

U.S. SECURITIES AND EXCHANGE COMMISSION

SMALL BUSINESS ADVISORY COMMITTEE MEETING
AMENDED: 3/13/2025

Tuesday, February 25th, 2025
10:00 a.m.

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

1 APPEARANCES:
2
3 Mark Uyeda, SEC Commissioner, Acting Chairman
4 Hester Pierce, SEC Commissioner
5 Caroline Crenshaw, SEC Commissioner
6
7 Committee Members
8 Erica Duignan, Committee Chair
9 Marcia Dawood, Committee Vice Chair
10 Jasmin Sethi, Committee Secretary
11 Davyeon Ross, Committee Vice Secretary
12 Wemimo Abbey
13 William Beatty
14 Stacey Bowers
15 George Cook
16 Vincent Cordero
17 Greg Dean
18 Heath Morris
19 Bart Dillashaw
20 Herbert Drayton, III
21 Jennifer Newton
22 Laura Niklason
23 Rose Standifer
24 Wendy Stevens
25 Dennis Sugino

1 APPEARANCES (Cont.):

2

3 Panelists

4 Sara Zulkosky, Co-Founder & Managing Partner,

5 Recast Capital

6 Ashok Kamal, Executive Director, NuFund Venture

7 Group

8 Dan Zinn, General Counsel and Chief of Staff,

9 OTC Markets Group

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1 P R O C E E D I N G S

2 MS. DUIGNAN: All right. Good morning,
3 everyone, and welcome to today's meeting at the SEC
4 Small Business Capital Formation Advisory Committee.

5 It's so nice to see you all. I now call this
6 meeting to order.

7 I want to extend a warm welcome to
8 everyone, including those members who are joining us
9 remotely today. It's great to see all of you. We
10 also appreciate members of the public who have tuned
11 in to watch the meeting via Webex on sec.gov.

12 Stacey, do we have quorum for the meeting?

13 MS. BOWERS: Yes, we have a quorum. And
14 I'll start by giving the disclaimers, so we can just
15 give it once, that the views expressed today by the
16 Commissioners, myself, or other SEC staff are our
17 own and do not necessarily reflect the views of the
18 Commission, other Commissioners, or other Commission
19 staff.

20 MS. DUIGNAN: Thank you. I appreciate
21 that.

22 So we have a full agenda today anchored
23 around continuing to explore ways to support and
24 facilitate capital formation by emerging fund
25 managers, as well as a pivot this afternoon to focus

1 on smaller public companies and the challenges
2 unique to those companies not listed on a national
3 securities exchange.

4 Emerging fund managers play a critical
5 role in investing in early stage companies, which is
6 why I think it's so important that the Committee is
7 spending the time it needs to hear from more
8 participants in this space and help refine our
9 understanding of how regulatory pathways for capital
10 raising are functioning and whether or not any
11 changes should be considered, including to the
12 private fund exclusions from registration frequently
13 relied upon by emerging fund managers and venture
14 capital funds that invest in small companies. We'd
15 love to address these frictions and encourage
16 different and improved behaviors.

17 At our last meeting, we spoke extensively
18 about how emerging fund managers raise capital,
19 various exempt capital raising pathways under Reg D
20 and, certain regulatory challenges those investors
21 face. In particular, we heard from Dr. Sabrina
22 Howell about her academic paper on trends in VC fund
23 managers's use of Rule 506(c), and we discussed the
24 advantages and challenges of public advertising by
25 investors seeking to raise capital. Personally, I

1 found it so interesting that smaller and regional
2 venture capital funds play such an important role in
3 making sure that all Americans have access to
4 startup capital from a variety of investors with
5 unique perspectives, net worth, and resources both
6 small and large.

7 We also identified and discussed certain
8 relevant registration frameworks applicable to
9 private fund advisors and their funds, including
10 exemptions from registration requirements with a
11 view toward better understanding whether the
12 exemptions, as currently structured, feel adequately
13 and appropriate and whether they meet the needs of
14 the funders who rely on them.

15 Throughout these conversations, the
16 importance of networking and relationship building
17 shined through, and as a Committee, we discussed how
18 impactful personal networks can be to founders as
19 they raise capital and the importance of ways to
20 expand those networks. Building upon ideas
21 generated during our prior Committee meeting today
22 we'll pick back up on those capital raising issues
23 confronting emerging fund managers and hear from two
24 industry participants to facilitate further
25 discussion.

1 Then later this afternoon, I'm really
2 excited for us to shift gears and tackle a new
3 topic, exploring the challenges of small public
4 companies that are not listed on a national
5 securities exchange. I think that understanding the
6 decision points and challenges these companies face
7 is critical to fostering access to capital for and
8 investor participation in those smaller public
9 companies.

10 To this end, we will hear from the general
11 counsel at OTC Markets Group about some of the
12 challenges facing smaller public companies who are
13 not listed on a national securities exchange. I
14 anticipate that this afternoon's conversation will
15 provide insights into small business capital
16 formation challenges that we may wish to consider
17 and further explore for future Committee meetings.

18 But before we get to this exciting agenda,
19 we are so pleased to have Acting Chairman Uyeda and
20 the other Commissioners join us today. We really
21 appreciate you all being with us this morning.

22 Acting Chairman Uyeda, would you like to
23 start with your remarks?

24 ACTING CHAIRMAN UYEDA: Well, thank you,
25 Erica. And good morning to everyone. Great to see

1 all of you in person here. In Washington, DC in
2 February is kind of a mixed bag. We could be under
3 five inches of snow, or we can have a decent
4 weather, so I think today is supposed to be fairly
5 nice. So from those of you who came from warmer
6 areas of the country, thank you for bringing the
7 nice weather with you.

8 Yesterday, I had the privilege of speaking
9 to the Florida Bar, and one of the organizers of the
10 event was Greg Gadley, who's a long-term member of
11 this Committee, and its predecessors, and he sent
12 along his regards and appreciation for all the
13 efforts that this Committee does to carry on its
14 mission of looking at small business capital
15 formation.

16 Well, welcome to the first meeting for the
17 Committee for 2025. I expect this year will be a
18 busy and exciting one for the Committee, as I've
19 asked the Commission staff to explore various ways
20 to improve capital raising opportunities for
21 entrepreneurs and to empower retail investment in
22 private companies. These topics are at the heart of
23 this Committee's expertise, and I hope that you'll
24 have the opportunity to share your views and your
25 experience with the staff, the Commissioners, and

1 the public.

2 Turning to today's agenda, I'm pleased
3 that Committee continues to discuss ways to support
4 and facilitate capital formation for emerging fund
5 managers. The lack of appropriately tailored
6 disclosure for smaller advisors starting their
7 businesses is concerning because it can lead to
8 disproportionate compliance burdens and create
9 barriers to entry. I look forward to reviewing the
10 input from Ashok Kamal and Sara Zulkosky on these
11 issues and any recommendations from the Committee to
12 address them.

13 And later this afternoon, the Committee
14 will discuss the challenges faced by small public
15 companies that are not listed on a national
16 securities exchange. I believe that scaled
17 disclosure requirements is important for smaller
18 companies as the costs for preparing disclosure can
19 be disproportionate, especially for smaller
20 companies.

21 Small companies that are not listed on an
22 exchange may face even more unique challenges. For
23 example, unlisted companies with a public flow of
24 less than twenty-five million are ineligible to use
25 shelf registration statements, or also maybe

1 investor protection concerns associated with small
2 companies whose stock have relatively low liquidity
3 and maybe more prone to manipulation.

4 However, do these concerns justify not
5 permitting small companies that may be in greater
6 need for capital than larger list companies to use
7 shelf registration statements and quickly access the
8 capital markets when timing and other conditions are
9 ideal.

10 I look forward to reading -- I look
11 forward to reviewing a readout of Dan Zinn's
12 thoughts on this and other issues facing small
13 unlisted companies, as well as the Committee's
14 discussion on potential solutions to these issues.

15 So thank you very much, and I hope you
16 have a production meeting today.

17 MS. DUGNAN: Thank you so much, Acting
18 Chairman Uyeda.

19 Commissioner Peirce, we would love to hear
20 your thoughts.

21 COMMISSIONER PEIRCE: Thank you, Erica.
22 And thanks to the Committee members for being here
23 or for turning in online, and thanks to those who
24 will be presenting to the Committee today.

25 I recently read Olympian Sidney

1 McLaughlin-Levrone's biography, and it inspired me
2 to re-watch several of her Olympic and other races
3 that she ran. She set the world record in the four
4 hundred meter hurdles, and she did it with much
5 ease, that the hurdles almost seemed like they were
6 nonentities. She just is so smooth, and it's much
7 fun to watch her.

8 But reading her book made clear that
9 gliding over the hurdles at breakneck speed requires
10 not only a lot of natural talent, which she clearly
11 has, but also hard work, persistence, tough lessons,
12 and pain. So, of course, her story made me think of
13 emerging fund managers and small public companies.

14 Self riding managers and companies that
15 have managed to succeed in building thriving
16 enterprises is really exhilarating, but we sometimes
17 forget that difficult journey that brought them to
18 success. Hard work is unavoidable and nearly every
19 founder and fund manager has endured trials along
20 the way, but regulation can either increase or
21 ameliorate those burdens.

22 Today's discussion and any ensuing
23 recommendations can help the Commission identify
24 regulatory hurdles that are impeding emerging fund
25 managers and small public companies. I'm glad that

1 the discussion of how best to support emerging fund
2 managers and facilitate capital formation is
3 continuing from the last meeting. An important
4 piece of the puzzle is understanding how fund
5 managers and angel investors find each other in the
6 marketplace and develop relationships that
7 facilitate a mutually beneficial deployment of
8 capital. As the Committee discussed previously,
9 such professional relationships can be harder to
10 form without preexisting familial or personal
11 relationships. I look forward to hearing any
12 recommendations that these conversations generate.

13 This afternoon, as you've heard, the
14 Committee will turn to issues further along in the
15 startup life cycle, how small public companies think
16 about access to capital and the cost of regulatory
17 compliance. Our regulatory framework should ensure
18 that at every stage of growth companies have access
19 to capital with the end goal of becoming publicly
20 traded so that all investors can participate in
21 future growth. The once aspirational goal of
22 becoming a public company seems to have lost some
23 its luster, but I think we can change that by
24 identifying and addressing the hurdles to going and
25 staying public.

1 I do have a few questions for your
2 consideration during today's meeting. What are the
3 biggest impediments or market conditions swaying
4 public companies away from entering into the public
5 markets? Once public, what are the most pronounced
6 costs newly public companies bear and how could the
7 Commission mitigate any costs that are necessary for
8 investor protection and eliminate costs that lack a
9 of concomitant investor protection benefit? And
10 finally, what changes should the Commission make to
11 ease the burden on smaller public companies and
12 public companies not listed on a national exchange?

13 Thank you, and enjoy the rest of your
14 meeting.

15 MS. DUGNAN: Thank you so much,
16 Commissioner Peirce.

17 I'm pleased to invite Commissioner
18 Crenshaw.

19 COMMISSIONER CRENSHAW: Good morning.
20 Thanks, Erica. And thank you Committee members and
21 today's speakers for making the time to participate
22 in the meeting. As always, we appreciate it. And
23 also thank you to the staff, those of you in the
24 room, those of you online, and those of you who
25 facilitate this meeting. It's been a long couple of

1 weeks and really appreciate that we can continue to
2 hold these important meetings and get your thoughts
3 on how we can facilitate capital formation, which we
4 couldn't do without the hard work of the staff.

5 So before I get to the agenda, there is
6 one point I want to raise. To the small businesses
7 impacted by changes to great distribution and
8 federal funding, I want to hear about those changes.

9 Small businesses do not rely solely on debt and
10 equity raised in capital markets. Rather, their
11 funds come from a variety of sources, including
12 grants. As we think about the policies here today,
13 it's critically important we understand and
14 acknowledge the whole landscape of challenges that
15 face small businesses. Then we need to ensure that
16 the changing landscape -- that in the changing
17 landscape, our policies are the right ones. That
18 means we solve capital formation issues. We need a
19 complete view of small business capital formation
20 challenges. That currently includes, among other
21 things, consideration of the impact little or no
22 traditional grants or federal funding has. With
23 that in mind, today we'll discuss the challenges of
24 emerging fund managers and small public companies
25 when they're not listed on an exchange.

1 Regarding emerging funds, I know that you
2 are actively consideration a recommendation -- a
3 couple of recommendations, perhaps, to raise certain
4 thresholds allowing emerging funds to have access to
5 an additional investor pool with fewer regulatory
6 obligations. I'm interested in your ideas on how to
7 reduce systemic barriers for these emerging funds.
8 What are those systemic barriers? We need to
9 carefully identify the problems that these funds are
10 facing and explain the rationale for any
11 recommendation.

12 To the extent changes can reduce
13 unnecessary frictions and simultaneously promote
14 investor protection, we should absolutely explore
15 them. However, it is also important to carefully
16 consider whether adjusting certain thresholds would
17 result in marginal changes at best while increasing
18 investor protection concerns while also not
19 addressing any systemic barriers.

20 Smaller reporting companies that are not
21 listed. The second topic explores the challenges
22 faced by small public companies that are not listed
23 on a national securities exchange, as you've heard.

24 This is certainly an area worth understanding. As
25 you think about these recommendations and about the

1 information here, there are certainly competing
2 interests. The over-the-counter markets where
3 unlisted companies trade are less liquid than a
4 national exchange. Additionally, investors in those
5 markets do not benefit from exchange monitored and
6 enforced listing standards.

7 Is the reason for the reduced liquidity
8 the result of opacity rather than investor access?
9 Do we have any data suggesting that an increase in
10 investor-based results in more liquidity? Is there
11 a correlation? Additionally, what are their costs
12 to investors in the markets in terms of increased
13 fraudulent activity?

14 To be clear, this is not a consideration
15 of whether or not investors can calibrate their own
16 risk tolerance, but whether the benefits of any
17 potential changes outweigh the costs. While making
18 OTC Markets more accessible may in theory increase
19 liquidity, it may also be -- it would also be
20 important to ensure commensurate increases in price
21 transparency and disclosure monitoring.

22 Lastly, the Committee discussions are
23 opportunities to zoom out a bit and think
24 holistically about our regulatory frameworks, and,
25 perhaps, this is an opportunity to step back and

1 think about whether they're improvements to the
2 paths from private company to reporting company to
3 public company listed on a national exchange. As
4 this Committee well knows, the data clearly shows
5 that Reg D, which only requires a very limited form
6 disclosure, is used to raise multiple capitals of
7 Reg A or Reg CF, which have scaled disclosures.

8 This Committee could consider whether
9 there's a way to incentivize a pathway for private
10 companies to raise capital through exemptions with
11 scaled disclosures, and then become an exchange-
12 listed company when it's time to go public. Would
13 this result in companies staying private for longer,
14 but raising capital through Reg A? Would there be a
15 benefit for such companies once they go public given
16 the availability of disclosures filed through Reg A?
17 Would that result in more interest in liquidity for
18 a company's securities in the public market?

19 We should think through these things not
20 because there's a particular path a company should
21 or ought to take, but because there are significant
22 benefits to investing in companies listing on a
23 national exchange. Public exchanges are well-lit
24 menus that enjoy high degrees of liquidity and
25 integrity, and most importantly, the securities that

1 trade on these exchanges are often the most
2 accessible way for American investors to share in
3 the entrepreneurship and prosperity of our economy's
4 innovation.

5 My view is, some of our mission
6 facilitating capital formation, maintaining fair,
7 orderly, and efficient markets, and promoting
8 investor protection is growing the economic pie
9 through innovation and entrepreneurship and then
10 making it assessable and reliable for all Americans
11 who are able to investment.

12 Thank you.

13 MS. DUGNAN: Thank you, Commissioner
14 Crenshaw. That was really informative and thought
15 provoking. We appreciate that.

16 And I want to thank the Acting Chair and
17 all the Commissioners for your remarks today. It's
18 really valuable to us.

19 I did also want to take another
20 opportunity to welcome our newest Committee members.

21 So we'd love to give each of you the floor for a
22 few minutes so that you can share a little bit about
23 your background -- well, first, introduce yourself,
24 share a little bit about your backgrounds and what
25 drew you to join the Committee and maybe a couple of

1 the topics related to small business capital
2 formation that you'd be interested in seeing the
3 Committee address.

4 So first, I'd like to invite Jennifer
5 Newton.

6 MS. NEWTON: Thank you so much for having
7 me.

8 So I'm super excited to be here. I'm
9 Jennifer Newton. I am the founder and the CEO of
10 StartSmart Counsel, and we are a law firm that
11 supports small businesses and startups. Most of the
12 services that we provide are around business
13 formation, but also regulatory compliance, corporate
14 governance, and also assisting startups with capital
15 raising. And so one of the most important reasons
16 why I joined is because I'm interested in learning
17 how we demystify the pathway into getting access for
18 capital to startups and also small to medium
19 enterprises.

20 I'm super excited to be here, so thank you
21 so much for having me.

22 MS. DUGNAN: Thank you, Jennifer.

23 I'd like to introduce Rose Standifer.

24 Rose.

25 MS. STANDIFER: Good morning, everyone.

1 My name is Rose Standifer. I am -- I am a partner
2 with Foley Hoag, which is an international law firm.

3 We have a very large emerging company's practice
4 representing both issuers and investors across
5 several emerging technology sectors.

6 My practice for the last twenty years has
7 been split between issuer side and investor side and
8 working along the spectrum from formation all the
9 way to IPO and continual capital raising after going
10 public. One of the reasons I joined the Committee
11 was around that cost benefit analysis seeing I
12 started my practice from fifteen years in Silicon
13 Valley seeing the ease of which it actually is to
14 raise capital when you have network effects. How do
15 you balance in the diluted fund raising if you don't
16 have those preexisting relationships, but still
17 ensure sort of honest acts or disclosures? I find
18 it's very fascinating who has access to capital, who
19 wants it, and who doesn't, and where's that line,
20 where's that balance, and seeing I worked on one of
21 the first IPOs under the JOBS Act, you know, scaled
22 disclosures, did that work, did it not work? So
23 these are the areas that I'm interested in, why I'm
24 here on this Committee.

25 MS. DUGNAN: All right. Thank you, Rose.

1 Next, we have Wendy Stevens.

2 Welcome, Wendy.

3 MS. STEVENS: Thank you.

4 I'm so glad to be here. Nice to meet you
5 all in person. I was given two to four minutes, so
6 I'm going to take every one of them.

7 If you Google me, you may think I'm a
8 composer, a teacher, a pianist, pocketbook designer,
9 hair salon owner, or actress before you get to the
10 real me. I'm a CPA, and that's why I'm here. We
11 were looking for a CPA on this Committee. I heard
12 that through some of my DC channels, and I applied
13 on that basis.

14 I spent the first half of my career
15 working on very similar things that Rose talked
16 about with evolving -- evolving companies and all
17 different kinds of capital raise from the smallest
18 to the IPO to ultimately companies that became
19 larger reporters. I appreciate what Commissioner
20 Crenshaw said about the order of capital markets,
21 but my particular interest is in scalability and
22 proportionality related to the entities. And I did
23 read Mark's speech yesterday, and I think you
24 touched on some of that, that scalability and
25 proportionality is really important.

1 So the second part of my career is very
2 much in settings like this, which is either a
3 standard setting, or recommendations for regulatory-
4 type changes whether with the SEC, the PCAOB, and
5 right now my largest role is with the International
6 Auditing and Assurance Standard Setting Board that
7 sets auditing standards for the globe, and then in
8 each jurisdiction, they take those down.

9 I've seen firsthand the trials and
10 tribulations of smaller reporting companies. And
11 somebody asked the question about, what stops them?
12 Basically, it's money and the cost to actually raise
13 money and not having the networks to be able to do
14 that and maybe not having the right advisors, which
15 also cost money. So there's a lot of different
16 pieces to the circle that cause angst and anxiety
17 and ability to be able to raise the capital.

18 So in my current role, I'm a partner of
19 Forvis Mazars, a newly-formed top ten US and top ten
20 global network that's really important in the
21 profession and in the accounting world, and probably
22 if you do go on LinkedIn, you can find anything else
23 out. I'm truly passionate about what I do, and I'm
24 truly passionate about this type of volunteerism
25 along with my day job to make a difference, whether

1 it -- you know, in this particular case, I think
2 it's really important that all entities that want
3 access to capital have that access. So thank you.

4 MS. DUGNAN: Thank you so much to our new
5 Committee members. We are really so happy to have
6 you here.

7 Next up we are pleased to welcome fellow
8 Committee member and the Director of the SEC's
9 Office of the Advocate for Small Business Capital
10 Formation, Stacey Bowers. Stacey is going to
11 provide an overview of one of my absolute favorite
12 documents in the world, the Office's fiscal year
13 2024 Annual Report. I was so excited to hear that
14 this was coming out, and I was going to get one
15 today. I actually keep a copy on my desk at work
16 because it's so full of important and valuable
17 information to refer to at any time. It's an in
18 depth -- it includes in depth data and analysis on
19 the state of capital raising activity along with the
20 Office's policy recommendations. So I think you'll
21 all find that the data information Stacey will be
22 sharing is particularly relevant to our ongoing
23 discussion of ways to support emerging fund
24 managers, but also to this afternoon's small public
25 company topic. I know I'm lucky enough to have this

1 wonderful printout, but, I believe, for anyone who's
2 joining us by webcast, you can also find a copy of
3 it online through the sec.gov website.

4 Stacey, thank you.

5 UPDATE FROM THE SEC'S OFFICE OF THE ADVOCATE FOR
6 SMALL BUSINESS CAPITAL FORMATION

7 MS. BOWERS: Thanks, Erica.

8 Well good morning everyone. It's great to
9 see so many of you in person, and to welcome our
10 newest members, Rose, Jennifer, and Wendy. And
11 hello to everyone who's on webcast, as well.

12 So as you are aware and as Erica just
13 said, our new annual report is available online, and
14 everyone who's in the room today, you have a copy at
15 your seat. Before the meeting swings into gear
16 today, I just want to take a few minutes to
17 highlight some of the data from this year's 2024
18 annual report.

19 I'm going to brag a little bit. The team
20 in OASB just does an amazing job putting this report
21 together every year. I have the luxury, I get to
22 read it after they -- you know, as they're doing the
23 whole -- all the work, but it's just amazing to see
24 the team come together and what they do.

25 So I know we have a full agenda today, so

1 I'm not going to spend a ton of time talking about
2 the annual report because you can peruse it on your
3 own, but I do want to go through and just highlight
4 some of the important data points, and as Erica
5 mentioned, I'm going to try and highlight some of
6 the points that go to the discussions that will be
7 happening today.

8 So I'm going to lead off by talking about
9 some of the data that is just general in nature as
10 it pertains to small businesses and capital
11 formation. I'll give you the page numbers as I go
12 along, so if you want to crack open those annual
13 reports, they're brand new, and take a gander as I
14 talk about it.

