITAL FORMATION ADVISORY COMMITTEE MEETING
File Number: OS-0001
Date: Wednesday, November 29, 2023
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.

__________________________ 12/5/2023
Kyleigh McGinnis (Date)

REPORTER'S CERTIFICATE

I, Kevin E. Carr, reporter, hereby certify that the foregoing transcript is a complete, true, and accurate transcript of the testimony indicated, held on Wednesday, November 29, 2023 at Washington, D.C. in the matter of:

SMALL BUSINESS CAPITAL FORMATION ADVISORY COMMITTEE MEETING

I further certify that this proceeding was recorded by me, and that the foregoing transcript has been prepared under my direction.

Date: 11/29/2023

Official Reporter: Kevin E. Carr

Diversified Reporting Services, Inc.