15 So on page four, I don't think this is
16 news to anybody, but ninety-four percent of
17 Americans state that it's important to have a fair
18 opportunity to start and grow a business. And since
19 2011, eighty percent of net new jobs have been
20 created by small businesses. That's a pretty
21 significant amount of new jobs being created by
22 small businesses every day.

23 On page five, very similar to what we've
24 reported in the past, in 2023, ninety-three percent
25 of small businesses experienced financial

1 challenges. That's down just slightly from one
2 percent in 2022. Some of the main challenges
3 encountered were the raising costs of goods,
4 services, and wages, and operating expenses. And
5 not surprisingly access to capital continues to be
6 an issue for entrepreneurs and creates a barrier to
7 growth.

8 Page seven. When we take a look at how
9 small businesses secure capital, only about two
10 percent of small businesses receive an equity
11 investment. That's a pretty small slice of the pie
12 when you think about where capital is coming from.
13 The most common types of equity investments come
14 from the owners themselves about seventy percent of
15 the time, friends and family, sixty percent of the
16 time, angel investors, thirty percent of the time,
17 crowd funding, because I know the Committee has
18 talked about it in the past, seventeen percent of
19 the time, and venture capital firms, only eight
20 percent of the time. So I'm sure all of you in this
21 room, and we hear it ourselves when we're engaging,
22 everyone has -- small businesses have this idea, I'm
23 going to get venture capital money, but in the
24 scheme of things, very little of the equity
25 financing is coming in from venture capitalists.

1 On pages eight and ten, as we heard
2 frequently -- as our office heard frequently over
3 the past year, small businesses need support in
4 order to grow and build their companies, and they
5 often turn to accelerators, incubators, and other
6 entrepreneurial support organizations for that
7 support. In particular, businesses value network
8 development, access to potential investors, and
9 mentorship from experts as some of the most
10 important benefits of these support organizations,
11 and we're going to hear from one of those support
12 organizations this afternoon -- or this morning,
13 Recast. And then angel investors play a critical
14 key role here, as well. They can play a key role in
15 mentoring and funding small business founders. So
16 they play, along with the entrepreneurial, more
17 official support organizations, angels also play a
18 role in mentorship.

19 Page fourteen, this lines up with what
20 we've reported over the past couple of years in our
21 annual report. The Rule 506(b) is one of the most
22 commonly used regulatory pathways by companies with
23 one hundred and seventy billion raised while only
24 twelve billion was raised under Rule 506(c), and one
25 point five billion under Regulation A. When we take

1 a look at registered offerings, twenty-eight billion
2 was raised in IPOs versus one point two trillion in
3 other registered offerings.

4 Page fifteen, when examining the exemption
5 pathways that pooled funds use to raise capital, one
6 point seven trillion was raised pursuant to 506(b)
7 with only one hundred and twenty-five billion
8 pursuant to Regulation 506(c) keeping in mind that
9 there we're talking about how pooled funds are
10 raising capital.

11 And then on page sixteen, taking a quick
12 comparative look at how much money was raised from
13 investors by US private companies versus public
14 companies. Private companies raised six hundred and
15 twenty-three billion representing thirty-four
16 percent of all capital raised by US companies while
17 sixty-six percent of capital or one point two
18 trillion was raised by public companies.

19 So that's a little bit of the high level
20 background. I do want to highlight a few points
21 that pertain to what's happening with venture
22 capital investments. So we're going to go back a
23 little bit further in the annual reporting to pages
24 twenty-four and twenty-five. So while deal flow
25 remains steady, they are still below the 2021 peak

1 with eighty-seven billion invested in both early
2 stage and later stage companies across,
3 approximately, forty-six hundred deals, but the time
4 between VC rounds remains high at two plus years
5 between almost every round of venture capital
6 financing.

7 Pages twenty-six and twenty-seven, large
8 funds continue to be dominant with sixty-three
9 percent of capital concentrated in funds with five
10 hundred million plus in assets, which is up from
11 fifty-five percent -- up fifty-five percent in 2023.

12 First time VC managers continue to face challenges
13 with a forty-nine percent decrease of first time
14 funds in 2023 making up only twenty-six percent of
15 all funds, and only fifty-six first time funds
16 created in the first half of '24, which suggests
17 there may be another record low on this front by
18 year end.

19 Additionally, institutional investor
20 appetite for investing in first time or new VC
21 managers is starting to decrease again with forty-
22 two percent of institutions reporting they do not
23 invest in first time managers up from twenty-eight
24 percent in 2023, but down from fifty-one percent in
25 2022.

1 Page twenty-eight, overall, emerging fund
2 managers continue to experience a decreased market
3 share. In the first half of 2024, emerging fund
4 managers made up half of the total firms, but raised
5 less than a quarter of total capital.

6 Let's take a look at the IPO market and
7 what's happening with IPOs and small public
8 companies. Page thirty-one, there was a slight
9 increase in IPOs in the first half of 2024 with one
10 hundred and one IPOs raising nineteen billion
11 compared to eighty-three IPOs raising eleven billion
12 in the first half of 2023. So we're seeing a slight
13 uptick there, and technology is the top industry
14 raising capital through an IPO.

15 On page thirty-two, small companies
16 accounted for forty percent of IPOs since 2022, but
17 only about four percent of the actual deal value.
18 There were thirty-seven microcap IPOs in the first
19 half of 2024 raising three hundred million compared
20 to forty-eight large company IPOs in that same
21 period raising seventeen billion. Also, in 2023,
22 there were fifty-four exchange listed IPOs up from
23 thirty-eight in 2022, but still quite low.

24 Page thirty-six, while small public
25 companies make up half of all public companies,

1 thirty-three percent are not exchange listed, as
2 compared to only two percent of large public
3 companies that are not listed on an exchange.

4 Page thirty-seven, public companies that
5 had a market cap of less than five hundred million
6 or revenues less than fifty million traded down at
7 much higher levels than larger public companies.
8 Additionally, small cap companies faced pricing
9 struggles with twenty-two percent on an exchange
10 noncompliance list, which is down from thirty-four
11 percent in 2022, and forty-two percent executing
12 reverse stocks, also down from fifty-one percent in
13 2022.

14 Page thirty-eight, of the twenty-six
15 hundred small public companies in the market, only
16 thirteen percent raised capital through a registered
17 equity offering in the twelve-month period ended
18 June 30th, 2024. The average proceeds raised in the
19 first half of '24 were thirteen million with total
20 offerings of two hundred thirty-two raising a total
21 of two point nine billion. And the top industries
22 for small public companies are healthcare and
23 business services.

24 Page forty, small public companies
25 continue to face investor relation challenges, such

1 as stock volatility, finding new investors, and
2 building strong analysts relationships, and many do
3 not have any analyst coverage with forty-four
4 percent of small public companies having no coverage
5 and thirty-five percent having only one to five
6 analysts covering the company compared to seventy-
7 three percent of large cap companies that have ten
8 or more analysts covering them.

9 All right. Of course, I want to highlight
10 a couple of other things that aren't data points in
11 the annual report. So as you know, every year, the
12 annual report includes recommendations based on the
13 input our office receives from all of our
14 stakeholders that we engage with throughout the
15 year. So just to highlight a few of those, there's
16 a recommendation on crowdfunding and making it a
17 more attractive pathway, a recommendation asking for
18 clarity on the role of finders, a recommendation
19 calling for the exploration of solutions to support
20 emerging fund managers, and a recommendation on
21 continuing to support small public companies.

22 I also want to note that since the
23 launching of the resources for small businesses hub
24 or what used to be known as the capital raising hub
25 in 2022, there has been more than one point five

1 million views of our resources. We continued to add
2 to our additional -- he continued to add to our
3 educational resources over the past year. We put up
4 some new building blocks, so in case you haven't
5 seen them, there's some building blocks on financial
6 statements these days. We have added to the
7 glossary terms. And we have also launched our Let's
8 Talk Small Business video series, so if you haven't
9 had a chance to check them out or to tell your
10 friends and family and your clients about them, it's
11 a great series of videos where we're talking to just
12 different people in small business capital
13 formation, and they're sharing their points of view.
14 And last, but, of course, not least, you'll find
15 the Committee highlights and recommendations
16 starting on page one hundred and three of the annual
17 report.

18 And, again, much like the Commissioners
19 say, I want to thank all of you for being here and
20 giving us your time to be a part of this Committee
21 and sharing your thoughts and recommendations.

22 MS. DUGNAN: Thanks so much, Stacey. We
23 really appreciate that.

24 As I mentioned at the outset of the
25 meeting, we plan to spend the remainder of the

1 morning building upon the robust discussions that we
2 had during the Committee's meeting on November 13th,
3 2024 continuing to explore ways to support and
4 facilitate capital formation for private funds and
5 emerging fund managers.

6 And one thing that I just want to clarify
7 because, I think, that the phrase "emerging fund
8 managers" isn't, you know, sort of a layman's term
9 and even many people in venture capital for a long
10 time didn't really know what it means. So
11 technically when we talk about emerging fund
12 managers, we mean fund managers that are on Fund I
13 through III. So it's not just people trying to
14 raise a fund. It's not even just people who have
15 only raised funds. Technically, you are actually
16 considered emerging until your third fund. So it's
17 good for us to just have some context there. It's
18 my hope that this discussion today will result in
19 our ability as a Committee to propose
20 recommendations to the Commission.

21 To facilitate our discussion and deepen
22 the Committee's understanding of certain capital
23 raising frictions, we are going to hear from the
24 director of one of the country's leading angel
25 investor groups. And after, the Committee will have

1 the opportunity to learn more about the role of
2 emerging fund manager accelerator programs and how
3 they can help reduce institutional barriers for
4 funders. Specifically, we're going to learn about
5 Recast Accelerate, which is designed to accelerate
6 the success of women-led emerging US venture capital
7 funds.

8 Recast has made a big impact in the
9 emerging manager space with innovative and unique
10 programs designed to make sure that talented fund
11 managers have the resources they need to get their
12 funds off the ground and access to the important
13 networks that are crucial in developing a venture
14 capital franchise firm.

15 So I'd like to start by introducing and
16 welcoming Ashok Kamal -- oh, okay. Sorry.
17 Actually, we're switching it up a little bit. I'd
18 love to start by introducing Sara Zulkosky from
19 Recast, Co-Founder and Managing Partner at Recast
20 Capital. Prior to co-founding Recast, Sara served
21 as venture partner at Greenspring Associates, now
22 StepStone Group, a principal with CNF Investments,
23 and held other industry roles before that. Sara
24 received an MBA from Georgetown University, and an
25 MS in engineering management and a BS in mechanical

1 engineering from George Washington University.
2 She's also a member of the Kauffman Fellows Class
3 23.

4 And, apparently, she is on her way down.
5 Oh, great here she is. All right. Just in time,
6 Sara.

7 Is she going to go there? Okay. Great.
8 Wonderful.

9 So, Sara, I've made a beautiful
10 introduction for you and told everyone how amazing
11 Recast is, and we are very excited to give you the
12 floor.

13 CONTINUE EXPLORING WAYS TO SUPPORT AND FACILITATE
14 CAPITAL FORMATION FOR EMERGING FUND MANAGERS

15 MS. ZULKOSKY: Hi, everybody. Sneaking
16 right in today. Thanks for having me.

17 I have some prepared remarks to share. If
18 there's questions that you have as I'm going through
19 those remarks, please feel free to stop me;
20 otherwise, there's plenty space at the end for
21 questions, too.

22 Chair, Vice-Chair, and Committee members,
23 thank you so much for the opportunity to speak today
24 and contribute to the discussion about emerging
25 managers. My name is Sara Zulkosky. I'm one of the

1 Co-founders And Managing Partners of Recast Capital.
2 We're a platform that's both investing in and
3 supporting emerging managers and venture.

4 Today, I'm excited to discuss our programs
5 like ours that address institutional barriers that
6 emerging managers face today. I understand that
7 Karen Kerr, a Ph.D., Board member, and charter class
8 of Kauffman Fellows, and Managing Director with
9 Exposition, was here at your last session to discuss
10 some of these challenges. We're excited to build
11 upon that conversation with some of our learnings,
12 as well.

13 First off, a little bit about us just for
14 some background and our experience in the space.
15 Recast is a hundred percent women-owned platform in
16 both investing and supporting emerging managers. My
17 Co-Founder and I came together with a common vision
18 for where we felt returns were actually being
19 generated in venture today, and that's very squarely
20 at the intersection of three key areas; emerging
21 managers are those raising Funds I, II, or III where
22 your incentives are most aligned with your limited
23 partners; number two, smaller fund sizes, or said
24 differently, more appropriately sized funds for
25 their strategies in early stage investing. At some

1 level it's simple math. It's easier to five X a
2 hundred million dollar fund than it is a billion
3 dollar fund. And then finally, number three, funds
4 led by partners with different experience,
5 perspectives, and networks that were driving unique
6 and different deal access and opportunities to win
7 in the exceptionally competitive environment that is
8 the venture capital industry today.

9 We recognize that many savvy limited
10 partners understood our investment thesis and
11 believed our investment thesis; however, had a
12 difficult time accessing emerging managers directly
13 largely because of check size constraints or team
14 bandwidth. We also recognize that there was an
15 opportunity for groups like ours to step in and
16 really build institutional level programs to support
17 more of the community than just those that we could
18 invest in.

19 So in response, my Co-Founder and I
20 launched Recast in 2022, including emerging managers
21 fund-to-fund programs as kind of an institutional
22 intermediary to help address some of the access
23 challenges I mentioned, but also through the GP
24 center programs that would allow us to support more
25 of the emerging manager community. So we're kind of

1 in tune to marketing access to information and our
2 GP programs are a way for us to essentially product-
3 wise the support that we've offered managers three
4 years on a kind of one-off basis.

5 We do that through two programs today.
6 The first is our enabling program, which is our
7 virtual tuition-free educational programs for
8 emerging managers, and the second is our Recast
9 Accelerate program, a philanthropic initiative that
10 is built on the learnings from enablement over the
11 years, but it really supports its program
12 participants by providing access to not only the key
13 educational content I alluded to from enablement,
14 but also executive coaching, peer learning
15 opportunities, robust familiar resources and shared
16 services, and then a hundred K in operational
17 support for each fund all with the goal of
18 accelerating their growth in the space.

19 Today we supported a hundred and thirty-
20 four managers through our GP programs. Eighty
21 percent of those managers that include at least one
22 GP who identifies as a woman or nonbinary, and
23 sixty-two percent have included at least one GP of
24 color. So there are a lot of challenges faced by
25 emerging managers, so, hopefully, that gives you

1 some context to why we feel like we're appropriate
2 to set up the table and share some thoughts today.

3 From our perspective, the primary
4 challenges can be grouped into three specific
5 categories; access to capital and fund raising, firm
6 building and operational issues, and then can face
7 additional biases. Capital access and fund raising
8 remain the primary challenges.

9 I think you all recently released a
10 report, your 2024 findings that, I think, would
11 agree with many of the comments I'll make here, so
12 excuse me if you've hear some of these before, but
13 according to PitchBook, the first time fund raising
14 hit decades lows in 2024 in both fund account and
15 total capital down dramatically from 2024. Those
16 firms captured about eighty percent of the total
17 capital raised in 2024, the highest concentration in
18 a decade leaving emerging managers with
19 significantly smaller share of that available
20 capital. And for the first time in a decade, there
21 were more established funds than emerging funds in
22 the market. So instead many emerging managers have
23 opted to delay their fund raising in hopes of an
24 improved market conditions in the future.

25 I think one important reason for these

1 statistics is a tendency for institutional investors
2 to avoid first-time fund managers and believing them
3 to be too risky preferring to focus their capital
4 into more established managers. Emerging managers
5 are then forced to focus their fund raising efforts
6 on high net worth individuals and family offices,
7 and these LP arc types are difficult to penetrate
8 because they typically commit smaller check sizes,
9 require more total commitments or more yeses, you're
10 having more conversations in order to close your
11 fund, and this proves especially challenging without
12 an existing network of LPs, you know, of that arc
13 type, excuse me, family offices and high net worth
14 contacts creating significant barriers for new fund
15 managers that aren't spinning out of established
16 shops that has those relationships or are just
17 not -- you know, their own personal networks are not
18 as robust to be able to tap friends and family in
19 order to invest in their funds. Granted, most of us
20 are not in that camp. Because there's so few GPs at
21 established firms from underrepresented backgrounds,
22 I think this particular barrier, the lack of the LP
23 network, is felt even more acutely with diverse-led
24 emerging venture funds.

25 Even when emerging managers do attract

1 interest from larger institutional investors,
2 structural issues persists there, as well. Large
3 institutional LPs frequently have minimum fund size
4 thresholds and a minimum check size constraints. So
5 emerging managers of more modest fund sizes, which
6 is certainly typical, are not a possible target for
7 any of those LPs.

8 For many, operational challenges also
9 weigh heavily on emerging managers. You know,
10 they're building their firms. They're startups in
11 and of themselves. They have to wear multiple hats,
12 so not only are they identifying funds -- or excuse
13 me, identifying companies to invest in, raising
14 capital, but they're also forced to manage legal,
15 compliance, accounting, fund administration, tax,
16 audit. I mean, the list goes on and on. And
17 without a network of GPs that have kind of been
18 there, done that, or advisors that understand the
19 venture landscape and who can help address these
20 firm building challenges, it can be difficult to
21 build a firm that leverages the right outsourced
22 service providers to not only allow the GPs to focus
23 on what they should be focusing on, which is
24 identifying great companies to invest in, support --
25 winning allocation in those companies, and

1 supporting them in an exceptional manner, they --
2 but also give prospective LPs the peace of mind that
3 the fund has the appropriate scaffolding in place to
4 actually operate their funds like a business. So
5 that's certainly part of the assessment, as well,
6 for institutional investors. So if you don't have
7 these things, you're clearly at a disadvantage.

8 I think, you know, in speaking to
9 operational barriers, one cannot skim over what I
10 believe to be a very significant impediment, which
11 is the one percent GP commit expectation in our
12 industry today. Potential limited partner and
13 venture funds have a clear interest in ensuring that
14 the fund's GP is focused on sorting their capital,
15 generating returns, of course, and the standard
16 solution to ensuring that focus has been to invest
17 on GPs who are putting their own money into the
18 funds, right, representing that skin in the game, if
19 you will, theoretically aligning incentives when a
20 GP is calculating risk that they're willing to take
21 and whatnot, making decisions.

22 But the one percent standard, which was
23 established over three decades ago, has,
24 unfortunately, evolved to become the market
25 expectations and requiring emerging managers to

1 commit large amounts of capital to their fund
2 despite their personal financial constraints,
3 despite the fact their professional reputations are
4 on the line in building their funds already,
5 unnecessarily penalizes those that are not from
6 affluent backgrounds, and to be fair, the majority
7 of new firms that are led by those outside of a
8 venture bubble, not staying out of established
9 venture firms fall into that category, so this in
10 turn prohibits many emerging managers from starting
11 their firms.

12 Finally, the third category of challenge I
13 mentioned was kind of institutional dioceses, both
14 implicit and explicit, that continue to challenge
15 emerging and diverse led venture funds today.
16 Venture and -- and these are stats that I know you
17 all know, but for the purposes for driving the point
18 home, a venture private equity is estimated that
19 only five percent of firms are owned -- are women
20 owned, and only four percent minority owned.
21 Because of this, emerging GPs from underrepresented
22 groups are often confronted by skepticism from some
23 capital allocators. Sometimes it's subtle;
24 sometimes it's overt. Unfortunately, at Recast,
25 we've heard horror stories from many females GPs

1 being asked any number of inappropriate questions,
2 but one example of which is their age, which begs
3 the question, what is the right age to start a
4 venture fund? You know, if you're too young, you're
5 inexperienced versus younger men, who are thought of
6 as hungry in the space. If you're of child-bearing
7 years, you're distracted versus men who may have a
8 spouse at home who can shoulder that responsibility.

9 And if you're more advanced in your career, you're
10 out of touch versus men who are experienced.

11 So we've also heard from GPs of color, you
12 know, that they're asked questions that imply the
13 allocator doesn't trust the background that has been
14 described to them questioning the GP's honesty and
15 integrity. The stories go on and on. I won't
16 continue, but you see where we're headed. As a
17 result, in practice, I think emerging diverse
18 managers often take significantly longer to raise
19 their venture funds and this expanded timeline can
20 exhaust a new manager's runway and momentum.

21 So given all these challenge, how can
22 firms like mine that have established programs kind
23 of address these issues, and what else could we
24 consider here today, or what else could I ask you to
25 consider given your very important role in the

1 capital formation conversation? I think targeted
2 support programs, honestly, play a vital role. They
3 provide emerging managers with tools and knowledge
4 and networks, all necessary to create opportunities
5 for success in this space. I think our journey at
6 Recast illustrates how emerging managers support
7 programs can involve to meet industry needs, as
8 well. We mentioned two programs that we have.

9 When we founded Recast in 2020, we
10 recognized the limitation fund to funds as limited
11 slots, right? There's so many investments I can
12 make a year, and there are so many more high
13 potential emerging managers out there today that we
14 believe deserve to be in business, just need,
15 perhaps, some additional support to overcome some of
16 the challenges that I've described.

17 And, you know, this realization led us to
18 launch the enablement program in 2020 causing that
19 support I alluded to earlier, enable us with a
20 virtual tuition-free educational program for
21 emerging managers and venture. It offers a
22 structured twelve-week curriculum offering aspect of
23 firm building and fund raising where my team could
24 be most helpful given our LP backgrounds, but such
25 topics range from effective strategies for managing

1 operations, improving the efficiency of your LP
2 targeting, differentiation, how to stand out, among
3 other things that are critical to that firm-building
4 process.

5 You know, we bring in GPs and LPs friends
6 from the venture community, seasoned industry
7 professionals to really highlight things that the
8 managers can be doing, or, you know, avoiding common
9 pitfalls and meet institutional investors'
10 expectations. Each of our cohorts is roughly twelve
11 to fifteen managers at a time where they have the
12 opportunity to build a very tight knit peer group
13 sharing experiences and supporting one another.

14 Interestingly, while our enablement
15 program addressed knowledge and network gaps, we
16 recognize the opportunity to do more even just a few
17 years after our launch in 2020. At the time, there
18 were a growing number of educational programs
19 working to serve the emerging manager community. It
20 became clear that the emerging manager community is
21 over-mentored and drastically under-resourced. So I
22 think with our best of intentions, we were
23 duplicating, perhaps, efforts that were already in
24 existence, and we really wanted to change that
25 paradigm.

1 We also saw, as we've alluded to
2 previously, that it was taking women twice as long
3 to raise their funds, even longer when you looked at
4 the intersectionality of gender and race or gender
5 and ethnicity or other underrepresented or
6 disadvantaged categories. And in 2023, we launched
7 the Accelerate program building upon the success of
8 our enablement program, but adding to it more robust
9 operational support, shared services, and financial
10 support to offset some of these firm building
11 expenses. Honestly, this was the river that
12 everyone was swimming in. We really wanted to
13 provide everybody a better raft, something that was
14 new and different.

15 So with early support from Pivotal
16 Ventures, a Melinda French Gates company, the
17 program is really written in the hypothesis that --
18 you're testing the hypothesis really that by
19 increasing the number of emerging GPs that identify
20 as women or nonbinary, particularly those focused at
21 the earliest stages of company development, you will
22 also increase the percentage of VP funding going to
23 under-represented founders. I mean, clearly, with
24 more diverse emerging managers in market, you can
25 see a pathway to enable a more diversity in the

1 venture community more broadly.

2 But for today, Accelerate offers a number
3 of services to address the capital access and
4 operational challenges that emerging managers face
5 today. We mentioned this curriculum. So today it's
6 a six-month program meeting twice per month.
7 There's in-house shared services providing no cost
8 support for critical needs. We've really seen it's
9 Groundhog Day for many of the challenges that
10 emerging managers are facing, right? And getting
11 access to and understanding the landscape of
12 appropriate service providers, and, frankly, having
13 a platform that they can go to to have preselected
14 support sources that they can benefit from at no
15 cost to them is really a driver for success. So
16 things like investor relations support, pitch
17 positioning, LP outreach, a set number of house with
18 a consultant, as an example, that they can leverage
19 at their leisure as appropriate for where they are
20 in their firm building dream, a VC document
21 template, why recreate the wheel and why pay someone
22 to recreate the investments for you and has been
23 available for a very long time, fractional operation
24 support, interim programs with finance students or
25 experienced professionals that can help these

1 managers, you know, get that extra set of hands that
2 they so disparately need, office hours with legal
3 counsel, et cetera.

4 We still offer executive coaching offering
5 a chance for kind of professional growth,
6 strengthening your leadership styles, getting
7 through interpersonal blocks, partner dynamics,
8 things that, again, you wouldn't necessarily think
9 or pursue with a resource constrained firm. We also
10 focus on peer groups where you can meet with a small
11 group of five to seven emerging managers at a
12 similar stage to learn from one another, lean on
13 each other. And, frankly, it can be a really lonely
14 business, so having that kind of personal board of
15 directors, if you will, to help you in your firm
16 building journey, I think, is really good. Other
17 offerings are LP office hours, and then, of course,
18 the financial support, a hundred thousand in
19 operational support for each fund and preferred
20 pricing from our network of vetted service
21 providers.

22 Today we supported sixty-one managers
23 through that program. We've opened applications for
24 our third program that will kick off later this
25 fall. There's always room to do more, but we're

1 really pleased with the success of the program thus
2 far. Many of the -- we call them Recasters have
3 successfully closed their fund, some are raising
4 subsequent vehicles, some have used the program as a
5 means to iterate, learn, adjust to market
6 conditions, all of which we're very proud of.

7 What began as an experiment really grew
8 into a comprehensive model for nurturing the
9 emerging manager community, and, I think, that our
10 program represents kind of the success of similar
11 high touch programs, and we have peers that we
12 deeply respect in market today that are also doing
13 this work in one way or another and excited to see
14 how the growth of those vehicles, as well, as a way
15 to lift up this community that's been so under-
16 resourced for so long.

17 Beyond the programs like ours and others
18 that are working to kind of move the needle here, I
19 certainly have some further recommendations for
20 consideration by the Committee beyond just, you
21 know, looking at programs like ours to really move
22 the needle with a goal, of course, of facilitate
23 support in capital formation among the emerging
24 manager community. First, I would say, encourage
25 more adoption of a model, a fellowship model. I

1 think we -- programs like ours can be replicated and
2 scaled through collaboration with large
3 institutional investors, foundations at the center
4 firms can partner with programs like this to drive
5 more awareness in making these programs more of a
6 standard part of the LP community's engagement with
7 emerging managers. It cannot only drastically lower
8 barriers to entry, but, frankly, can really help
9 mitigate risks of those investments, as well, if
10 done properly.

11 I think increasing awareness around
12 alternative investment vehicles, and I think you all
13 touched on your last meeting kind of the role of
14 fund to funds in the broader landscape of capital
15 access. I think that's absolutely critical, too,
16 because as mentioned, some of these larger
17 institutional investors simply cannot write checks
18 directly to these managers even if they want to, and
19 so fund to funds is one solution. There are
20 alternative solutions alongside it, such as
21 separately managed accounts, bespoke platforms.
22 They're suddenly drawing more attention to those as
23 really interesting solutions to tackle this part of
24 the market. I think it would go a long way, too.

25 For a long time fund to funds, I think,

1 had a -- has had a difficult wrap in the business.
2 Additionally, there are fees, something that many
3 institutional investors are not a fan of. However,
4 if done properly, the performance of those vehicles
5 can more than outweigh those additional layer of
6 fees. And in the emerging manager space,
7 predominantly in venture, mentor selection really is
8 everything, and then if you layer in these
9 additional support services, it can really help move
10 the needle.

11 Additional considerations, you know,
12 supporting public credit funding vehicles. There's
13 access to capital is certainly the toughest barrier
14 that these emerging managers have, so considering
15 structures that directly inject capital into this
16 part of the market, I think, are really interesting
17 options. Similar programs in place today certainly
18 promote investing in small businesses, such as the
19 state Small Business Credit Initiatives. Of course,
20 state SBAs SBIC program has also touched this space,
21 as well.

22 You know, I spoke briefly previously about
23 the GP commit. I do think encouraging more
24 conversation around the GP commit is a worthwhile
25 effort, too. The question of, is it appropriate,

1 how much should it be is really nuanced. You know,
2 for some GPs, you know, while one percent may feel
3 astronomical and inappropriate given how much of
4 their professional reputation is tied up in their
5 firm building and the incentive alignment that that
6 creates, but also just their personal financial
7 situation. In some cases, one percent is
8 inappropriately small, right? I mean, I think it's
9 important to look at the other side of the coin. If
10 someone is, you know, very wealthy and having the
11 right, quote, unquote, you know, incentive alignment
12 would mean a much larger GP commit, if appropriate.

13 I think so long as everybody just demonstrates
14 alignment with the LPs, you know, it should be
15 focused on what it means for thorough responsible
16 decision making, right? That is the end goal of
17 what the GP commit is supposed to represent. And, I
18 think, being okay with stepping away from a one size
19 fits all is the appropriate path forward there.

20 And then finally, I would say reinforce
21 the data in emerging managers. The biases that
22 emerging managers are too risky to invest in is
23 really outdated. I think, you know, students of the
24 industry understand the growing body of research
25 that shows that emerging managers outperform, not

1 all emerging managers. Again, the key is properly
2 selected emerging managers.

3 However, you know, data that's been
4 published by PitchBook has shown that emerging
5 managers consistently outperform established
6 managers since the late 1990s. Cambridge Associates
7 has published similar data that shows that, you
8 know, over a ten-year vintage year period -- excuse
9 me, over a twelve-year vintage year period, the top
10 ten best performing funds by net TVPI anywhere from
11 forty to eighty percent of those top ten funds were
12 occupied from emerging managers for any given year.

13 So this notion that it's too risky to play
14 here or that it's only catalytic, this should be
15 charity, you know, any number of, you know, phrases
16 we all hear is it's outdated, and we should move
17 beyond this. You know, I think the up performance
18 stems from several factors. They're beyond the
19 strong alignment with your LPs. The hunger, you
20 know, the scrappy nature of building a firm, these
21 are startups in and of itself, I think, is extremely
22 compelling. And, you know, with the increased in
23 funds, the market maintaining a competitive edge is
24 critical, so oftentimes you're seeing these emerging
25 managers carving out like specific niches or

1 specialized focused areas, which can be really great
2 for driving performance and is really great for the
3 founders that they support, right, more choice for
4 the founders as appropriate.

5 You know, in conclusion, I think emerging
6 managers facing this kind of institutional barriers,
7 of course, whether it's limited access to capital,
8 operational challenges, persistent biases, but the
9 mosaic solutions that are needed to address these
10 issues is broad and vast. I think the programs like
11 ours is one key component, but there's certainly
12 more to it, and I encourage the Committee to
13 consider how policy frameworks might better support
14 emerging manager formation and growth particular
15 around expanding access to institutional capital
16 some of the ideas that were shared previously, but
17 really by lowering the historical barriers to entry,
18 I think will enable kind of fresh capital entry in
19 the market, fresh perspectives, which, ultimately,
20 benefits all of us, renovation, jobs, wealth
21 creation, all of the small business bubble, and by
22 supporting emerging manager programs and adjusting
23 enabling policies, I think regulators can help
24 accelerate what I see as a very virtuous cycle in
25 the venture capital industry today. More capable

1 fund managers certainly leads to more choice for
2 entrepreneurs. More successful businesses, it helps
3 a more robust economic growth.

4 Thank you very much for your time. I
5 appreciate it. I'm happy to answer any questions
6 you may have.

7 MS. DUIGNAN: Thank you, Sara. We so
8 appreciate that very thoughtful presentation. And
9 as somebody, you know, who's a member of the
10 emerging manager community, I can firsthand say how
11 much everyone appreciates and respects the hard work
12 and innovation that Recast has brought to the space.

13 So I'm excited to open it up to questions,
14 and I would love to start with the first question,
15 which for the benefit of the Committee and, you
16 know, sort of the scope within which we can make
17 recommendations, could you talk a little bit about
18 why smaller funds are so important for the economy
19 versus, you know, the landscape that we've kind of
20 headed into, which is just a few mega funds, right,
21 controlling a lot of capital both from a startup
22 perspective and an LP perspective, and how LPs can
23 think about operating or how they have to operate in
24 a world where, one, they're being sold the narrative
25 that the top quartile are always going to be the

1 ones that outperform, and, two, you know, nobody
2 ever got fired for investing in mega funding.

3 MS. ZULKOSKY: Sure. Yeah. There's a
4 really interesting bifurcation taking place in the
5 market. I think emerging managers to me represent
6 venture capital in its purest form. It's kind of
7 what venture capital was when it started, right? I
8 think out of necessity many firms grew larger as
9 they attacked multiple stages. Those vehicles were
10 then, you know, possible for larger entities as
11 they -- you know, as pension funds entered the
12 venture capital market for them to be able to play,
13 there was a necessity for larger funds to provide
14 them that kind of venture capital access, and the
15 multi-stage firms are a great way for them to do
16 that.

17 As they grow, though, I think the --
18 there's exceptions to every rule, of course, but as
19 they grow, you know, for many firms the returns can
20 become more muted because, I think, I previously
21 read, some of it just math. It's really hard to
22 five X a billion dollar fund. And if that's kind of
23 your return expectation in venture capital, that can
24 be disappointing for them. However, some of the
25 larger firms operate almost like an index of sorts.

1 It feels a little bit more like a BlackRock than it
2 does an early stage venture fund, but for some,
3 that's a great way for them to gain that exposure,
4 so there's a place for that.

5 But I do believe that the smaller fund
6 sizes represent kind of venture industry in its
7 truest form. So, you know, you're looking at kind
8 of these pre-seed focus managers where savvy
9 founders are looking for investors with deep
10 industry expertise, real unique networks and
11 abilities to move the needle for their company post-
12 investment, and those folks will win. These are
13 very highly competitive allocations in those
14 companies based on who they are and what they could
15 to.

16 And for a hundred million dollar fund as
17 an example, so five X, that's a very different math
18 problem. There's more opportunities for them to
19 gain access to the exit environment. And we all
20 know the vast majority of venture outcomes are M&A,
21 right? It's not IPOs. Smaller funds have far more
22 opportunities for exit opportunities to drive
23 meaningful performance for their fund, right, and
24 even modest outcomes could be a fund return for a
25 hundred million dollar fund, modest in terms of, you

1 know, in the broader venture landscape we talked
2 about. You know, unicorns, like that's the only
3 thing that represents success in venture. That
4 couldn't be further from the truth.

5 So that the flexibility that a small fund
6 offers, not only for GP expertise and deep
7 industry -- excuse me, investment thesis and focus,
8 but from an LP's perspective, having even modest
9 exit outcomes drive fund performance means that you
10 can see theoretically better outcomes for your
11 overall portfolio. I think as you're building
12 diversified exposure to the venture ecosystem, as
13 well, for some of these larger funds, one commitment
14 that's a generalist, it almost feels like you're
15 getting that, again, index exposure, but if you're
16 trying to build specific industry sector exposure
17 through your portfolio, you can do so through
18 smaller funds more easily, as well. I think from a
19 founder's perspective, you just have the attention
20 of -- oftentimes you have the attention of the GPs,
21 the expertise they're bringing to the table is
22 highly focused and can really be impactful.

23 Did I miss any part of your question?

24 MS. DUGNAN: No. That was great.

25 Questions from the Committee?

1 Laura.

2 MS. NIKLASON: Yes. Thanks. That was
3 wonderful.

4 I'll try this one. Okay. Okay. Let's --
5 okay. All right.

6 So, yeah. So I was really fascinated by
7 the data on the new fund managers, or emerging fund
8 managers actually having somewhat better returns in
9 many cases than the established funds. But I wanted
10 to ask a question. Is there any data on something
11 you referenced earlier, which is funds that are run
12 by women or underrepresented minorities, is there
13 data that more of their investment goes to companies
14 with underrepresented founders? Yeah, I'd be very
15 interested in that.

16 MS. ZULKOSKY: There is, I believe a
17 number of studies. Harvard have done studies on
18 this. Kauffman has done some studies on this
19 showing that, I think, women are twice as likely to
20 invest in other women. So a general partner that
21 identifies as a women is twice as more -- is likely
22 to invest in a founder that's a woman. And I
23 believe -- I believe it was Harvard, but I'm happy
24 to circle back on this date for anyone that's
25 curious. I believe it was for black general

1 partners specifically are three times as likely to
2 invest in a black founder, which, you know, when you
3 look network effects, that's why enabling this
4 pathway for more diversified general partners is so
5 important because it really does enable a pathway to
6 greater diversity with a venture more broadly, and
7 that's, I think, such a key component of the
8 emerging manager conversation today.

9 MR. CORDERO: It's very kind. Thank you,
10 Mark.

11 Two questions. One is, you mentioned
12 appropriately selected fund managers, emerging fund
13 managers. Do you have -- the first question is: Do
14 you have kind of from your own experience in terms
15 of what you have found as you've kind of postmortem
16 the emerging fund managers you've invested in kind
17 of the profile characteristics in retrospect that
18 you say, wow, I'm going to double down more moving
19 forward on these types of emerging fund managers who
20 represent these types of, you know, characteristics
21 in their career or personality or track records,
22 whatever -- to whatever extent the characteristics
23 are with the profile?

24 The second question, you mentioned kind of
25 a, you know, problem of kind of big numbers, right,

1 in moving the needle for institutional players, and
2 you mentioned institutional bias, clearly one of
3 them probably being, you know, how do I invest to
4 move the needle from a return standpoint given the
5 fact that I'm investing the volume of dollars that I
6 am, and clearly even with this report that the
7 office published this year and has previously
8 creating kind of a mega cap dollars are really kind
9 of where -- you know, what moves the needle for the
10 marketplace. So do you have any thoughts or
11 recommendations in terms of what could be done to
12 help move more institutional dollars to focus on
13 emerging fund managers?

14 MS. ZULKOSKY: Sure. Thank you.

15 First, to your question on properly
16 selected. So my cofounder and I came together with
17 some -- as to institutional LPs that have
18 participated in this space in a variety of different
19 ways over the years before coming together to launch
20 Recast, and so we both have individual experiences
21 that we bring to the table, but coming together with
22 the core belief that the best will fall within
23 the -- first of all, the three things I mentioned,
24 right, so emerging, you know, having that unique
25 experience and appropriately sized.

1 So let's assume that the managers we're
2 talking about are already in that camp. What we
3 believe will drive out performance are a general
4 partner or general partners, a team of GPs, that
5 have -- are building a fund focused on an investment
6 thesis where they have a unique expertise that
7 they're bringing to the table. So -- and it
8 directly links to that investment thesis, right? So
9 it may be their operational experience, it may be
10 their investment experience in that area, and maybe
11 a unique network relationship they have with certain
12 organizations or any combination of the above that
13 will -- that sets them apart where they create a
14 flywheel of founder referrals.

15 We found without that founder flywheel,
16 you will never build a franchise. So you want the
17 founder community most importantly, but, of course,
18 the community of co-investors, and then later staged
19 venture funds, and then, of course, limited
20 partners, you know, those, too, but most critically
21 it is this other flywheel. So do founders that are
22 building companies in the space in your firm
23 operates? Do they -- would they seek you out for an
24 investment? It's incredibly hard to do that, but if
25 you have -- and that doesn't mean you have to have

1 an investment background or an offering background
2 to do that exceptionally well.

3 Now, typically, we see emerging managers
4 don't all have the tenure attributable track record
5 from an established shop, right? So I think
6 investors in emerging venture funds need to have
7 comfort in diligencing these managers in a different
8 way. You know, I don't think that your -- like the
9 traditional models don't necessarily always apply.
10 They apply sometimes, but they don't always apply.
11 And so while you're not necessarily investing in a
12 first-time investor, right, there's been some
13 investment opportunity, whether that be, you know,
14 personal, angel track record, or investment beyond
15 there at a prior firm, but, you know, their
16 operating ability, they were consulting with a
17 variety of companies for advisory shares or whatnot.

18 There's different ways to talk about this track
19 record of selecting companies, right? And so that's
20 a piece of the puzzle. And do those represent the
21 types of companies that they would be supporting in
22 this new strategy? So that's really important, as
23 well.

24 You know, we really see a few different
25 arc types. I mean, I think there's the rock star

1 operator turned angel fund investor for emerging
2 fund managers. They can just as strong an
3 investment opportunity as someone who's spinning out
4 of an existing venture shop. I think that's there's
5 a -- you're talking about sort of biases and market.
6 I think in the investor community there's a
7 particular bias for us, the blue chips spinout,
8 right, oh, well, they were at such and such firm.
9 There is an incredible amount of risk to backing
10 someone who's spinning out, as well. You're -- you
11 know, we call it like the cape, right? You know,
12 our founders wanting to work with you because of the
13 name -- because of the super hero cape you tend to
14 wear because of this big brand you represent, or is
15 it because of you and your expertise and what you
16 bring to the table, and diligencing that can be
17 tough, but you -- you know, there are phenomenal
18 managers that have launched their own firms after
19 spinning out, and there's others that's been more
20 challenging.

21 Also, starting a venture fund is building
22 a business. You're a startup in and of yourself.
23 And if you're used to having an army of analysts
24 beneath you and a whole IR staff that's doing all
25 your fund raising and then now you have to build it

1 yourself, that can be a rude awakening for some, so
2 you focus with your eyes wide open, which is -- you
3 know, that's an important piece of the puzzle, too.

4 So those are considerations. It is so nuanced. I
5 mean, I hate the answer it depends, but it does. It
6 does.

7 And then your second question, Vincent,
8 was, how do we get more institutional investors?

9 MR. CORDERO: For example, like pensions,
10 which we've talked a lot about in this space.

11 MS. ZULKOSKY: Yeah.

12 So, I think, for some there's so large
13 that's it's really hard to access the space even
14 through a fund to funds, even through a separately
15 managed account, but, I think, the majority of them,
16 it's possible through unique strategies like that,
17 right. These intermediaries can accept a very large
18 check and then diversify it on a multiple vehicle,
19 so I think that there's been wonderful examples of
20 that through the years of pensions that have been
21 very active in that space. So there's definitely
22 models there. It's just encouraging folks to take a
23 look at, you know, what has worked before, and the
24 performance of some of them have been exceptional,
25 as well.

1 MS. DUGNAN: Thank you so much, Sara.

2 I know we have some Committee members that
3 are joining us by Zoom. Herbert, I believe you have
4 a question for Sara?

5 MR. DRAYTON: Sure, I do.

6 Sara, thank you so much for joining us
7 today. You know, real good comprehensive
8 information that you shared with the group, so thank
9 you very much.

10 Just two questions. Is this accelerator
11 that you guys --

12 MS. DUGNAN: Okay. Let's go with
13 Jennifer then.

14 MR. DRAYTON: Oh, can you hear me now?

15 MS. NEWTON: Thank you so much, Sara, for
16 your presentation.

17 I have a question about the one percent
18 for the emerging fund managers, the ones with skin
19 in the game. Is there any data on the -- any
20 alternative structures that would be an alternative
21 to that one percent skin in the game that you've
22 seen work that we could potentially advocate for?

23 MS. ZULKOSKY: So to date, there are --
24 issue number one is getting folks to accept things
25 that don't look traditional, right? There have been

1 over the years what are called GP commit lines of
2 credit, so some banks, like the bank for the venture
3 funds can issue a line of credit for that manager to
4 leverage that for their GP commit for committal
5 inside their LP. That's if capital is called. And
6 then you can use management fee offsets or, you
7 know, depending on the structure, perhaps, you know,
8 future carry to pay that back, but even in those
9 cases, I think the banks are underwriting the
10 financial stability of that individual. And then,
11 of course, the size of the fund because in the
12 management fee stream, of course, you'd be
13 leveraging. So that's not -- that's an option out
14 there today.

15 I don't think there's been a ton of
16 innovation here, and there's certainly a lot of room
17 for it. I don't want to dissuade folks from trying
18 to create new products to address this. I do think
19 the easiest thing is to just be more open minded
20 about the general partner and what their financial
21 situation is and what's most appropriate for
22 incentive alignment because the blanker one percent,
23 as I mentioned earlier, is not appropriate for some
24 well-established firms or individuals starting funds
25 of a different means than those that, perhaps, are

1 not independently wealthy.

2 MS. DUGNAN: Just to follow-up on that,
3 and what about cashless GP commitments, which, you
4 know, obviously, include waiving a portion of your
5 management fees to fulfill a cashless GP
6 commitment --

7 MS. ZULKOSKY: Yes.

8 MS. DUGNAN: -- are those being accepted
9 in the market?

10 MS. ZULKOSKY: Absolutely. And I put that
11 in the camp of kind of the management fee offsets,
12 so -- but thank you for being more specific for me.

13 Absolutely. I mean, you're seeing it
14 happen for sure. It feels like -- it feels like
15 creating more financial constructs to achieve
16 something that is not maybe necessary, but I agree,
17 that that is an option.

18 MS. DUGNAN: Heath.

19 MR. MORRIS: Jennifer, this goes back to
20 your question just a little bit. I'm Heath Morris.

21 I'm the Chief Risk Officer for the SBA's SBIC
22 program and all of the SBIR programs, as well, so
23 our accelerators. And I sit on our Investment
24 Committee. I review, you know, hundreds of
25 investment companies a year who come in and pitch,

1 and, you know, we're oftentimes referred to as --
2 even though we're not an LP, we're looked at as, you
3 know, the LP group, basically.

4 We have a new product, which I'm sure
5 Bailey DeVries went over in detail in the past,
6 right, with our accrual venture and our fund to
7 funds, right? One of the things to the one percent
8 that we have done specifically and we're starting to
9 see that a lot more from our VC groups is that we
10 don't have to have the one percent, right? We would
11 like that, and, yes, that is the industry norm for
12 sure. But if we look at it as skin in the game,
13 right, to use Sara's term, as long as we feel that
14 the individual is putting in a significant
15 commitment that is a large financial commitment to
16 them, right, and, again, it definitely depends. If
17 you have a super large fund and you're unable to get
18 the one percent because the amount would be, you
19 know, more than we would ask, we simply wouldn't ask
20 that, right, but there are opportunities where an
21 individual -- we would look at their financial
22 situation. And to them, this is a lot. To them,
23 this is them saying, we're all in, right, we pushed
24 all our chips in, this is all we have, and that we
25 didn't reach the one percent, but clearly this is a

1 significant financial investment for us and there is
2 no turning back, right? That's what we really look
3 for and we like to see that.

4 We've also heard a lot of, you know, VCs
5 that say, if you can't get the one percent, yes,
6 that is the norm, as long as we know that this is it
7 for you, right, that you're fully invested in it.
8 So I think trying to change that mindset a little
9 bit to allow those individuals who might have the
10 connections with the financial backing or, you know,
11 family ties net worth that can get into that arena,
12 there's a way that where we start to model the
13 mindset and look at those managers that can get in
14 without reaching that one percent threshold. So I
15 just wanted to add that to your question.

16 MS. DUIGNAN: Thank you.

17 And I know we have, hopefully, the Webex
18 working now. George, I believe you have a question.

19 MR. COOK: Yeah. Thank you.

20 Sara, thanks so much for sharing your
21 expertise. Are you all able to hear me to confirm?

22 MS. ZULKOSKY: Yes.

23 MR. COOK: Thank you.

24 Sara, here are the things we are
25 explicitly going to talk about a little bit later

1 this morning. Under the private fund registration,
2 the qualifying venture capital funds, there's a
3 twelve million dollar cap in there. Are you
4 experiencing that a lot of early emerging fund
5 managers are hitting that cap? And then also under
6 3(c)(1), the limit of a hundred LPs into a fund.
7 Are these common themes that people are running up
8 against, and are raising those caps going to help
9 emerging fund managers?

10 MS. ZULKOSKY: Yes. So I'll say the vast
11 majority of the managers that we're seeing through
12 our programs are raising between ten and thirty
13 million dollars for their first fund. So the twelve
14 million dollar cap is certainly being reached by
15 many.

16 The hundred investors rule is such a
17 challenging one because if you've got a small fund
18 who is based on their fund size really limited in
19 their LP arc types they can reach out to. So
20 focusing more on family offices, high net worth
21 individuals, you know, perhaps, corporates, other
22 than a rating, perhaps more modest checks, you need
23 so many more of those modest checks to hit your
24 twenty-five million dollar target, you know,
25 hypothetically. So, you know, are you going to hit

1 a hundred pretty quickly? I would think so. And
2 there's plenty of examples of managers we know in
3 our community where they really took that into
4 account and had to think about the LP arc types they
5 targeted and in what order.

6 Then we open up doors of questions about,
7 you know, obviously, the limited partner community
8 also feels a bit homogenous, and, you know, if we're
9 allowing other individuals that are trying to invest
10 in venture that want that exposure, want to build
11 their own portfolios, but can't do so at a
12 significant level, are you then going to arbitrarily
13 be cutting out folks that you could then be helping
14 to build access for.

15 So I think it cuts both ways. I think
16 it's important for the GPs to have more flexibility
17 to be able to raise from a higher number just in
18 case that's the river they're swimming in, but I
19 think it's also important from, you know, the
20 emerging LP community to be able to have access to,
21 you know, wealth generation opportunities and
22 venture capital, and if they're going to be not have
23 that opportunity because of their check size, as
24 well, that's a challenge, so --

25 MS. DUGNAN: And, I think, thank you for

1 that question, George, because it is particularly
2 relevant to our discussion this morning and our
3 recommendation.

4 From your perspective, what do you
5 consider kind of a minimum viable fund size for an
6 early stage venture capital fund, and what do you
7 consider kind of like a very comfortable fund size
8 at which, you know, people could be probably have
9 the budget to take on regulatory burden above that
10 number?

11 MS. ZULKOSKY: It's such a difficult
12 question because it really depends on the general
13 partner's personal situation.

14 MS. DUGNAN: Okay. Just assuming
15 somebody who, you know, isn't independently wealthy,
16 maybe, you know, has to pay for food and rent.

17 MS. ZULKOSKY: Fair. Fair.

18 So I -- so the solve to this when it's
19 smaller funds is, it's not a full-time job, right?
20 So it's the proof of concept or fund zero are these
21 terms you hear when someone's managing a five
22 million dollar fund while they're full-time in an
23 operational role, or they're a venture partner for a
24 larger firm, something to supplement their income.

25 I think the answer really depends. I

1 would say that for a solo GP to have enough capital
2 to pay themselves a competitive salary and, perhaps,
3 build out the back office infrastructure appropriate
4 for an early venture fund, that minimum is twenty-
5 five, and then, of course, for multiple general
6 partners, that's different, but for the solo general
7 partner, that's probably where I would start.

8 MS. DUGNAN: Okay. Thank you for that.

9 Herbert, did you -- are you able to ask
10 your question? Maybe he's gone. Okay. We'll go
11 through --

12 MR. DRAYTON: Can you hear me?

13 MS. DUGNAN: I'm sorry. Herbert, there
14 you are. Okay. We can hear you.

15 MR. DRAYTON: Okay. Great.

16 Sara, thank you so much for joining us
17 today and very insightful information.

18 I've got two questions. One is: Is your
19 accelerator focused only on female founders and GPs?

20 And then the second question is: Beyond any
21 capital, are you providing any access to strategic
22 partnerships of the introductions to those who could
23 be strategic partners, board members, and other VC
24 introductions?

25 MS. ZULKOSKY: Sure. Thank for your

1 question.

2 Today, yeah, so Accelerate we launched
3 with the support of Pivotal Ventures, Melinda French
4 Gates' company, to focus on early stage funds that
5 had -- that met a few different criteria. The first
6 of which being US based, US focused. The second
7 being the majority of -- sorry, excuse me, at least
8 seventy-five percent of your capital is or will be
9 invested within the US, that the firms have at least
10 one general partner who identifies as a woman or
11 nonbinary, so there can certainly be men on the
12 team, but we're looking for funds that have at least
13 one general partner who identifies as a woman or
14 nonbinary. And then we're looking for firms that
15 have twenty-five million in assets under management
16 or less, not including any SPVs they've raised or
17 kind of like personal track records that they've
18 developed or any capital that they have raised in an
19 open vehicle when they're applying.

20 MS. DUIGNAN: Thank you.

21 Bart, I believe you have a question.

22 MR. DILLASHAW: Yes. No. Thank you.

23 Thank you very much for speaking with us
24 today.

25 Picking up on something Stacey mentioned

1 as one of the recommendations from the forum, I'd be
2 curious as to what you think the role of finders,
3 you know, as they currently are, and then what they
4 could be if that was -- the regulations on that were
5 liberalized and how that might affect the ability
6 for emerging managers to establish a record for
7 intermediaries to maybe act as go betweens between
8 the LP and maybe even the investment community, and
9 I'm just kind of curious what your thoughts would
10 be?

11 MS. ZULKOSKY: Would you tell me a little
12 bit more about what you mean by finders?

13 MR. DILLASHAW: So, basically, folks that
14 would get, you know, a commission on sourcing
15 capital or sourcing funds.

16 MS. ZULKOSKY: A placement agent?

17 MR. DILLASHAW: Yeah.

18 MS. ZULKOSKY: Okay.

19 MR. DILLASHAW: You know, currently a
20 finder's broker/dealer just like finders, I think,
21 in the -- Stacey, can correct me, but, I think, the
22 concept is, basically, a non-broker/dealer finder
23 that wouldn't be subject to all the broker/dealer
24 regulations.

25 MS. ZULKOSKY: The concept of placement

1 agents is very difficult, or finders or
2 broker/dealers, whatever term we want to use here
3 today, is a difficult one for the emerging manager
4 community because of a number of limitations to that
5 beyond regulatory, so just purely like execution,
6 which is something I can speak to. The other pieces
7 I'll leave to the experts. But execution wise,
8 placement agents are paid on success. So,
9 theoretically, the incentive are aligned, but if
10 they're looking to place a large amount of capital
11 into a fund because that means they get a higher
12 fee, it's very difficult to do it with a twenty
13 million dollar fund. It's not necessarily worth
14 their time.

15 Many of them also the relationships are
16 focused on more institutional investors, the
17 larger -- larger -- larger LPs that, again, can
18 commit -- they're a good long-term partners for the
19 fund managers, right, so it's less turnover, but
20 it's, you know, fewer commitments necessary to raise
21 the fund, as well, so a more efficient process for
22 them.

23 I think that you are seeing a rise of
24 other models, so individuals that are operating more
25 in a consulting capacity that have more family

1 office and high net worth individual relationships
2 and are willing to kind of be helpful in like LP arc
3 type strategy and whatnot, but it's folks that have
4 that network that's more helpful for emerging
5 managers, so -- but execution wise, I think the
6 traditional model has just been really hard.

7 MS. DUGNAN: Yeah. I think it's a really
8 good question, too, because kind of technically VCs
9 are the finders of companies, so, you know, if you
10 need finders for the finders for the finders, it
11 becomes complicated. But thank you.

12 I think we have time for one more
13 question, so Rose.

14 MS. STANDIFER: All right. So I want to
15 go back and -- to some of the recommendations before
16 this Committee, especially around five, and if we
17 assume around twenty-five million as, you know, a
18 viable fund size for emerging managers, what I've
19 heard is, because you're going more to the angels,
20 family offices, you're going to have a smaller check
21 size, so, presumably, you're going to need more LPs,
22 and that's one of the recommendations is to increase
23 that number.

24 The second burden you mentioned was
25 operational. And so I mean, can you talk more about

1 how those tie, right? So we've opened up
2 potentially access to capital by allowing you to go
3 to more LPs' smaller check size to get your minimum
4 viable, but what is that doing to your management
5 fees? What is that doing to the appropriately-sized
6 back office for your fund, right? Are they working
7 against each other, or how is that facilitating fund
8 raising and then actual deployment of capital for
9 the fund?

10 MS. ZULKOSKY: Sure. So my -- my -- you
11 know, my suggestion around the twenty-five million
12 as, perhaps, a level to discuss was taking into
13 account that that was including -- you know,
14 assuming the standard two and twenty model, two
15 percent management fee, which for many emerging
16 venture funds today is actually looking really like
17 a two and a half to start, that is providing enough
18 for competitive salary, as well as for appropriate
19 back office, like outsourced service providers. So
20 addressing some of the operational issues I
21 mentioned before where, you know, the GP can focus
22 on what they should be focusing on, but have really
23 great fund administration, have really great tax
24 audit, operating support as necessary, legal
25 support.

1 Key considerations also include fund
2 expenses. So, you know, there's a number of fund
3 raising expenses, legal expenses that, depending on
4 how the LP is written for a fund, can be charged to
5 the fund, so it does not burden the management
6 company and the fee stream, which also helps the
7 argument; however, this means less investable
8 capital for the GP, and if you're -- everything is
9 riding on performance, I don't mean to take that out
10 of one pocket and put it in the other, but these are
11 all the efforts we have, right, but, I think, even
12 at the twenty-five million you've got the fee stream
13 you need in order to cover those expenses.

14 So many folks are not raising twenty-five
15 million dollar funds, though, right? So there's
16 still going to be this issue of what happens for
17 those folds that are boot strapping a fund, that,
18 you know, they're putting more money in, not only
19 are you not paying yourself anything, but you're
20 going in the red because, you know, you believe so
21 deeply in your idea and you want to see it come to
22 fruition and many of them are successful, so --

23 MS. DUIGNAN: Sara, thank you.

24 MS. STANDIFER: Can I ask one quick
25 follow-up?

1 MS. DUIGNAN: Okay.

2 MS. STANDIFER: When you say so many are
3 not raising twenty-five million, is it because
4 they're hitting the current caps, or regardless of
5 caps, they're not able to access LPs that will fund
6 twenty-five million?

7 MS. ZULKOSKY: I was referring to the
8 latter, not the former, but I think both are true.
9 And there's this grey area for many fund ones or
10 proof of concept, some zeros, whatever, whether
11 folks have started -- you know, they set out to
12 raise a certain target, don't hit that target
13 because the market has been crazy the last few
14 years, so they're forced to operate at a suboptimal
15 level, they find themselves, you know, kind of
16 strained on how they build that. So that's -- and
17 those instances are going to happen even if you
18 increase it to twenty-five, right? That will
19 happen. There will still be folks that don't
20 have -- you know, they have exceptional operating
21 experience or exceptional, you know, kind of founder
22 access, but don't have great LP networks and just
23 don't raise what they were hoping to raise, and so
24 going back to the beginning of the conversation,
25 hopeful that some of these other support mechanisms

1 can help bridge the gap.

2 MS. DUGNAN: Thank you so much, Sara.
3 You know, your presentation and discussion with us
4 today has really been invaluable. So I want to
5 thank you very much for your time. I know the
6 entire Committee appreciates it. And I want to
7 thank everybody for their very thoughtful questions.

8 I think this is going to be extremely informative
9 to our discussion this afternoon.

10 MS. ZULKOSKY: Thank you very much.

11 MS. DUGNAN: All right. I would now like
12 to introduce and welcome Ashok Kamal, Executive
13 Director of NuFund Venture Group, a San Diego based
14 early stage investment fund created by and formerly
15 known as the Tech Coast Angels, San Diego.

16 Ashok is an investor, speaker, and social
17 entrepreneur with a wide range of experience
18 starting, leading, and investing in organizations in
19 the private, public, and nonprofit sectors.

20 Ashok.

21 MR. KAMAL: Hi, everyone. Thanks for
22 having me here today. It's great to be listening to
23 some of -- I hope everyone can hear and see me.
24 Thanks for having me here today. It's great to be
25 in front of this Committee. I've been listening,

1 and Sara really covered very comprehensively a lot
2 of points I would emphasize and also to dial in on
3 one of them that has been part of the discourse over
4 the last few minutes, but just a little bit of
5 background on myself.

6 As Erica mentioned, I'm coming from an
7 entrepreneur's perspective, born and raised in
8 Boston, so I am not with you on the east coast
9 today, as I am in San Diego, my now new home, but
10 I'm very familiar with the DC, New York, Boston
11 area. I've spent a lot of time there where I grew
12 up and had the bulk of my career before moving to
13 San Diego, and that, in my experience, included
14 running a nonprofit, starting a number of tech
15 companies, and then transitioning into angel
16 investing myself when I moved to San Diego, which is
17 what lead me into what was then called Tech Coast
18 Angels, San Diego, a sort of typical angel capital
19 association style angel group with sixty, seventy
20 members. Fast forward to today, there's three
21 hundred and twenty-five members of our group. These
22 are all accredited investors, you know, now around
23 the country; although, about seventy-five percent of
24 our footprint is in Southern California, both
25 members and companies. That's changed a lot over

1 the last three or four years even pre-COVID as we
2 started opening up our scope and becoming a new fund
3 venture group, you know, which then maybe kind of
4 implies is different from an angel group and
5 different from the one that we were sort of spawned
6 from, different in a few ways.

7 One, we have a fund first model, so we
8 created a unique venture style fund that is raised
9 completely within the group, so it's sort of a
10 private syndicate raised into a fund vehicle once a
11 year, so it's an annual fund, and then deploys
12 capital based on a voting mechanism by the members,
13 not by a GP or an investment committee. There's an
14 Investment Executive Committee that does the
15 auditing of the votes, making sure we get our taxes
16 done, et cetera, and I'm part of that committee, but
17 the investment decisions are made entirely
18 democratically by the members of the fund.

19 There are two hundred and forty-nine
20 members of the fund. I think that's the main issue
21 we'll talk about today as far as a rule, but that's
22 a unique model, and we're deploying ten to fifty
23 million dollars a year in totality both from our
24 fund, which, again, is leading the investment from
25 the group, but it's not the exclusive source of our

1 investment skills that do direct investment
2 placements and then sometimes create parallel
3 special purpose vehicles to invest in companies that
4 are all being diligenced and negotiated and decided
5 upon through a streamline process.

6 So the types of companies we invest in are
7 your typical venture, you know, venture fields, you
8 know, for example, a few, one is CRISPR Gene. That
9 is a company that is making male mosquitoes
10 infertile. We're excited about that one. The Gates
11 Foundation actually was another coinvestor in that.

12 We just invested one point three million dollars
13 into a pan cancer drug development company based
14 here in San Diego. Last year our biggest investment
15 was in a coffee roll-up company that takes small
16 regional brands and brings them all under one roof
17 and hires formerly sex traffic workers to do the
18 majority of the work roasting and delivering and now
19 mostly through eCommerce for that company. So those
20 are just some examples of the types of companies
21 that we've invested in, but, you know, we feel like
22 our mission is not only make money, but also to make
23 a positive impact in the investments that we're
24 making.

25 I think the main reason that I am before

1 this Committee today, and I understand that there's
2 already a level of agreement and consensus on this
3 topic, but maybe even from my perspective more
4 sharing how the effective cap of two hundred and
5 forty-nine members in the LLC-type funds that I'm
6 running as an investment club impacts our group,
7 and, therefore, has a trickle down impact into the
8 types of entrepreneurs and communities that we would
9 be deploying capital into.

10 We have, as I mentioned, well over three
11 hundred members of our group. Again, these are
12 accredited investors, so it's not a debate over who
13 should be accredited. It's part of the existing
14 rules. And we have two hundred and forty-nine seats
15 in each of these funds that we raise once a year and
16 then deploy. We're in our seventh vintage now.

17 The funds are also working as the early
18 data shows for what it's worth, so Carta has been
19 releasing data on fund performance. Our first four
20 funds, so that's going back to 2019 through 2022,
21 are all in the top ten percent of the benchmarks per
22 Carta's data in terms of DPI, so cash-on-cash
23 distributions. Our first fund for the 2019 vintage
24 has returned all of its capital and more, which, I
25 think, puts it in the top five percent of -- and

1 this is all venture fund studied by data by Carta in
2 that dataset. So we feel like the funds are, you
3 know, working. Of course, the results are early.
4 And this is a hard business in a volatile market, so
5 I'm careful to not overstate, but, again, these are
6 the benchmarks that we have available.

7 Because we have more members in our group
8 than seats in the fund, we actually have to stop
9 some of our own members at the door from being able
10 to participate in the funds by their own group.
11 What that means is, we have a period of time where
12 we run the capital call. Since, again, these are
13 annual funds, it's usually six weeks or so.
14 Typically, it's on a summer cycle. Just happens to
15 be we raise the subsequent fund when the current
16 funds fully invests. So what does that look like in
17 July of 2024? We began raising the current fund.
18 We stopped raising it in September when we hit the
19 SEC cap for seats. The same thing the year before.
20 The same thing the year before that.

21 The funds didn't start at this size. The
22 first fund was a little over two million dollars,
23 but they've grown in popularity and in size within
24 our group. So now we're in the fourth consecutive
25 cycle where we've had to stop taking money from

1 within our group as a result of the cap, and then
2 once we fully deploy the funds, so that typically
3 takes ten to twelve months as they're designed to be
4 annual funds. Then we raise the next fund.

5 So after a period of, let's call it, six
6 to eight weeks of a capital call within our group,
7 we stop taking money, and then we focus exclusively
8 on deploying that money. That means that members
9 who weren't able to access administratively the call
10 during a period of time because there's all kinds of
11 reasons you can imagine from health to family to,
12 you know, being off the grid at the right time.
13 There are people that don't have liquidity
14 necessarily to invest whatever the average amount
15 that they would like to invest in at a given point
16 in time would be. There are people who haven't yet
17 joined the group, but joined the group after the
18 capital call concludes and are kept out of that fund
19 cycle for a period of -- usually it's an average of,
20 let's say, six to eight months where they can't
21 participate in the fund that's investing money in
22 their group.

23 So there are a variety of reasons for
24 which on average twenty to twenty-five percent of
25 our group in a given year is not able to participate

1 in our annual fund even though the annual funds are
2 designed to be entirely democratic and deployed
3 giving everyone in the group skin in the game, and,
4 therefore, working on these deals together,
5 sourcing, diligencing, making decisions is the
6 nature of our group. So the fund cap is the only
7 thing that is preventing, let's say again, twenty
8 percent of the group in a given cycle from
9 participating in the annual fund.

10 The AUM cap is not where we hit a wall.
11 So, I believe, it's twelve million dollars, I think,
12 it was increased for one of these funds. Our funds
13 are typically in the seven million dollar size. So
14 increasing the assets under management, as they've
15 been increased now, did not have the impact of
16 changing the size of our funds because the average
17 investments from the two hundred and forty-nine
18 people in the fund is about twenty-five thousand
19 dollars. The range is ten thousand dollars to about
20 three hundred thousand dollars for any given fund
21 for any given member who's buying units in the fund.

22 It's the number of seats.

23 One of the main reasons, I think, the
24 number of seats is maybe even more important than
25 the cap on AUM is we have, obviously, depleted

1 increasing the minimum investment threshold into our
2 funds because that would then prioritize people who
3 can write bigger checks within the group. You know,
4 again, these are all accredited investors who are
5 capable of writing checks, but some people want to
6 write ten thousand dollar checks, some people want
7 to write a hundred thousand dollar checks, but we
8 haven't done that because, I think -- you know, I've
9 emphasized a lot of the points that Sara was making.

10 NuFund is an emerging manager for what it's worth.

11 We're in the seventh, you know, one of these fund
12 cycles and everything about the organization has
13 changed significantly and structurally from, you
14 know, the origin organization of, you know, fifteen
15 years ago.

16 This is an emerging manager, and we want
17 to have a low friction on ramp for people that want
18 to get into the venture investing asset class. So
19 we've kept our entry point at ten thousand dollars
20 because that allows us to have a wider scope of
21 members who can participate in these funds, and,
22 therefore, we're able to achieve greater diversity
23 within the group, diversity of all kinds, which is
24 very important. And, you know, Sara talked about a
25 lot of the data as to why that's important. So

1 that's one reason we haven't increase the minimum
2 entry point.

3 Another reason is, we found that people
4 who start at ten thousand dollars, which is, again,
5 the minimum to invest in one of these funds, that's
6 never changed even though the funds have tripled in
7 size, is we found that people who participate in
8 their first fund often tend to level up, such that
9 by their second or their third cycle, they're
10 investing more after they've become more familiar
11 with the group, after many cases, they become more
12 familiar with venture investing since this may be
13 the first type of venture investment that they make.

14 You know, I know myself when I started in
15 2016 doing angel venture investing, I used platforms
16 like Angel List that were, you know, very novel at
17 the time, still somewhat novel to dip my toe into
18 the waters of angel investing, as opposed to writing
19 twenty-five thousand dollar and fifty thousand
20 dollar, you know, checks into single companies as
21 sort of classic angel model that was more prevalent
22 then, but is still in existence today and didn't
23 work, you know, for me at my stage in life.

24 So we want to have that big tent for
25 emerging angel venture investors as an emerging

1 venture fund ourself, and, therefore, we haven't
2 changed the minimum investment level, but the fact
3 is, of course, we have then continued to hit the cap
4 for the number of seats that we have, and we're
5 budding up against it every year. Fortunately, it
6 was increased, I think, in 2018 from the ninety-nine
7 effective cap in an LLC to two hundred and forty-
8 nine, which, you know, that was timely and
9 fortuitous for us and it did a lot steel liberal
10 funds from the two million dollars starting point.
11 The first one had a hundred and twelve members in it
12 to give you an idea. So it would've been maybe a
13 little bit under two million dollars if it had been
14 the cap of ninety-nine, but we wouldn't've been able
15 to grow it in the same design, you know, let's say,
16 the philosophy that we have today.

17 So from my perspective, increasing the
18 cap, whether that number was five hundred, certainly
19 five hundred would accommodate new fund today, you
20 know, as we were formed, but I don't know how long
21 it would accommodate a fund like NuFund for, you
22 know, in the future in that I can tell you we've had
23 conversations with other venture organizations that
24 have looked at partnering with us or even joining
25 NuFund, you know, under this national banner. I

1 mean, we've had to pause those types of
2 conversations because we just don't want to compound
3 the problem that we have right now of having a
4 surplus of investors, but not enough facility to be
5 able to -- to be able to give them the opportunities
6 that we want our members to have, and, therefore,
7 have purposely not grown our group over the last
8 couple of years at the rate that we could have.

9 So I think if the cap was raised to a
10 number like a thousand or something, you know, even
11 higher than another ten percent, you know, twenty
12 percent, then that would also give us the
13 opportunity to think about growth, again, market
14 permitting because, you know, it's been a
15 challenging market, as well. So a good time for us
16 to slow our growth, which, you know, was fairly
17 exponential, you know, from what 2021 to 2023.

18 So that's an issue that, I think, I
19 appreciate hearing that the Committee has already
20 taking into consideration for recommending, you
21 know, changes, and I can tell you as someone who,
22 you know, deals with it firsthand and has dealt with
23 for several years, it would make a big difference in
24 us being able to bring more capital into the group,
25 deploy more capital to the types of companies that

1 we're talking about, and, hopefully, have a much
2 more impact that benefits all of us.

3 MS. DUIGNAN: That's great.

4 And I would love to open it up to
5 questions from the Committee, but first, you know,
6 we'd love to get your perspective on that -- you
7 know, just so that we can really understand, you've
8 purposely decided to stay within the registration
9 exclusion pathway. How has that benefited you and
10 maybe sort of weighed what the impact of
11 registration non-exclusion would've been on your
12 organization and why you made that decision?

13 MR. KAMAL: Yeah. I think, you know,
14 we've had to weigh all the, you know, options to
15 some extent, you know, given that, you know, when
16 you have a problem, you have to look at solutions.
17 Given the origin of our group, which really started
18 as an angel group and, you know, the structure of
19 the group, the fee schedule that we have, the
20 culture that we have, we're not a VC, and, you know,
21 I think NuFund doesn't aspire to be a VC. We are a
22 venture group. It's sort of a model that we've
23 been, you know, developing and now honing. I mean,
24 we've really changed the nature of the group to then
25 go into that more centralized, you know, kind of

1 institutional, you know, purely model, and we think
2 what we have is a little bit different and it's one
3 of the things that attracts, you know, people to us
4 in that they're able to have influence, they're able
5 to participate at a several that's comfortable for
6 them, and they're able to take part in an
7 organization with a culture and a very inclusive,
8 you know, philosophy, which would change if we would
9 then need to go through, you know, a number of
10 other, you know, regulatory compliance, you know,
11 kind of standards, both the amount of money that we
12 would need to then take in fees to be able to
13 facilitate and be complaint would change, and, I
14 think, it's just we'd rather stay small for now than
15 try and go big and then, you know, be in a slightly
16 different business with other people that are
17 already good at doing that business.

18 MS. DUGNAN: All right. Great.

19 Marcia.

20 MS. DAWOOD: I'm just curious, out of the
21 two hundred and forty-nine then that you have in
22 each of these annual funds, what would you say on
23 average is the participation rate of the people in
24 the fund? Are they participating on pretty much
25 with the core group, like the usual suspects that

1 are kind of with them all the time, who are doing a
2 lot of the heavy lifting, or do you have people that
3 kind of come in and out of that?

4 MR. KAMAL: Yeah. It's -- there is a core
5 group, so, you know, there are a number of people
6 who are in all seven of the funds. They've been
7 there the inception. I always joke, you get your
8 steak knives after, you know, you finish your, you
9 know, capital call for you consistency.

10 The core of the group is probably fifty
11 percent, you know, of the folks that have rolled
12 over from, you know, let's say, two to four
13 consecutive annual funds and then about half that
14 have joined the group since, you know, the prior
15 two-fund vintage prior cycles, you know, kind of had
16 included, and there are always new people coming in.

17 In totality, because, you know, we have three
18 hundred and twenty-five, like today, active members
19 of the group, and, again, this is a single
20 organization. It's not a franchise or it's not
21 chapters. You know, it's -- NuFund is NuFund. It's
22 one group. You know, it's about seventy to eighty
23 percent of the people that are able to participate
24 in a given annual fund.

25 It doesn't mean that the other, let's say,

1 twenty-five percent would want to participate in a
2 given vintage, and that's totally okay. There are
3 people that, you know, say to me, I'd like to make
4 my own mistakes -- make a lot of mistakes -- I think
5 my stream --

6 MS. DUIGNAN: Yeah. It was just for a
7 second. You can continue. We can see you.

8 MR. KAMAL: Yeah. So thank you.

9 I was saying that it's not to say that
10 every who's not participating in, say, this current
11 vintage wants to. There are some people who are
12 holdouts, you know, from beginning, and one of the
13 quotes I've heard is, I like to make my own
14 mistakes, and as an angel investor, you know,
15 Marcia, you know we make a lot of mistakes. We have
16 to take a lot of shots. But there's definitely a
17 non-trivial number of the people who aren't
18 participating that would be, you know, if they
19 had -- you know, if we had more seats in this if
20 they had maybe more time to be able to join, and
21 then there are a lot of people who join the group
22 after the fund capital call ends who are just locked
23 out until, you know, the next fund.

24 MS. DUIGNAN: Bart.

25 MR. DILLASHAW: Just sort of curious, of

1 the compliance costs that you do have to save, could
2 you sort of say what those are even as an exempt
3 fund, and then also curious, since it does sound
4 like you're going multistate, if you run into any
5 challenges operating across multiple state lines?

6 MR. KAMAL: We haven't run into any
7 challenges yet. We do file, you know, Form Ds with,
8 you know, all the states. Maybe a given fund might
9 have ten or twelve or so states. You know, it's
10 concentrated in California for sure, but, you know,
11 that's probably a typical number. So we file our
12 Form Ds. We, obviously, do our tax returns, and we
13 issue K-1s, but that's more for with each of the
14 members, you know, every year, but it's certainly
15 significantly less than if we were to, you know,
16 classify differently.

17 And what that allows us to do is keep our
18 fee structure low. So the cost to be a member of
19 NuFund annually, this would be a member of the
20 organization, which is a 501(c)(6), is eighteen
21 hundred dollars a year. That's a pretty standard
22 fee structure for an angel group.

23 The fee structure for the fund is five
24 percent carry and three percent one-time expense
25 holdover that we use to pay the fund's specific

1 expenses. So that's the, you know, set up for
2 legal, the annual tax work, any other administrative
3 work or at distributions, you know, et cetera. So
4 the fee structure for the fund compared to say a two
5 and twenty, which, obviously, when you are running a
6 venture capital fund, you know, does make sense and
7 it's accepted within the industry, but our fund is
8 actually a three and five, and that three is not per
9 year. It's one time at the beginning of the fund to
10 pay for the fund's, you know, expenses in its tenure
11 life.

12 MS. DUGNAN: Jennifer, did you have a
13 question?

14 MS. NEWTON: Thank you.

15 You mentioned that for members who are --
16 who miss the capital call or who are locked out
17 because of this threshold. Do you find that once,
18 you know, that they have to go through that period
19 where they have to wait, that they lose interest or
20 they become cold, and are you experiencing drop off
21 or attrition with like trying to eventually keep
22 those members on?

23 MR. KAMAL: That's a really interesting
24 question. I think, you know, it's something maybe
25 for us to try and identify more in the data. It

1 wouldn't be obvious at the surface level, which, you
2 know, is one of the reasons, I think, that'd be
3 interesting to find out because, you know, we don't
4 want to have a high dropout rate in general, and
5 those people, you know, who you mentioned are still
6 joining the organization, you know, before they're
7 participating in the fund, so they're joining
8 NuFund, they're paying their, you know, eighteen
9 hundred dollars for the next twelve months, so they
10 already have some kind of skin in the game and
11 orientation, I think. What we found is that they
12 have a higher level of participation when the fund
13 actually opens up. So as opposed to getting
14 fatigue, then tend to become, you know, almost
15 anxious to participate in the next fund. And I
16 think where it creates the conflict is with some of
17 the existing members who then there's a bit of a
18 feeding frenzy, especially in that, you know, first
19 two weeks. You know, we find we raise usually --
20 like the last fund we raised two million dollars in
21 the first two days, you know, within the group.

22 So I think what it does is it creates sort
23 of an anxiety for -- you know, for those members to
24 make sure that they have their seat when the next
25 fund launches; although, I think it would be

1 interesting to find -- I wouldn't be shocked if
2 there were some people who leave the group entirely
3 because they just never kind of got fully engaged
4 and then life happens and other priorities come up,
5 and as a result of them being on the sidelines, they
6 just decide to do other things. I'm sure there are
7 cases of that, you know, if we can really drill down
8 into every, you know, year's attrition. So it's a
9 very interesting point to bring up. Thank you.

10 MS. DUIGNAN: Rose.

11 MS. STANDIFER: Thank you.

12 I'm interesting in the this concept almost
13 of the emerging LP and the rationale for keeping
14 that minimum check size small. In these funds, I
15 mean, what is the average check size of the folks
16 that are participating? You mentioned that they,
17 you know, scaled up from your ten thousand minimum,
18 but you have this core that is a repeat
19 participation. So, you know, across the last
20 several funds, what has been an average check size
21 for this group?

22 MR. KAMAL: Yeah. The amount of averages
23 is about twenty-five to twenty-six thousand dollars
24 if you took like a three-year, you know, look. Most
25 people invest in the twenty thousand dollar, you

1 know, kind of range. And then there's a lot of
2 people who invest ten thousand dollars.

3 A lot of those for what it's worth also do
4 some of the most work. So another reason we've kept
5 entry point low is, we found that even if they're
6 investing, you know, initially or, you know, for
7 some period of time ten thousand dollars, fifteen
8 thousand dollars, they are also doing a lot of heavy
9 lifting in terms of due diligence, which is one of
10 the reasons, you know, we value those people.

11 MS. DUIGNAN: George.

12 MR. COOK: Yeah. Hi. Thank you for
13 sharing, Ashok.

14 I'm curious, are there other angel groups
15 that you talk to or that you come across that are
16 already doing a similar model or maybe striving to
17 do something similar?

18 And, Marcia, maybe if you have a
19 perspective on that, as well, I'd love to hear it.

20 Is this kind of a one-off, like a unique
21 perspective, or is this kind of where the angel
22 industry is moving?

23 MR. KAMAL: Marcia could speak, I think,
24 much better to the industry as a whole. I can
25 certainly say that since the time we started our

1 fund, many more angel groups also have their
2 variations of funds or SPV syndicates, and, you
3 know, the HDA publishes a report that has the exact
4 numbers on that. Certainly, it's gone up.

5 I think our exact structure of fund is
6 unique. I mean, we created it to sort of frank and
7 funded it from a number of other models. We have
8 shared the playbook with dozens of other groups and,
9 you know, syndicate leads that have asked for it,
10 and we certainly welcome, you know, kind of sharing
11 of what we're doing and, you know, the reconfiguring
12 for, you know, whatever group or community can use
13 some of the, you know, bones, and I have seen some
14 manifestations. I have done, you know, many dozens
15 of calls with different group leaders, not only
16 sharing the playbook, but also answering questions
17 and sharing, you know, any feedback that I can with
18 them.

19 So I think versions of what we're doing
20 are happening. I think the -- hitting the cap issue
21 since we started our fund, you know, in 2019, so a
22 little bit earlier, is something that becomes more
23 of a problem over time if you're also growing your
24 group, you know, which we've been doing. So maybe
25 some of these other organizations that are also

1 emerging maybe starting with the fund hurdle and
2 overcoming that, and then if they continue to, you
3 know, build their groups and successfully manage the
4 money, they will also work their way into then the
5 issue of how to accommodate, you know, the interest,
6 you know, that they have for the funds.

7 MS. DAWOOD: I'll just add that definitely
8 I've seen because of investor fatigue that there has
9 been more of a kind of demand for an annual fund.
10 I've see more groups put annual funds together.

11 What's interesting about what Ashok is
12 saying regarding his group and hitting up against
13 the minimums that we're going to -- or maximums that
14 we're going to talk about is since COVID -- or I
15 should say before COVID, we really didn't see a lot
16 of national groups. It was all, oh, I need to be
17 able to drive to the -- you know the old saying. I
18 need to be able to drive to see the investor get
19 home -- or the entrepreneur get home by dinner time.

20 So it's very regionally focused.

21 And then COVID it, and we started to
22 become much more national. So I know people here on
23 the east coast that member of NuFund, and, you know,
24 I'm seeing that more and more. Queen City Angels
25 out of Cincinnati, Ohio is also becoming a national

1 Fund, which now has, I just read the other day,
2 twenty-two different states involved in the funds
3 that they do. So you know I think this is becoming
4 more of a prevalent problem because we have gone
5 into a more national type of situation.

6 MS. DUIGNAN: Yeah. You know, I think on
7 that note -- thank you, Marcia -- I actually had a
8 question around, you know, if you could give us some
9 more insight as a Committee into the impact of
10 NuFund on the San Diego economy. So are you
11 deploying this capital nationally? Are you
12 deploying it into your local community, and if so,
13 you know, what do you think the impact of that has
14 been for folks to know that there's a local resource
15 for startup capital?

16 MR. KAMAL: Yeah. Thank you, Erica.
17 I'll speak to San Diego, but you can
18 extrapolate, you know, in your mind about the type
19 of impact that we then want to export into other
20 ecosystems, both emerging and established. But from
21 the San Diego perspective, and, again, I've only
22 lived in San Diego myself for, you know, nine years,
23 but we have very deep and rich ties with, you know,
24 all of the sort of producers of innovation activity,
25 you know, talent, research, et cetera. So in Sand

1 Diego that would be, you know, the UCSDs, the
2 CSDSUs, the USDs, the research organizations ranging
3 from, you know, Scripts to Sanford Burnham. San
4 Diego is a very robust scientific and innovation
5 economy. That also extends into some of the most
6 successful companies here, that's the QUALCOMMs, the
7 Thorough, the Aluminos of world where, you know, we
8 have many dozens of people who come from those
9 organizations, and we work very closely, you know,
10 with all of those types of groups.

11 So, you know, we have supported both
12 capital first and foremost, but also, you know,
13 through mentorship relationships and other
14 partnerships on events and community wide efforts,
15 like Startup San Diego would be an example that's
16 sort of the social fabric of the San Diego startup
17 ecosystem system. You know, I was on one of the
18 first boards there. I got offs boards once my wife
19 got pregnant with our first child. I have three
20 little ones. So, you know, I'm not on that board
21 anymore, but still a friend of all of those folks,
22 and we're very involved in all of those startup, you
23 know, catalysts.

24 Then in terms of the recycling of some of
25 our successes, so two years ago, one of our

1 companies that we were an investor into DTX Pharma
2 got acquired by Novartis for half a billion dollars,
3 you know, cash up front, you know, a second helping
4 of another half a billion that's kind of based on
5 milestones. That's typical in that kind of a pharma
6 exit, you know. But that was a company that we
7 mentored, you know, as a group, so the individuals
8 who were responsible for that. While they were at J
9 Labs, you know, an incubator, you know, that's here,
10 then had a member join as the COO shortly after, you
11 know, our first investment at the pre-seed level in
12 the company, and then worked with the company all
13 the way up through its exit of -- I guess it was
14 five years later, you know, of a billion dollar, you
15 know, unicorn exit, which then in the six months
16 that followed spun off another, I think, six people
17 who were one way or the other involved in DTX Pharma
18 at different levels, not founding, but then became
19 members of our group.

20 So that's the kind of, you know, virtuous
21 cycle that we hear about, of course, so much in the
22 Bay area and, you know, some of the other major
23 ecosystems, but I've been in San Diego now long
24 enough to see a few cases like that firsthand that
25 just add swagger and talent, you know, and kind of

1 increases the velocity and the enthusiasm for
2 startups and the venture and innovation ecosystem,
3 and that's a model that we're now working on
4 exporting to other ecosystems around the United
5 States strategically and rolling out into places
6 where we feel like, you know, kind of our
7 infrastructure and our culture and the kinds of
8 deals in communities that we work in, you know,
9 aligns, you know, from San Diego into new places,
10 like Austin Texas, you know. For example.

11 MS. DUIGNAN: Could you talk a little bit
12 about the importance of having kind of an
13 independent local capital infrastructure for local
14 economies in the face of a rapidly changing sort of
15 economy and technological environment? How do you
16 think, you know, making sure that organizations like
17 yours exists and are supported is critical to
18 providing local communities with autonomy around
19 their economic destiny?

20 MR. KAMAL: I think it's really important,
21 you know, I think when you're talking about startup
22 formation, you know, there is, you know, a very high
23 touch, you know, kind of nature, you know, to the
24 cofounders, you know, being together and going into
25 this battle together and then building a bench, you

1 know, of advisors and mentors and, you know,
2 capital, you know, around them that's able to
3 engage, you know, kind of very directly to help get,
4 you know, through those initial, you know, zero to
5 one kind of hurdles where, you know, a chasm that,
6 obviously, most people in those companies, you know,
7 can never cross, and I think most of the time that's
8 done, you know, kind of in a hyper local nature.

9 Then I think where things grow and evolve,
10 you know, is when the broader stage of resources can
11 become more important. You know, for example,
12 Drata. Drata is one of the, you know, current San
13 Diego unicorns, and we have members who work there,
14 you know, who are in our group as investors. They
15 raise most of their venture capital from San
16 Francisco, and that's perfectly fine. The founders
17 were second time successful founders, and they had
18 this network of, you know, tier one VCs who
19 capitalized the company from the inception, and
20 that's fine, but, you know, they're an exemption.

21 You know, maybe there's a lot more of
22 those founders that are, you know, toiling at UCSD
23 and the research labs, and, you know, we're there
24 kind of with them having a presence. A lot more
25 founders that are working on their boot strap

1 companies and one place or another, and I think when
2 you have that access to local talent capital, people
3 who care, you know, which is really paying it
4 forward, the fundamental underlying ethos of a
5 healthy startup ecosystem, you know, that's one of
6 the most important cultural attributes that, you
7 know, we can all be working to foster, you know,
8 together.

9 MS. DUGNAN: Rose.

10 MS. STANDIFER: I'm curious if you think
11 increasing some of the caps allowing more members to
12 participate and potentially expanding the geography,
13 what impact, if any, would that have on local focus
14 on of some of these angel groups today, including
15 yours?

16 MR. KAMAL: Well, I'd like to think of our
17 model as kind of a cluster of grapes. So, you know,
18 we built a vine, you know, which is sort of the
19 backbone, the infrastructure, you know, it's our
20 technology stack, it's kind of our base level of
21 resources, our management, you know, it's our Board,
22 et cetera, that it's our operating model that, you
23 know, is able to effectively invest in, not just San
24 Diego, but, you know, twenty-five percent of our
25 deals or what have you being, you know, outside of

1 Southern California.

2 So I think we've sort of optimized for our
3 local ecosystem, you know. Here in San Diego, and
4 now we're looking to leverage that into other
5 ecosystems where, you know, rarely will you hear
6 from founders, there's too much capital, you know,
7 living in city X. It's always the opposite.

8 There's not enough, especially early stage, you
9 know, risk capital, and to some extent that's true.

10 I mean, you can ten X the amount of capital in some
11 places and it wouldn't ten X the number of, you
12 know, great companies that come out of it. So
13 there's a point where there's an efficiency, and
14 part of that job, I think, of ecosystem builders is
15 try to convert, you know, as many of those companies
16 that have potential, you know, into successful
17 companies as possible because, you know, some of it
18 is sent the help that they get.

19 So I think at a certain level there's a
20 focus on your local ecosystem and being supportive,
21 but it's not mutually exclusive, and then it comes
22 to a point where having broader reach is actually
23 additive for the local ecosystem, as well because
24 then you have access to, you know, new investors
25 that are in other places. You have access to

1 talent. You know, it could be even remote. You
2 have access to companies that are strategic
3 partners. And I don't think a hyper local focus is
4 something that will really work for any early stage
5 investor, you know, or entrepreneur in the economy
6 that we have today, and I don't think that will
7 change.

8 MS. DUGNAN: Well, thank you so much,
9 Ashok. We really appreciate your insights and input
10 to our discussion.

11 As well as, Sara, we also really
12 appreciate you sharing your information and
13 experience with us.

14 So I want to thank both of our speakers
15 today. It's definitely contributed to a very
16 enlightening morning. And with that, we would love
17 to dive into our discussion on our findings and
18 potential recommendations.

19 So as we discussed in our prior meeting,
20 many private investment companies and emerging funds
21 rely on one of the exceptions from the definition of
22 investment company set forth in Section 3(c)(1) of
23 the 40 Act to qualify for an exemption from
24 registration. Unlike larger and institutional
25 investors who often face difficulties investing

1 directly in smaller businesses and early stage
2 entrepreneurs due to minimum investment
3 requirements, angel investors and other smaller
4 funds are often able to provide meaningful and
5 direct impact and capital infusions to early stage
6 companies. Additionally, emerging fund managers and
7 early stage investors often play an active role in
8 mentoring and advising their portfolio companies, as
9 we've heard from NuFund.

10 We heard from Stacey that first time and
11 regional funds are declining in number and size, and
12 so as a Committee, I think we need to be thoughtful
13 in considering ways to help support maintaining a
14 variety of funding sources for the benefit of the
15 early stage companies they invest in.

16 As we heard from Ashok, for angel funds
17 the ability to pool more investors and accept
18 smaller check sizes, especially to let people get
19 started, is critical. It goes to the financial
20 viability of their funds and organizations and to
21 generating larger capital raises that can allocate
22 more in larger investments to portfolio companies
23 seeking to grow.

24 We've also heard that some funds, like
25 his, are oversubscribed turning away potential

1 investors due to the limit on the number of
2 beneficial owners per exempt fund. Ashok's
3 presentation provides context for us in deciding
4 whether the existing caps on the number of
5 beneficial owners, both for tradition 3(c)(1) funds
6 and for qualifying venture capital funds make sense,
7 or if changes to these thresholds might result in
8 more capital formation.

9 We've also heard how the current
10 qualifying venture capital fund size of twelve
11 million dollars might be too low for a financially
12 viable fund considering operational costs. This
13 threshold was something that we raised and discussed
14 during our prior meeting, as well.

15 And on that note, I just would love to
16 direct everyone's attention to our wonderful one-
17 pager PDF distributed to members, which highlight
18 the relevant draft congressional legislation reads
19 3(c)(1), and would love to first have a little bit
20 of discussion before we dive into sort of specific
21 questions on potential recommendations.

22 Does anyone have thoughts?

23 MS. NIKLASON: Well, it does seem from the
24 totality of the input that we got today, which I
25 thought was outstanding. I actually thought this

1 was a really, really good session. It seems like
2 the number of beneficial owners is more limiting
3 than the total amount of capital raised. So it
4 seems like if that threshold were increased, then
5 the number of funds who could actually form and then
6 have an impact would be greater.

7 You know, the twelve million may be
8 limiting from the standpoint that we heard that, you
9 know, having twenty-five million in assets under
10 management allows you to kind of keep the ship
11 afloat, and so that, I think, the Committee should
12 also consider recommending an increase there, but
13 from the totality of the input, it sounds like the
14 most important thing would be to increase the number
15 of beneficial owners that's allowed.

16 MS. STANDIFER: I agree. And we also
17 heard about, you know, market trends of the
18 consolidation. So I think there is a value in
19 keeping a spread of distributions amongst venture
20 and venture capital funds. And so looking at the
21 Committee's prior recommendation and, you know,
22 legislation, it really brought both the beneficial
23 owners up, as well as the amount. And so I think
24 definitely continue, I think, that six hundred still
25 remains, you know, viable, and if there's

1 hesitation, probably could bring that one fifty, you
2 know, down because there is a point at which even if
3 you want to become a registered under the 1940 Act
4 because of those economics.

5 But I agree, what we heard is the number
6 of owners, but, I think, it's going to be north of
7 twenty-five million, north of -- you know, I think
8 in today's economy, that's minimally viable, and we
9 have to allow some room for growth in that economy,
10 whether that's all the way up to a hundred and fifty
11 or, you know, somewhere between.

12 MS. DAWOOD: In the true spirit of our
13 Committee, which is about small business capital
14 formation, I was really encouraged to hear Ashok say
15 that by keeping the minimum -- his minimum at ten K,
16 that that was actually encouraging people to come
17 in, so that then they would come in for bigger
18 checks down the road. And, you know, at first, when
19 he was talking, and I know, you know, the fund
20 pretty well, I was just like, why don't you just
21 raise the minimum, because then you wouldn't have
22 the problem of all the other members wanting to get
23 in, and then just let them do, you know, side car or
24 whatever on the side, but his argument was really
25 good, that, you know, to keep it at the ten, you get

1 the participation of people coming in at that lower
2 level. And so I mean, it just makes sense for us to
3 have the minimum of this, you know, two forty-nine
4 waived, so that they can do that more and really
5 start to encourage -- and I do think there is going
6 to be a trend toward more funds like this with the
7 amount of groups that are going more national.

8 MS. DUGNAN: Wendy.

9 MS. STEVENS: Thank you. I'll try to
10 remember to turn my speaker off when I'm done.

11 This is all very interesting to me and
12 quite new, actually, and I can't help sitting here,
13 and, I think, Ashok did a really good job of trying
14 to deal with unintended consequences because that's
15 always what I try to think about when we're trying
16 to do something on this end, how does it impact the
17 other end. And so the question that you had asked
18 about, if you raise some of these numbers, do you
19 take it out of the communities? And I think, you
20 know, somehow in our conclusion, we have to make it
21 clear that it wouldn't, because I think that's
22 really -- because I do think that's really important
23 at the angel level.

24 MS. STANDIFER: I think it's important not
25 just at the angel level, but also at the emerging

1 fund level. I mean, we heard, I think, Sara's
2 phrase was, you know, the founder of flywheel, that
3 unique, you know, niche, and so that can be at the
4 industry level, and that can be at a hyper local
5 level, and that is why I drill down into that check
6 size and to use that emerging LP, because when we
7 think about having access to capital, if we now
8 have, you know, folks that are able to write smaller
9 check sizes to participate in this economy and
10 they're moving up, now we're sort of creating that
11 next space level of LPs, and it's just going to flow
12 through the community and open up access, as opposed
13 to, okay, the way to solve this is now you have a
14 fifty K. I mean, so many of these funds have very
15 large usually six figure minimums to participate,
16 and that's going to continuously lock out access,
17 not -- not create and introduce new people into the
18 system and wealth generation.

19 MS. DUGNAN: Heath.

20 MR. MORRIS: Just I wanted to add a
21 comment that I think is really important to the
22 point you all are driving home, and that is, you
23 don't want to abandon a certain line in the market,
24 right? And so one of the things that we find really
25 interesting about the SBIC program is specific to

1 where it relates. I'm looking at the fifty million,
2 right? If we have fifty million to close, then we're
3 going to give a hundred and seventy-five million in
4 leverage capital. You know, the goal of the SBIC
5 program when it was written right back in the
6 fifties was to bring in funds and grow them out of
7 the program. More often than not, because anyone
8 that's ever worked in private equity knows, it's
9 like a high school, right? Everyone knows everyone
10 and your connections are your connections. Most
11 people that are in their particular niche area don't
12 want to abandon or leave that area because of their
13 network, right?

14 So when we talk about, would they want to
15 go, more often than not, out small business
16 investment companies stay. Even though they have
17 the ability to go, they intentionally stay. And we
18 have these same conversations about, do we want to
19 raise, do we want to make it to where that they can
20 remain here without graduating up? Are we going to
21 abandon the market, right?

22 I just wanted to give a little bit of, I
23 guess, clarity or added, you know, emphasis on the
24 fact that the people that play in these areas, like
25 the individuals we just heard from, you know,

1 they're well connected in that area, and they know
2 there's a gap there, right? And we've also seen
3 with a number of other regulations where, you know,
4 with SVB and a number of the other banks that went
5 down over the last couple of years, there's been an
6 increase requirement in large banking, right, to
7 over capitalize. And so there are a lot of market
8 participants that a now gone, right, and it's
9 created an even bigger void, it's created even a
10 bigger incentive to participate and actively work --
11 actively compete in these lower minimum markets.

12 So my thought is, if there is a fear of,
13 would they leave, that's a fair assumption, but I
14 also would encourage you to think too that there's
15 likely going to be a strong amount that stay because
16 of that network connection in that specific area.
17 We've seen that proven year over year in the SBIC
18 piece, so --

19 MS. DUGNAN: All right. Great.

20 So, you know, I just want to point out as
21 we're -- just to make my own comments, as we're
22 considering our recommendation, there are a couple
23 of things that are standing out to me. One is that,
24 you know, we are quite interested in supporting
25 increased participation in and creation of the small

1 business capital formation, which leads me to focus
2 a bit more on the qualifying venture capital fund
3 definition versus the traditional 3(c)(1) fund
4 definition, which, you know, I personally don't know
5 that we necessarily need to play with, but within
6 qualifying venture capital fund, there were a couple
7 of numbers that I heard today that, I think, makes
8 sense to me if we're going to move forward with some
9 sort of a recommendation.

10 Ashok mentioned, you know, that he's
11 already constrained by the two hundred and fifty
12 beneficial owner cap, which makes sense for an area
13 like San Diego with lots of people and lots of
14 potential members, as well as the very generous
15 decision he's made to keep the minimum participation
16 check size low to open up access to a wider number
17 of people who'd like to dip their toe in. I heard
18 him say that, you know, a thousand members would be
19 a number that, you know, would provide him more
20 degrees of freedom to operate his model, and to me,
21 that made a lot of sense.

22 So on beneficial owners, you know, it
23 seems like two fifty to a thousand make sense. I
24 also think as we're going, you know, looking to
25 increase in beneficial owners, an increase in the

1 aggregate capital cap also needs to happen, and
2 there was one number that I heard from Sara that, I
3 think, gave us some good insight. You know, as an
4 fund manager myself, I agree with her on the number,
5 which is that twenty-five million is generally the
6 minimum that you need to have a financially viable
7 fund.

8 One thing that she also gave as additional
9 context, which, I think, is important for us to
10 realize, is that she also mentioned that was for a
11 solo GP fund. And the truth is in the market solo
12 GP funds are not particularly attractive to folks.
13 You usually need to have at least two GPs for a fund
14 to really get to where it needs to go. I'm not
15 saying that solo GP funds don't happen, but it's not
16 preferred in the market, you know.

17 So I would consider that we would need to
18 think about a limit that is at least going to
19 provide the minimum sustainable capital amount for
20 two GP funds, which will probably be fifty versus
21 that twenty-five million. So, you know, it seems to
22 me that one area in which we could go is sort of
23 looking at an increase to a thousand, you know,
24 which is increasing by four, the number of
25 beneficial owners, and also a commensurate increase

1 in the aggregated capital cap by, approximately,
2 four to about fifty million would also kind of make
3 sense.

4 So that's kind where my thinking is on
5 this. And would love to get other folk's
6 perspectives on the numbers.

7 MR. DILLASHAW: I agree wholeheartedly,
8 you know, with everything you said. I mean, from
9 what I've seen -- I mean, we're talking about the
10 twenty-five. I mean, that really is the minimum, I
11 mean, like just the costs associated with it. I
12 think it's important to draw a little bit of
13 distinction between what Ashok was thinking about,
14 how he's only using seven to eight million, and
15 that's not -- they're not constrained there. That
16 is it piggybacking on a whole of existing
17 infrastructure with the Tech Coast Angels, so it's
18 very different for a solo GP.

19 MS. DUGNAN: I also think the important
20 thing to notice there is that his firm is structured
21 with annual funds, and most venture funds have a
22 four-year investment period, so they would actually
23 be deploying, you know, four times eight over that
24 to sort of reflect a similar entity to what he has.
25 That would be four times as large.

1 MR. DILLASHAW: Yeah. So just to kind of
2 reconcile those two data points. So we've got the
3 other thing if we're talking about the qualifying
4 venture capital fund, I believe that's where the
5 fund to funds limitation is right now, that you
6 can't have more than twenty percent of your assets
7 allocated. So if we're making recommendations, we
8 may want to reiterate our previous recommendation
9 about liberalizing that and allowing for more than
10 twenty percent of your funds, perhaps, you know, up
11 to X amount and other qualifying venture funds.

12 MS. DUGNAN: Okay. I'm sorry. Can you
13 be clearer there. You --

14 MR. DILLASHAW: Sorry. And if I went
15 beyond the scope. In the definition of qualifying
16 venture funds, one of the limitations within that is
17 that you can't have more than twenty percent of your
18 assets invested in other funds, and so that is
19 the -- what Sara was talking about, the limitations
20 on fund to funds, so you're limited in the amount of
21 fund to funds that you can have.

22 In the past, we have made a recommendation
23 to take a look at that time to see whether or not
24 you should be allowed to give more than twenty
25 percent -- invest more than twenty percent of your

1 assets into other funds that would then open up a
2 bigger window for fund to funds investing.

3 MS. NIKLASON: What's the rationale for
4 limiting that?

5 MS. STANDIFER: I think it's risk, right?
6 So it's adding another layer of you're now no
7 longer in direct relation there with the portfolio
8 company, with the operators. Yeah, I was going to
9 say the same thing. I think there is a bias, if you
10 will, to touch the qualifying venture fund versus,
11 you know, touching the actual original 40 Act
12 3(c)(1), but it does have some of these knock-on
13 limitations.

14 And so I think by increasing the number of
15 beneficial owners and assets under management for a
16 qualifying venture fund, that is, in fact, driving
17 that to direct portfolio company operating
18 investment, and, I think, that's giving access to
19 capital that way, but it's not solving another
20 issue, which we've heard, which is how do you
21 encourage the pool of capital that exist today,
22 which is our very large institutional LPs, the
23 pensions fund. I don't think this is going to
24 encourage them --

25 MS. DUGNAN: No.

1 MS. STANDIFER: -- to play.

2 MS. DUGNAN: Yeah. So that's not what
3 we're making a recommendation on today. So, you
4 know, we believe we do have a lot of problems to
5 solve, but I don't think that's actually affected by
6 this particular category, and today, this is the
7 area we'd like to make a recommendation, but
8 absolutely, Rose, we are keeping in mind that a
9 bigger picture area of concern and where we're all
10 working on how can we make recommendations that can
11 increase the interest of larger asset allocators to
12 invest in fund to funds supporting emerging managers
13 is probably a separate topic that wouldn't be
14 accomplished with this recommendation.

15 Yes, Vincent.

16 MR. CORDERO: Good that you said that.

17 Could we -- not on the question you asked,
18 but what you just said, could we maybe decide at
19 some point to make that a topic of recommendation,
20 like for a real discussion around that? Because
21 we're going around -- going around the issue. I
22 know it's a hard one to tackle and engage in, but at
23 some point, I'm just saying if that could be
24 something that we could look at?

25 MS. DUGNAN: So, yes, absolutely. And,

1 you know, I think that's our work here. So, you
2 know, it's our responsibility as the Committee
3 members to figure out, is there a specific
4 regulatory issue on which we could recommend a
5 change that might have that intended effect? I
6 don't believe anyone in this group has come up with
7 one yet, but if you do, let's work on that. So we
8 will all put our thinking caps on. And this is why
9 we bring in these speakers, because, you know, if
10 Sara were to say, I am impeded by, you know,
11 Regulation F123. You know, we could then work on
12 it. So, I think, that's the work that we have to do
13 to get to that. That is very important to us as a
14 goal of the Committee.

15 MS. STANDIFER: So on the specific, you
16 know, recommendation, I would suggest assets under
17 management of at least a million because it allows
18 that scalability of the venture funds. I would
19 still consider fifty as --

20 MS. NIKLASON: You meant a hundred
21 million.

22 MS. STANDIFER: What did I say?

23 MS. NIKLASON: You said a million.

24 MS. STANDIFER: I meant a hundred million.
25 You're absolutely right. Because I think fifty is

1 still -- it's really going to escape some of the
2 economics, especially when I was asking about adding
3 in additional, you know, LPs and operational
4 impacts. And then with this, if you're still
5 investing, you know, local and state and community,
6 the deployment of capital, your checks are not
7 necessarily going to get bigger, some will, but not
8 all, and so that's going to increase sort of the
9 back office. So I would actually encourage us to
10 think something higher than fifty.

11 And, you know, just to go back on to the
12 last point, I want to make sure that we are thinking
13 as an emerging fund, a lot of emphasis on angel LPs
14 and who you're bringing in, and that this is ideally
15 a larger check size, and so when we have these
16 limitations around fund to funds, there is still an
17 impact. Those issues aren't completely separate
18 from each other.

19 MS. DUGNAN: Jasmin.

20 MS. SETHI: Yeah. I was just going to
21 say, as a procedural matter, we could, as a
22 Committee, recommend a range. You know, somebody at
23 the Commission would make a proposal. There would
24 be notes and comment for industry. There would be a
25 lot of arguments about what's the right number. I'm

1 sure the Commission would be asking the industry to
2 comment at that time and provide data, and we can,
3 you know, look at that when the time comes.

4 So if we wanted to right now, we could
5 say, you know, the Commission should look at
6 increasing the AUM size to at least -- you know, for
7 instance, at least twenty-five million, consider a
8 range from twenty-five to a hundred, something like
9 that. We don't necessarily have to come up with a
10 definitive number today.

11 MS. DUIGNAN: That's very true. Thank
12 you, Jasmin.

13 Okay. Great. Well, I know everyone's
14 feeling a little bit hungry, and with the options
15 that we have on the table, let's maybe just get
16 started on where we can go with the recommendation,
17 so -- and, perhaps, we maybe go around the room a
18 little bit, so that we can get to an idea of where
19 folks feel comfortable.

20 So does the Committee recommend increasing
21 the maximum number of beneficial owners permitted
22 for traditional 3(c)(1) funds currently limited to
23 one hundred or fewer beneficial owners, and that's
24 not the venture capital funds. That's traditional
25 3(c)(1) funds. Are we interested in making a

1 recommendation to increase the number of beneficial
2 owners there? If you say yes, raise hand.

3 Okay. Great. So we haven't really talked
4 about that.

5 Maybe, Davyeon, you raised your hand -- or
6 who raised their hand over there?

7 Okay. Do you want to maybe talk a little
8 bit about your thoughts there and why you would
9 recommend increasing the number of beneficial owners
10 for traditional 3(c)(1) funds?

11 MR. ROSS: Yeah. I mean, from my
12 perspective, I know that it's a little bit different
13 from the qualifying basic capital funds, but, I
14 think, there were several discussions around, you
15 know, the market size access and being able to, you
16 know, have individuals participate. Granted in the
17 traditional funds, they're getting capital from, you
18 know, different -- different places as the
19 qualifying venture fund, but I just -- I think that
20 there's a huge opportunity to -- as I said, to
21 market size access, and, you know, if there's a
22 situation where we can, you know, get additional
23 folks in at lower, you know, minimums, then I think
24 that's something that we should explore.

25 MS. DUGNAN: Okay. Just would love to

1 get a sense of, you know, specifically what you're
2 talking about, so getting folks into like what type
3 of fund or asset class that -- like can we have a
4 picture of who might be affected that you're talking
5 about?

6 MR. ROSS: So I may be talking about the
7 qualifying --

8 MS. DUGNAN: Oh, okay.

9 MR. ROSS: Correct. Yeah.

10 MS. DUGNAN: Okay.

11 Okay. Anybody else?

12 No. Okay.

13 Okay. Great.

14 Number two, with respect to the qualifying
15 venture capital fund exemption in Section 3(c)(1) of
16 the Investment Company Act of 1940, does the
17 Committee recommend increasing the maximum twelve
18 million dollar limit on the aggregate amount of
19 capital contributions in uncomped capital? If
20 you're in favor, raise hand?

21 Okay. Looks pretty unanimous.

22 So, I think, where we can probably get to
23 a recommendation is, if so, why, and by what amount?

24 It sounds like for a recommendation we're maybe
25 falling somewhere between the twenty-five to one

1 hundred million dollar recommendation range. So we
2 should probably discuss this.

3 I mentioned I thought fifty was kind of a
4 reasonable number. Rose also threw out a hundred.
5 You know, twenty-five does maybe seem a little low.

6 I know that Jasmin had mentioned that as sort of
7 the possible bottom of a range. One thing I
8 mentioned is that right now the legislation includes
9 two numbers, fifty or a hundred and fifty, so I
10 think we're definitely in the ballpark.

11 Does anyone have thoughts on whether we
12 should choose fifty, we should choose a hundred, or
13 we should maybe give a range of fifty to a hundred?
14 I would love to see where people's heads are.
15 Because, you know, a hundred would be kind of like
16 eight times above where we are now. Fifty would be
17 four times. You know, does anyone really care? I
18 don't know. Let's talk a will little bit.

19 Heath.

20 MR. MORRIS: I just have one question.
21 If -- and I completely -- I think a range makes
22 sense.

23 MS. DUIGNAN: Yeah.

24 MR. MORRIS: But when I go back to the
25 beginning of the language on the description, it's

1 no more than --

2 MS. DUIGNAN: Yeah.

3 MR. MORRIS: -- right? And so, I think,
4 at the end of the day, whatever that cap is, you're
5 going to eventually have to have a top line mark
6 just purely bases on the language.

7 MS. DUIGNAN: Yeah.

8 MR. MORRIS: So I mean, we can talk there.

9 MS. DUIGNAN: Yeah. We're just saying, is
10 there a recommendation that they set a cap in a
11 range? I mean, I personally would prefer to just
12 pick a number because I don't think it's that
13 difficult for us to do, so I think you're right.
14 But, yes, point taken.

15 MS. DAWOOD: Is this something that is --
16 would be so detrimental to investor protection or
17 that would be -- if it was a hundred, oh, my gosh,
18 that would be awful versus fifty? I'm like I'm
19 trying to figure out like where -- you know, what
20 is -- I mean, just thinking of --

21 MS. DUIGNAN: Let's do that scenario,
22 right? So let's say we increase the number of
23 beneficial owners to a thousand, right, and now
24 people that raise, let's say, somewhere between the
25 seventy-five to a hundred, right, raise -- I don't

1 know, ninety-nine million dollars now have
2 potentially a thousand beneficial owners, and
3 they've got almost a hundred million dollars under
4 management, so they're generating, you know, two
5 million dollars a year in fees, are we saying that
6 it is too financially burdensome on them to be
7 registered and sort of, you know, perform on the
8 required regulatory requirements? Do we think
9 that's too much versus, you know, a fifty million
10 dollar fund is only generating a million dollars in
11 fees, they actually, you know, may not have the
12 extra money to pay for it? So it's really just, do
13 we feel that, you know, at which point is it
14 creating an unnecessary financial burden on the
15 institution.

16 Rose.

17 MS. STANDIFER: I don't think it is, and,
18 I think, it's leveling the playing field with mega
19 funds that often do operate as exempt funds with the
20 look through on 3(c)(1) or 3(c)(7) with quibs. And
21 so, I think, going above that, perhaps, but I don't
22 think at that level, we've hit that. They're now
23 able to compete in the allocations with the mega
24 funds and have wider access of who their LP base is.

25 MS. DUGNAN: Okay. Okay. All right.

1 Okay. Great.

2 All right. So all in favor of using a
3 thousand as the beneficial owner cap for the
4 recommendation?

5 Okay.

6 All in favor of using a hundred million as
7 the AUM cap? Yeah, as the cap. A hundred million
8 as the cap.

9 Okay.

10 All in favor of something less than a
11 hundred million as the cap?

12 No. Okay. Great.

13 I think we have our -- oh, sorry, I
14 thought it was -- okay.

15 Is anyone opposed to one thousand
16 beneficial owners as the maximum number of
17 beneficial owners?

18 MR. DILLASHAW: I'm not opposed to it. I
19 think this may be one where we want to give a range
20 and sort of kick back to the SEC to make a
21 determination only because once you get to a
22 thousand, then you're running up against general
23 solicitation issues, or these retail investors,
24 they're going to -- a thousand is a lot, and so I
25 worry that at that level, you're kind of butting up

1 against other regulatory priorities.

2 Again, I'm all for a thousand, but that
3 may be a good one to sort of put a range in there
4 and sort of defer to the SEC to say, use your
5 judgment as to what you think the range is. But
6 that may be more of a nuance than it's necessary for
7 a sort of recommendation here.

8 MS. DUGNAN: Okay. All right.

9 Okay. Yeah, I think that that's
10 interesting. I would love for you to sort of
11 explain further what you mean. I personally think
12 if we're going to make a recommendation, like we
13 need to actually make a recommendation instead of
14 just being like, hey, why don't you pick between --
15 you know, my personal, at the end of it, you know,
16 we should be able to grant a number.

17 Tell me you think there's a problem with a
18 thousand, that it's butting up against something.
19 Can you please be a little more specific on what
20 you're referring to, and then which number you might
21 suggest that would not butt up against some of these
22 other regulatory concerns?

23 MR. DILLASHAW: So I will say I'm fine
24 with a thousand. This is more me sort of thinking
25 out loud as I think there's sort of like secondary

1 and tertiary issues. My only point on that is when
2 you start talking about having a thousand LPs, it's
3 sort of hard to envision a scenario where going out
4 to get a thousand LPs and not somehow doing a
5 general solicitation.

6 MS. DUIGNAN: I mean, I think Ashok just
7 gave us a great example, right, that he has three
8 hundred and fifty members in the group and only two
9 forty-nine are allowed to be in the fund, and they
10 actually have more demand than that, and that is,
11 you know, just a local angel group, right, not
12 somebody sort of going online and, you know, mass
13 marketing, but would love your deeper thoughts on
14 that.

15 MR. DILLASHAW: Like I said, it's more me
16 just sort of realtime sort of thinking about it. So
17 I'll defer to the Commission on -- but I'm happy to
18 recommend a thousand. Like I said, it just more
19 sort of I was realtime thinking about it, sort of
20 raising other sort of regulatory issues, but, again,
21 I'm happy to make the recommendation and let the SEC
22 determine what's appropriate.

23 MS. DUIGNAN: Okay.

24 And can you just let us know which other
25 regulatory issues do you think it would raise?

1 MR. DILLASHAW: There are prohibitions on
2 doing general solicitations for fund formation, so
3 that would opt you out of like the 506, for example,
4 unless you're doing 506(c).

5 MS. DUIGNAN: Right. So the intention
6 here that this would be a cap for people not doing
7 general solicitations, so I mean, you know. It can
8 be less, but that's sort of just the maximum.

9 MR. DILLASHAW: Yeah. They're independent
10 requirements, so even if we say you can have up to a
11 thousand, then you still can't do a general
12 solicitation, unless you're otherwise qualified,
13 like a 506(c). So, again, it just starts to butt up
14 against other regulatory priorities that would need
15 to be sort of thought of holistically and then made
16 consistent. So, again, if we're going to say a
17 thousand is an exemption from the general
18 solicitation -- again, I'm getting too far into the
19 details for purposes of this discussion --

20 MS. DUIGNAN: You cannot get too far into
21 the details here. This is what we're here for.

22 MR. DILLASHAW: Yeah.

23 MS. NEWTON: On that note, I just have a
24 question. So are you saying that typically with
25 these qualified venture capital funds, they would be

1 more inclined to use 506(c)?

2 MR. DILLASHAW: If you're going to do a
3 general solicitation, you would need to go to
4 506(c), as opposed to 506(b) or -- I guess, that'd
5 be above crowdfunding requirements, but --

6 MS. DUIGNAN: And what you see from the
7 data, most of them are not using 506(c). It was
8 used for a very small portion, so no.

9 MS. NEWTON: Okay.

10 MS. STANDIFER: But this -- I mean, the
11 universe of that given the conversation we had at
12 the last meeting, the lack of uptake in 506(c), and
13 yet 506(c), if you use it, it is providing an avenue
14 of capital access that's 506(b) does not. And so in
15 the pooled fund context, if -- you know, if it's a
16 thousand, I do think we may need to talk about that
17 more, are we actually -- there's a consequence, but
18 is it a consequence we want, which now pooled access
19 funds have more incentive to use 506(c) because they
20 can get up to a thousand, and so now are we not only
21 sort of increasing sort of the access to pooled
22 funds, but we're increasing how the pooled funds can
23 access the capital both of which feel like they
24 expand access to capital for a small business, which
25 is in our remit, but a thousand is a significant,

1 you know, jump.

2 I mean, even if you went sort of the two
3 X, which was the six hundred, which is already one
4 of the previously proposed legislation, that would
5 still allow more than enough cushion for the various
6 scenarios that we had. So do we need to -- I mean,
7 I think it's the same.

8 MS. NIKLASON: Just thinking back to like
9 a predecessor that sat in these seats before us, it
10 went from the ninety-nine to the two forty-nine,
11 like I don't want to sit here again two years from
12 now and be like, hey, we went to five hundred, now
13 let's go to a thousand. Like let's just make a
14 recommendation that we can live with for a long time
15 and call it a day.

16 MS. STANDIFER: And that was my rationale
17 on the hundred, right. I thought that fifty
18 would -- in five years might be stale.

19 MS. DUGNAN: Yeah. Yeah, that's a very
20 good point. Okay. Wonderful.

21 So all in favor in recommending an
22 increase to the maximum number of beneficial owners
23 for qualifying 3(c)(1) venture capital funds to one
24 thousand, please raise your hand.

25 Okay. Thank you.

1 All in favor of making a recommendation to
2 increase the maximum number of capital commitments
3 to a qualifying venture capital fund under 3(c)(1)
4 to one hundred million dollars, please raise your
5 hand.

6 Okay. Wonderful. Thank you so much.

7 Jasmin, maybe we'll put you in charge of
8 putting together a fabulous recommendation for us.

9 I want to thank the Committee for all your
10 very thoughtful consideration of this issue, as well
11 as coming up what I hope will be a very helpful
12 recommendation for the Commission.

13 Marcia, any closing thoughts before we go
14 to lunch?

15 MS. DAWOOD: No.

16 MS. DUIGNAN: Okay. Wonderful.

17 We will break for lunch, and see everybody
18 back here in one hour.

19 (Whereupon, at 1:01 p.m., a lunch break
20 was taken.)

21 MS. DUIGNAN: Welcome back to everyone
22 who's joining virtually and on the SEC Webex.

23 This afternoon we're going to dive into
24 small public company space. Small public companies,
25 companies with a market cap of two hundred and fifty

1 million dollars or less represent almost half of all
2 public companies. However, many small public
3 companies are not listed on a national securities
4 exchange. In fact, as Stacey noted earlier for us
5 this morning, a third of small public companies are
6 not exchange listed. Understanding the decision
7 points and challenges that these companies face is
8 critical to fostering access to capital for, and
9 investor participation, in these smaller public
10 companies.

11 To facilitate this discussion, we have the
12 pleasure this afternoon of being joined by Dan Zinn,
13 who is General Counsel and Chief of Staff at OTC
14 Markets Group. Dan leads the company's regulatory
15 and policy making efforts and is a frequent speaker
16 on over-the-counter equity markets. As Chief of
17 Staff, Mr. Zinn also oversees the company's human
18 resources and administrative functions.

19 Prior to joining OTC Markets Group in
20 2010, he served as outside counsel to OCC Markets
21 Group beginning in 2007 as a partner at the Nelson
22 Law Firm, LLC. And previously, Mr. Zinn worked in
23 the corporate office of AIG. He received his JD
24 from the Benjamin N. Cardozo School of Law.

25 I look forward to hearing Dan's insights

1 as we explore OTC exchanges, as well as some
2 specific challenges facing smaller public companies
3 that are not listed on a national securities
4 exchange, like the NYSE or NASDAQ.

5 Dan, we appreciate you joining us today.
6 Welcome.

7 UNDERSTANDING THE CHALLENGES FACED BY SMALL PUBLIC
8 COMPANIES NOT LISTED ON A NATIONAL SECURITIES
9 EXCHANGE

10 MR. ZINN: Well, thank you. The pleasure
11 is really mine. And I'm so much more comfortable
12 with Dan than the Mr. Zinn from that bio, so I'll
13 work with that.

14 Thank you all for having me. Thanks for
15 the Commissioners that made remarks this morning, as
16 well. I'm excited to get into this, and I'm going
17 to spend probably an inordinate amount of time
18 talking about just how our markets work, what we
19 are, how we do what we do, because, I think, I have
20 policy takeaways, as well, and recommendations, but
21 if we can get even to that far, so that there's an
22 understanding in the building of really what these
23 markets are, how they're structured, that would be,
24 to me, a great success and actually a great help in
25 helping these markets moving forward.

1 I do have a slide deck, so I'm going to
2 have to turn -- oh, I can see it right there.
3 Perfect.

4 So I will jump in with an overview of OTC
5 Markets, which is the next slide. At least get this
6 started on the next slide. This is how I'll sort of
7 conduct the discussion.

8 By the way, I know we have a pretty decent
9 amount of time this afternoon, which is wonderful.
10 I thank you for that. Please interrupt with
11 questions at any point. I don't need to get to the
12 end of the deck. I know this is probably going to
13 be a long afternoon for all of you. I could do this
14 forever. I could talk about our markets for hours
15 on end. So no question is too far field. And if
16 you'd prefer to wait till the end and prefer to
17 follow-up, that's fine, as well.

18 So I'm going to talk about who we are and
19 how we got to be where we are, which is important
20 because, I think, within the industry, there are
21 people whose understanding of the OTC markets drops
22 off at various points, and it doesn't necessarily
23 reflect the state of the market as it is now. And
24 I'm going to talk more specifically about the
25 standards, the rules that are applicable to the

1 companies on our markets, how they trade. There's
2 not a lot in this presentation about the details of
3 trading, the actual broker/dealer aspect of things,
4 but I can answer all of those questions to the
5 extent that that's interesting, and can certainly
6 provide follow-up materials.

7 So if we go to the next slide, I'm going
8 to really start with the widest and highest possible
9 view. And what I will focus on is really where
10 Erica was going with the description of the topic
11 today, which is on smaller US public companies that
12 are traded on our markets, as opposed to an
13 exchange, but I do want to give a sense of what the
14 entire OTC market universe looks like.

15 As you can see from the slide, twelve
16 thousand securities representing fifty plus
17 countries and every state in the United States and
18 every territory in the United States, as well.
19 Instead of presenting the OTC market as one giant
20 bucket of twelve thousand companies that could
21 include Roche and Adidas and Heineken and some of
22 the largest companies in the world, as well as very,
23 very small stocks that trade for less than a dollar,
24 we have organized them into markets. I would love
25 to say that we were, you know, completely innovative

1 in doing this, but this is exactly what the
2 exchanges do, as well.

3 If you're familiar with the NASDAQ global
4 market and the NASDAQ capital market, it's just --
5 it's all NASDAQ in the same way this is all OTC, but
6 these are ways to distinguish companies that meet
7 certain standard. A lot of them are disclosure
8 based. A lot of what we do is based around a
9 disclosure based and transparency based philosophy.

10 Some of them are more qualitative or quantitative
11 at the highest levels. I will get into what all of
12 these are in greater detail, but suffice it to say,
13 OTCQX is the top level market. About six hundred
14 companies just for context out of the twelve
15 thousand. Think of those large ADRs that I
16 mentioned, and then from a US prospective, maybe
17 community banks. I think there are about a
18 hundred -- a little bit more than a hundred
19 community banks trading on OTCQX. So well
20 capitalized, well regulated businesses, and I'll
21 explain why they trade here instead of an exchange.

22 OTCQB is that next level down. We think
23 of that as a venture market. We'll get into that,
24 as well. That's about a thousand companies, eleven
25 hundred companies at this point.

1 OTCID is coming soon. This is also
2 marketing, apparently. Starting July 1st, we're
3 going to have a market called OTCID, which will
4 represent companies that don't necessarily meet
5 OTCQX or OTCQB standards, but with are still making
6 current information available and interacting
7 appropriately with investors.

8 MS. DUGNAN: Can I just jump in with a
9 quick question? So when we think of over-the-
10 counter, right, we think of over-the-counter drugs
11 or prescription drugs. Like where did that name
12 come from, and what does it mean?

13 MR. ZINN: In the securities context, it
14 really means anything not otherwise traded on an
15 exchange. So it's the exact description of the
16 small public companies that you gave at the
17 beginning. So every equity securities that's not
18 otherwise traded on the New York Stock Exchange or
19 NASDAQ, but that is traded in the US, is considered
20 OTC, or over-the-counter. And it really meant
21 brokers going to one another and communicating with
22 one another directly, as opposed as through a
23 facility, and you'll see in our fund timeline slide,
24 you'll see the evolution of that into what is an
25 electronic market, but the name sticks, and it

1 sticks for good reason. I'll get into it.

2 Part of what we do is help investors and
3 companies and regulators identify the fact that
4 there may be risk and see as much information as
5 they possibly can. Having OTC as the front of all
6 of these market names, I think automatically gives
7 people a feeling of, okay, I understand this is not
8 NASDAQ and New York Stock Exchange, this is going to
9 be something different. Even it makes it equal at
10 the higher levels, I think OTC -- the connotation of
11 OTC is still important for us to hold on to.

12 I'll quickly just talk about the pink and
13 expert market notations on the right side of the
14 slide. Pink is a nod to the old pink sheets, which,
15 I think, is how many people maybe got to know the
16 OTC market. I have some of those old pink paper
17 phone books in my office. The idea of current
18 management from, oh, now twenty-eight years ago, was
19 to take that pink paper phone book, make it
20 electronic, really fill in the places where NASDAQ
21 had started to make things electronic before they
22 became an exchange.

23 But the pink market exists to identify
24 companies that are meeting a very baseline standard
25 under SEC Rule 15c2-11, which I will probably say

1 seventy-five times this afternoon, and to give
2 investors, again, that sense that they may not be on
3 a premium market, but they are -- they're still very
4 much OTC.

5 Expert market, anybody who's a skier will
6 recognize the double black diamond. Experts only
7 logo -- we think we're going to cover it -- but that
8 is for companies that don't meet this 15c2-11
9 disclosure standard, and, therefore, cannot be the
10 subject of public broker/dealer quotations, and
11 there are ways for broker/dealers to access those
12 markets. They have an investor that calls them and
13 wants to trade. They have an obligation to get the
14 best price and to give them the best experience,
15 that's what that expert market is for.

16 I'm going to slip to the next slide. This
17 is that fun timeline slide I was talking about. I'm
18 not going to go point by point on this slide, but I
19 do think there are some key moments to point out
20 that help bring everyone's understanding again to
21 present day.

22 And I know that twenty-eight years ago, so
23 1997 was when our current CEO and a group of
24 investors purchases the old paper pink sheets. I
25 was telling somebody this story upstairs as I was

1 waiting to come down here, that he was a trader, our
2 CEO. He was trading in pink sheet stocks. He was
3 frustrated that it was in paper. And that's when
4 you could call Michael Bloomberg. He called him and
5 said, you should buy this and put it on your
6 platform and make it electronic. And Michael
7 Bloomberg said some things I won't repeat and hung
8 up on him. And so he led a group of investors to
9 purchase it himself. It became electronic in 1999
10 for quotations. In 2003, for messaging.

11 The next key point I'll talk about is
12 2012, our trading system, which we call OTC Link
13 ATS, became an SEC-registered system. And ATS is an
14 alternative trading system regulated under Reg ATS
15 by the SEC. Every ATS is also required to be a
16 broker/dealer registered with FINRA, so we are FINRA
17 regulated and SEC regulated. I think even getting
18 to that point goes beyond what some people's notion
19 of the OTC market is. So that's an important point.

20 I'll fast forward to 2021 when the SEC
21 amended this rule that I keep talking about, 15c2-
22 11. That is the rule that dictates the kind of
23 disclosure that a company needs to make available in
24 order for their securities to be the subject of a
25 public broker/dealer quotation. That becomes the

1 baseline of a lot of the disclosure-based
2 initiatives that I'll talk about and kind of an
3 easy -- not so easy, but a recognized regulatory
4 disclosure structure with which to work.

5 2024 is where we leave it off, and I will
6 sort of update us into 2025 as we go.

7 If we flip to the next slide, it talks
8 even more about 15c2-11. So what can be more fun?
9 15c2-11 has been around as a rule for a very long
10 time, since the 70s. For most of that time period,
11 it only applied to the initial quotation of a
12 security by a broker on the OTC Market. So in other
13 words, before a broker could first publish a quote,
14 they had to work with the NASD, or later FINRA, to
15 establish that there was a certain level of public
16 information available.

17 Once that security started to be quoted,
18 as long as it continued to have a quote, a
19 continuous quote, they didn't have to update
20 information anymore. And so we used to -- I'll get
21 into all of our risk flags, but we used to have a
22 category called pink, no information with a big stop
23 sign next to the stock symbols, and that meant a
24 security that has no information out there. They
25 don't even have a limited amount. And it was those

1 securities that were the subject of the stop sign.

2 Post the amendments in 2021, which did a
3 couple of key things, now there's a requirement for
4 continued current information to be available for
5 the security to be the subject of a public
6 quotation. That's what gave rise to that double
7 black diamond expert market. If you're not in that
8 category, we put you in this expert market. Quotes
9 are not available to retail investors.

10 One of the other key components to the
11 15c2-11 is that our system, our market, was
12 recognized as a qualified interdealer quotation
13 system. I think only to make me have to say that
14 word -- that phrase in public. So as a QIDQS, the
15 role that we play is that every day, we evaluate the
16 disclosure available for all twelve thousand plus
17 securities on our market, and we make a public
18 determination as to whether that disclosure is in
19 line with 15c2-11. We post that on each securities'
20 page on our website. We send a daily file of that
21 to FINRA every day. But we have that authority and
22 that responsibility. As I mentioned at the outset,
23 we're regulated by both FINRA and the SEC, so they
24 come in and review our policies and procedures, as
25 they should, to ensure that we're doing things the

1 right way, but that takes a huge burden off of the
2 brokers in the space, which is another key point.

3 I said I wasn't going to get too deep into
4 trading, and I won't, but I think it's important to
5 understand the only subscribers to our system, the
6 only entities that interact that actually trade
7 post-quotes communicate across our system are FINRA
8 member broker/dealers. That's it. It's about a
9 hundred and thirty FINRA members that quote on the
10 system.

11 Those brokers can rely on our
12 determination with respect to disclosure in saying
13 that a company can be the subject of a quote. If
14 they had to do it themselves for all twelve thousand
15 securities, the market would not exist. So this is
16 a result of a lot of work and discussion with the
17 folks in trading in markets here as this rule was
18 being developed, and it's what allowed the market to
19 exist as it does today.

20 MS. NIKLASON: You post whether the
21 information is sufficient? You don't post the
22 information?

23 MR. ZINN: In most cases, we also post the
24 information.

25 MS. NIKLASON: Oh, you also post the

1 information.

2 MR. ZINN: For US companies, we have the
3 information. I'll get into those actually in a
4 slide or two, but we pull in -- we actually own a
5 company called EDGAR Online, and so we pull in all
6 of the EDGAR data to -- if you're a regular SEC
7 filer, that appears on the website. If you're not
8 as a US company, you're under our disclosure
9 standard, which I'll describe, and you're required
10 to put it through our system.

11 The rule would actually allow you -- allow
12 a company to post it only on their website, but I
13 can't every day, from a compliance standpoint, say,
14 that it's there, I can't check all thousand and
15 three thousand for the US companies every day. So
16 you have to post through us in order for us to have
17 this compliance relationship.

18 I'll flip to the next slide.

19 MS. NIKLASON: So does that mean that
20 there are companies that meet that threshold, but
21 they're not on the OTC market because they're not
22 meeting your additional information?

23 MR. ZINN: Yeah. Some companies choose
24 not to disclose through us, and they will be expert
25 market, generally speaking.

1 MS. NIKLASON: Got it. Okay.

2 MR. ZINN: You know, I'll describe it a
3 little bit more, but brokers still have the ability
4 to take action of their own accord, if they feel
5 that they have a compliance basis for doing so, but
6 for our system and our designations, we need to
7 know. We can't send a file to FINRA every day,
8 unless we're sure.

9 How can a US company trade OTC? This is
10 now probably getting to more of what you were hoping
11 to talk about. There are a number of ways that
12 companies get to us, and to scope it a little bit, I
13 previewed it just there in the answer to the last
14 question. Of the twelve thousand overall securities
15 that trade with us, twelve thousand plus, about
16 twenty-seven, twenty-eight hundred of them are US
17 companies. So there's a lot of non-US. A lot of
18 Canadians. A lot from Europe. I can answer
19 questions about those, as well, but for our purposes
20 today, I'm going to focus on the US side of the
21 house.

22 So there are three primary ways that a
23 company gets to us. The first is what we call
24 affectionally the slow PO. And I happen to be able
25 to listen in to Stacey's remarks this morning about

1 the use of Regulation D and 506(b), 506(c)
2 offerings. That's really what this means. So after
3 a private capital raising has taken place, an exempt
4 capital raising has taken place, that security can
5 season in the hands of the investor, of the holder.
6 So if you're an SEC registered company, that takes
7 six months. If you're not an SEC registered
8 company, that takes twelve months, but after that
9 period of time, someone who participated in the
10 offering can call their broker and say, I'd like to
11 sell ABC Security, and the broker needs to work with
12 the transfer agent, sometimes with the lawyer to
13 ensure that the qualifications have been met. This
14 is under Rule 144 under the Securities Act. And as
15 long as those criteria have been met, the restricted
16 legend on those securities, the fact that they were
17 offered in an exempt offering can be peeled away,
18 and it's available for public sale. With that, we
19 would do so much with disclosure of a company, but
20 that is kind of the basis of this market to begin
21 with.

22 The idea that a broker has a client who
23 has called and said, I'd like to trade this, the
24 broker has an obligation to give best execution to
25 get the best price. They could, as they used to,

1 call however many brokers they know that might be
2 interested in that security and see what price they
3 can get, or, of course, what they all do now is use
4 an electronic system, like ours, to find what the
5 best price is. It's all available. It's all
6 distributed through all the markets now, as you
7 would imagine, and trade. And so that's how a
8 number of companies from the US side have sort of
9 gone public without a more traditional IPO.

10 There is, of course, a wide number of
11 companies that have done a traditional IPO SEC
12 registered and done an S-1, et cetera. In many
13 cases, were listed on an exchange, which I'll get
14 to, in most recent years have done maybe a
15 Regulation A offering, which is something I'm going
16 to touch on a little bit more when we get to policy
17 and regulatory recommendations, but those are public
18 offerings in the way that everybody understands.

19 An exchange is a club, right? It is not a
20 necessity. The underwriter is who raises your
21 money. The underwriter is who gathers investors and
22 helps that offering go through. That's not NASDAQ
23 or the New York Stock Exchange or us. And you'll
24 hear me differentiate us from an exchange frequently
25 because I am very conscious of and I think it's

1 important to distinguish between an exchange and an
2 ATS. But the exchange is sort of proof that we have
3 met these standards, and it's marketing. It's a
4 brand. It serves a wonderful purpose, but it's not
5 necessarily necessary for a company to raise money.

6 So we see some public offerings and then
7 exchange delisting, which, I think, we were talking
8 about at the outset is probably the most well
9 understood method of a company joining OTC Markets.

10 No matter how they reached an exchange, at some
11 point they file a Form 15. Again, I'll probably
12 refer to community banks a lot because they're one
13 of the biggest US industry groups, but post-JOBS
14 Act, we a number of community banks say, it is very
15 expensive for me to be on NASDAQ, and now that
16 they've changed the threshold number of shareholders
17 under the JOBS Act, I want to consider delisting and
18 coming to the OTC market. So we've see a lot of
19 that, as well.

20 I'll flip to the next slide, but light up
21 the mics if you have questions at all. I'll get to
22 them.

23 Okay. More specifically on the reporting
24 standards, I know there are questions I heard.
25 Commissioner Crenshaw asked good questions or raised

1 good points this morning about this feeling that
2 there's opacity in the OTC market and that things
3 are not discoverable or available. I'm clearly
4 harping on that, but with a purpose. Rule 15c2-11
5 requires that disclosure and that transparency, how
6 our regulators, both of them, require that we vet
7 that on a daily basis. This is the set of standards
8 that we're using for US companies to make sure that
9 they have the right kind of information.

10 SEC reporting, I think, again, very well
11 understood. That's what people are used to. That's
12 10-Ks, 10-Qs, et cetera. You can also, I mentioned,
13 Regulation A. If you do -- I think this Committee's
14 probably very familiar. If you do a Reg A tier two
15 offering, that comes with continued disclosure
16 standards. That is another recognized type of
17 disclosure within Rule 15c2-11.

18 Maybe it's worth a half step back. 15c2-
19 11 sets forth very specific times of disclosure that
20 are appropriate, that are eligible for this current
21 information treatment. Clearly, regular SEC
22 reporting is one of those standards. Regulation A
23 reporting is one of those standards. Reg CF
24 reporting is one of those standards. It's not
25 something that we deal with very much. It's every

1 now and then, but the offering side is the side of
2 those companies are so small, that generally
3 speaking, they don't have a public market at all, at
4 least at this stage. I think maybe over time that
5 will change, but that is a recognized disclosure
6 standard. And then, of course, investment companies
7 under the 40 Act have additional responsibilities.

8 MR. DILLASHAW: Mr. Zinn?

9 MR. ZINN: Yes.

10 MR. DILLASHAW: Can I get just a little,
11 like one sentence on kind of like what that means to
12 be like a 15(d) reporting company, like the level of
13 disclosure just to see that versus ongoing reporting
14 requirements for a Reg A offering or a CF offering,
15 kind of just like what that means to the company in
16 terms of like what they're having to do on an
17 annual, quarterly basis on its level?

18 MR. ZINN: Yeah, absolutely. So SEC
19 reporting, you guys are probably the most well
20 understood, that's 10-Ks and annual audits. That is
21 quarterly reporting on 10-Q. That is current event
22 reporting within a very well defined timeline. And
23 8-Ks, that is in some cases, Sarbanes-Oxley
24 compliance. It's everything we know SEC reporting
25 to be.

1 And if you are -- you know, Henry
2 referenced this in other ways. If you are Apple or
3 Alphabet or Microsoft, that is absolutely the regime
4 that you should be in. That makes perfect sense.
5 You should also be on an exchange because of the way
6 that they work versus the way that we work. But
7 there's a cost clearly that comes with that.

8 I heard Acting Chairman Uyeda this morning
9 talk about scaled disclosure as part of his remarks,
10 and that's, I think, where Regulation A and Reg CF
11 get to. So for Reg A issuer, they don't have a
12 quarterly reporting requirement, for example. The
13 audit requirements are different. As you go down
14 the line to Reg CF, the requirements are even less
15 burdensome on what kind of information, whether
16 there needs to be audit at all, for example.

17 As I get into the disclosure as it relates
18 to our market tiers, OTCDX, OTCQB, we require audits
19 in a lot of those places in ways that the rules
20 don't necessarily dictate, but, again, that will
21 sort of help, I think, everyone understand the way
22 things are structured. I can do more, but I'll
23 pause it there.

24 The next set of disclosures are banks.
25 Again, I talked a lot about community banks. They

1 have in many cases a very particular disclosure
2 structure that they need to meet just based on the
3 fact that they're regulated in a number of other
4 ways outside the SEC context. So we have a bank
5 disclosure regime that matches up with what 15c2-11
6 requires allows them to leverage as much of that
7 information as they possibly can.

8 And then ARS, which stands for Alternative
9 Reporting Standard. That is our set of disclosure
10 guidelines. The original version of ARS was based
11 on, not only the requirements for 15c2-11, but the
12 old SEC Form SB in its different variations for
13 small business reporting based on a lot of state law
14 requirements around disclosure. It is now really
15 coalesced around ensuring 15c2-11 compliance at all
16 points, and then in various cases taking steps above
17 that to make sure that, again, investors recognize
18 who's really engaging with their market.

19 This slide references the OTCQX and OTCQB
20 disclosure standards. I'll talk about those in a
21 moment, but those are more market-based standards
22 disclosure, as well as qualitative and quantitative.

23 ARS is for companies that are not SEC
24 reporting. You can't have an SEC reporting
25 obligation, say, forget it, I don't feel like doing

1 my 10-Ks this quarter, I'll just meet ARS standard.

2 If you're an SEC reporting company, that is your
3 standard, and that's what you need to meet. That's
4 in the rule, and that's in all of our rules, the
5 rule being 211, and all of our rules.

6 If you are a bank similarly, you can't
7 tell your banking regulator, don't worry about it,
8 I'm meeting the Alternative Reporting Standard.
9 That becomes your standard. So this is only for
10 companies that aren't in either of those buckets,
11 which ones are being a fairly decent chunk of the
12 population, as well.

13 MS. DUIGNAN: So I just wanted to jump in
14 for a second because I think, you know, one of the
15 things that we're hoping to kind of learn from this
16 conversation today is a little bit around how OTC
17 might be used for primary capital raising for
18 companies, you know, how often is it used, what
19 percentage of it is used for that purpose versus
20 secondaries for delisted companies or other sort of
21 folks who just prefer different reporting standards,
22 and, you know, are there some ways that you could
23 envision that we could potentially encourage more
24 primary capital raising using a platform like OTC or
25 others?

1 MR. ZINN: Yes, that's my short answer.
2 I'll get to that, and I'll try to go through some of
3 the background material quicker because that's a lot
4 of what I want to focus on in the second half of the
5 presentation.

6 If you flip to the next slide, sorry, the
7 eligibility standards for QX and QB are there. To
8 address what you're talking about, Erica, it's not
9 very frequent that we see a direct IPO, like capital
10 raise on our markets. What really happens are
11 companies that have gone through one of those phases
12 that I described earlier to be traded OTC and then
13 have capital raising needs from that point. So
14 primary in that sense, that they already have an
15 active market, but they're coming back. And a lot
16 of what happens is private capital raising that is
17 less than beneficial to the existing cap table, and
18 I'll explain some of that as we go.

19 Where I think we can go, there are
20 avenues, again, Commissioner -- or Acting Chairman
21 Uyeda mentioned things like shelf offerings and at-
22 the-market offerings. That is a tool using
23 Regulation A and otherwise that can really be
24 beneficial for companies in this market space, in
25 this small US company public space. So consider

1 that foreshadowing for a few minutes from now.

2 QX and QB standards, again, I don't go
3 through in any great detail, except to note annual
4 audited financials are a component of both of those
5 markets. OTCQX, you will note, you cannot be a
6 penny stock, which I think most people think of a
7 penny stock as anything under five dollars. It's
8 actually under five dollars and there are also
9 revenue and net tangible asset standards that apply
10 to that, so we do that check, again, on a regular
11 basis to ensure that QX companies are not penny
12 stocks.

13 If you flip to the next slide -- I'm
14 talking into the ether, but it seems to be working
15 every time I do it -- it give you some of the
16 numbers, some of the background info on OTCQX and
17 OTCQB companies. Across those two markets, which
18 is, again, the highest level markets for our
19 structure, five hundred and six US-based companies
20 there of the roughly sixteen hundred, seventeen
21 hundred total. Forty-seven states represented.
22 We'd love to see, I think, it's Nebraska and New
23 Mexico and West Virginia get on board. There are
24 some banks there that, I think, would be good
25 candidates. All of these statistics, again, are not

1 the things we need to go through point by point, but
2 gives you a sense of the market.

3 I do want to focus on the last point
4 because I think this comes up also with how do
5 companies use a market like ours to help achieve
6 their capital raising goals. Two hundred and
7 seventy-five US company graduates to an exchange
8 over the past really five years. That is something
9 we celebrate. It is part of the role that we
10 believe we're supposed to play, and that we do play.

11 When we, quote, unquote, lose a good
12 company to New York or NASDAQ, inevitably from a
13 business standpoint we get a call from five other
14 companies in that industry or that geography that
15 say, that's the story I would like to tell, how did
16 you help them do that? So it's beneficial for us.
17 I think in many cases it's beneficial for the
18 company. And in some cases, they come back because
19 they weren't necessarily ready, and we're home for
20 them, too. It's sort of rethink how they want to be
21 public.

22 I will flip to the next slide, please.
23 This is just to touch again on the point about risk
24 flags and identification of risk. Again, I think
25 that there's a perception that there is less

1 information or a lack of understanding if you're
2 trying to invest in OTC securities. We do really
3 everything possible to make sure there is more
4 information. It doesn't mean that there's not risk.

5 It just means that it's very apparent and
6 transparent when there's something to be concerned
7 about.

8 We are not an SRO, a self-regulatory
9 organization, like the exchanges. That's important
10 in part because SROs have regulatory immunity from
11 lawsuit. So if an SRO says, we don't think you're a
12 great company, you're doing great things, and they
13 say that publicly, okay, they can say that. If we
14 say that, I can get a call from a lawyer saying
15 that's defamation.

16 So what we do in large part are these
17 types of risk flags. I'm not going to go through
18 all of them, but some of them, I think, are really
19 interesting. This, again, I told you before I know
20 we were clever. Wait till you see all these.

21 The shell with an exclamation point. Some
22 companies will self-declare themselves a shell. You
23 can do that on SEC forms. It asks on every one of
24 the reporting forms. Our disclosure forms asks the
25 same. If you say you're a shell, great, we'll note

1 that, too. You have a shell marked without the
2 exclamation point. If you don't say you're a shell,
3 but your financials look a lot like a shell company,
4 we will put this icon next to your stock symbol and
5 in our compliance data files that says, shell risk
6 just identifying that for investors and regulators
7 as a company that looks a lot like a shell.

8 I won't go through all of them. The next
9 one, though, the promotions flag, the megaphone
10 icon. If we have reason to believe that there is a
11 stock promotion, particularly a stock promotion, and
12 we talked about possibility of fraud, right, a
13 promotion and that kind of a pump and dump scheme is
14 maybe the most well-known or well thought version of
15 that. If we have any reason to believe that there's
16 promotion involved in a security, we will put this
17 megaphone icon. Again, I'm not saying you're good
18 or bad, just informing investors that this is a
19 thing that might be impacting the market pricing
20 process.

21 I will flip -- or skip to the bottom of
22 this -- this -- I guess the second row of this -- I
23 can do them quick.

24 All right. Ready? Shell risk, stock
25 promotion, bankruptcy is the dollar sign with the

1 red background, control dispute is the gavel. So
2 there are circumstances where particularly as it
3 relates to disclosure where more than one, a merger
4 or an acquisition was planned, and then there's an
5 argument over whether it went through or not, or an
6 argument over whether somebody's, you know, proxy
7 contest to take over the board went through or not,
8 and more than one individual or a set of individual
9 claims to have ownership of the company and control
10 and says, I should be disclosing on behalf of this
11 company, we do not adjudicate it. There's a well
12 warned system within the courts to handle that, but
13 we will note that there's potentially a conflict
14 there, and sometimes that leads to companies not
15 posting disclosure because we won't. We won't
16 update it. We won't listen to one side or the other
17 until a judge says, this is the right answer.

18 What else do we have? We have delinquent
19 SEC reporting on the end. That's the circle with
20 the four red dots. We have unable to contact, which
21 is the question mark inside the red balloon. We
22 have use of a prohibited service provider, which I
23 can explain, which is the red circle with a slash
24 through it. So we maintain a list publicly of -- it
25 used to be just prohibited attorneys, and now it is

1 prohibited service providers, which for the most
2 part are attorneys or accountants or IR personnel
3 that had had some sort of action against them by the
4 SEC or FINRA or another regulatory body. In some
5 cases, there are people that we have dealt with
6 that, for example, signed off on the disclosure of a
7 company, and it was later revealed that they either
8 didn't do the work or they blatantly lied or ways in
9 which -- again, we are not going to put ourselves
10 out there as saying that a company's information is
11 valid, which would be relied upon if they worked
12 with a prohibitive service provider. So that's what
13 that it is.

14 And I can, to the extent it's interesting
15 to everybody, send links to whoever wants to all of
16 these different explanations on our website.

17 The yield sign means limited information.
18 That's the same yield sign that was with that pink
19 symbol I looked at earlier. That at this point
20 means you, in many cases barely, but you do meet the
21 211 standard, but that's it. You have not met any
22 of the other parts of the disclosure regime that
23 we've put into place.

24 The moon means a dark or defunct company,
25 not something that we deal with very much anymore.

1 The skull and cross bones is the one that gets the
2 best reaction. I have been doing these kinds of
3 presentations for quite sometimes. The skull and
4 cross bones always win for best audience reaction.
5 That is caveat emptor, or buyer beware. And this is
6 where it gets, you know, interesting with respect
7 with what we can do versus an SRO.

8 It means that there is a public interest
9 concern. We have identified a public interest
10 concern related to that security. It's important to
11 understand that if a company that was on our OTCQX
12 or OTCQB market fell into this category, they would
13 be immediately removed from the OTCQX or OTCQB
14 market, so it's not for higher end companies. I
15 mean, if it applies, it applies. We just remove
16 them from the market.

17 So frequently, again, this means an SEC
18 action against the company or an officer or a
19 director or control of that company who is still
20 involved. It can mean a conviction for fraud in
21 another way from the officer or director of that
22 company. It can mean -- it can mean they were
23 involved in so much activity related to stock
24 promotion or didn't tell the truth about their shell
25 status for such a long period of time. It's a

1 variety of factors. We do list them. We talk about
2 them on our website, so that it's clear what we mean
3 by that skull and cross bones, but that is a tried
4 and true, and it's probably always of the twelve
5 thousand or so securities that are on our platform,
6 there are always some that have the caveat emptor
7 icon. The way to get rid of that is frequently to
8 divest yourself of an individual that was the cause
9 of a problem, and in every case, to make sure that
10 you have updated current disclosure reflective of
11 what you're doing now and the fact of whatever
12 problem existed before no longer exists.

13 And then the double black diamond, expert
14 market we talked about earlier.

15 I'll flip to the next slide. No more risk
16 flags. We actually have about -- we have about ten
17 more. I'm glad I didn't put them all up.

18 Blue Sky recognition. This is to give a
19 nod to state law, more than a nod. It's a pretty
20 aspect of what happens and what impacts small
21 companies that trade; otherwise, they're not on an
22 exchange. If you're not familiar, for any company
23 that's listed on the New York Stock Exchange and
24 NASDAQ, the state rolls them all into that secondary
25 trading do not apply. They are preempted, which I

1 know it can be a dirty word for folks involved with
2 state regulation, but that's the case for those.

3 For securities that trade on our market,
4 state law around secondary trading does apply
5 frequently in many states, and we've been doing this
6 for a long time working with NASDAQ and each
7 individual state and jurisdiction. There is an
8 exemption called the Manual Exemption for companies
9 or for securities that are subject of, again,
10 current information. It generally has meant
11 publication in a book, an S&P manual or a Moody's
12 manual. So once a year, companies can publish their
13 information in the book, and that book gets
14 distributed to libraries and whatever investment
15 advisors. And if before you invest, you're the type
16 of person who goes to your local library and looks
17 it up, that is a wonderful solution. That's not
18 really how people invest anymore.

19 So our discussion with NASDAQ and the
20 states has been, look at all of the information
21 free, by the way, not necessarily true of the book,
22 the published manuals, free updated public
23 information about OTCQX and OTCQB companies vetted
24 under a regulatory standard, updated quarterly and
25 with current information right next to their stock

1 price and their shares outstanding and all of the
2 other information that we have. And so we have now
3 forty-one states and jurisdictions that have
4 recognized in some form or other our OTCQX market as
5 the equivalent of a manual. They don't all say it
6 that way. Some of them has legislative changes.

7 Florida was the most recent update. They
8 passed a law through their legislature recognizing
9 15c2-11 disclosure specifically, which, I think, is
10 maybe where this will trend in the future. OTCQB
11 has thirty-seven jurisdictions. I'm going to talk
12 about this later. It's wonderful and valuable, and
13 we are thrilled to have the partnership and the work
14 that NASDAQ and all of these states. The fact that
15 it's not fully national, it also is an issue for
16 small companies and for brokers who are working with
17 investors in these small companies.

18 MS. NIKLASON: So I have a quick question,
19 because you mentioned this in terms of secondaries.

20 I assume you have the same issue in terms of
21 primaries depending on how the companies are going
22 to raise, correct?

23 MR. ZINN: Yes, you would have the same --
24 so primary issuance. The math and the kind of
25 discussion that I was headed towards doesn't deal

1 with primaries. That's a regime that seems to work
2 very well if understood how to apply and register
3 and all the rest. So, yes, state law applies to
4 primaries, as well.

5 We're really focused more on giving broker
6 and investor access to secondary trading. It does
7 help with things like the follow-on offerings that
8 we'll talk about, when you can have research and
9 managed accounts and things like that that can
10 participate.

11 Move to the next slide where I will
12 finally stop talking my own book, as we said, about
13 my company and start talking about the ways in
14 which, I think, all of you in this room and people
15 this building generally can help.

16 I started by saying if as far as I got in
17 this afternoon's presentation was a greater
18 understanding of our markets, everything I've talked
19 about with 15c2-11 and disclosure and transparency,
20 and I know Commissioner Crenshaw had mentioned
21 things about price discovery, as well. That is
22 all -- I didn't get into it, but that is all
23 publicly available. It's on our website every
24 moment of every day. It's distributed through
25 Bloomberg and Refinitiv and FactSet, and it's on

1 Google Finance and Yahoo Finance, and all the rest.
2 So from Roche to Heineken all the way down to very
3 small stocks. Everything is available. If we can
4 just get that far, that would be great.

5 And then I'm going to talk about some
6 other proposals with respect to guidance and more
7 specifics, which I think is where Erica was headed
8 earlier. And then finally some investor protection
9 initiatives that would really make a big difference
10 in helping people understand and appreciate this
11 market.

12 If you flip to the next slide. I've taken
13 a risk here and calling the SEC out a little bit.
14 That's why they won't even flip to the next slide,
15 see. They know what I'm about to do. Even if you
16 don't go to the next slide, I'm going to do it.
17 There you go.

18 So this is a screen grab of what you would
19 find on the SEC's website if you searched around and
20 looked up the OTC Market and OTC Link, LLC, which is
21 the broker/dealer entity that operates our trading
22 systems. I'm not going to read it word for word. I
23 am going to point out three things on the page. One
24 is that first highlighted section over on the left
25 side that "OTC Link does not require companies whose

1 securities are quoted on the system to meet any
2 listing requirements." This is one thing the
3 drilling on through the last half hour should have
4 been there being there's absolutely requirements in
5 order to quoted.

6 The other is not highlighted, but there's
7 a lot of reference to the OTC Bulletin Board. Keep
8 that thought in the back of your mind for a moment.

9 And the third thing I will note is the
10 last highlighted thing in the bottom right-hand
11 corner that this page was last updated on May 9th,
12 2013, just about one month before my sixth grader
13 was born. The market has changed, and so if really,
14 as a recommendation, as an ask, put us in touch with
15 whoever can help update this. You don't have to say
16 it the way that we would say it. I get it, it's the
17 SEC, but it really matters when an investor is
18 looking for information about an OTC security, and
19 even more than that, when a media member is writing
20 something or thinking about the OTC Market, of
21 course, the SEC is the source. It's probably the
22 golden source, so they go here. We explain all the
23 things that I just explained, and they say, yes,
24 that SEC says this, and we have to include that in
25 our story. It would just help to update the

1 interpretation.

2 On the next slide, you'll see this is a
3 grab of a page that describes the OTC Bulletin
4 Board. And then, of course, on the right-hand side
5 of the screen is what happens if you try to click
6 and look at the OTC Bulletin Board.

7 If you read what's on the left, it's a lot
8 nicer than what was on the prior side, right? It's
9 all of the traders are FINRA member broker/dealers,
10 and there's an information requirement and market
11 maker support. All of that is exactly true for the
12 OTC market and everything on OTC markets, but it's
13 not written that way.

14 The OTC Bulletin Board was a facility of
15 FINRA for a long time. It did not -- they had a
16 quote facility. They never got to messaging. They
17 never got to communication between brokers. And so
18 for the last -- I don't know, four or five years of
19 its life, very few securities contained to be quoted
20 there. It was, by rule, eliminated about four years
21 ago. The OTC Bulletin Board hasn't existed. It's
22 still referenced on the SEC website, and referenced
23 in ways that are really much more descriptive of our
24 market.

25 So, again, this is just to help bring

1 things forward. An I know it's -- I've used the
2 term before. I know the talking my own book to some
3 degree, but I promise it is genuinely helpful to all
4 US companies that are traded on our market for
5 people to not think it's the wild west, it's the old
6 paper pink sheets for people to really understand
7 what it is. It will help. All right. I'll stop
8 before you guys kick me out of the building.

9 The next slide. Let's talk about some
10 interpretive guidance. And this is, obviously, not
11 specific if people have questions, but this is,
12 again, a way -- a kind of easy way without changing
13 rules, without legislation that the SEC and even
14 FINRA at the SEC's direction can help ease the path
15 for capital raising for investor access to these
16 companies.

17 There's a regulatory notice out there
18 called FINRA 09-05. And 09-05 was widely understood
19 in broker/dealer compliance circles, clearing firm
20 circles. It listed a whole bunch of red flags that
21 you should be aware of if you're going to do
22 business in low price securities and OTC securities.

23 If anybody's familiar FINRA scheme about how they
24 named their regulatory notices, 09-05 means the
25 fifth interpretation or notice that they issued in

1 2009. So that's still -- again, it's out of date
2 and it controls.

3 A lot of the issues that it raises have
4 been addressed by 15c2-11 and everything that I've
5 been talking about, but what happens, if you are a
6 broker/dealer compliance officer, if you're a
7 clearing firm, if you're even a transfer agent, and
8 you are working with companies or investors or other
9 brokers that are in this market, you're never going
10 to get fired if you say, no, I think this might be
11 scary, or we'll only do this if we charge, you know,
12 a hundred percent more to the customer so that we
13 can do the research that we need to do to make sure
14 that it complies. We have posted four of them, and
15 they said, oh, this was with industry members to try
16 and educate and put information out. But any
17 regulatory effort, any SEC or FINRA related effort
18 to do would be -- again, would go a very long way.

19 I also note on here companies that have
20 been subject to an SEC trading suspension, it is
21 clearly a much harsher thing than something like
22 caveat emptor, but really there's no way back for
23 those companies, whether that's something that can
24 be addressed in the say way. I think it probably
25 could be. I understand why it wouldn't necessarily

1 be the first priority, but it is actually impactful
2 for those companies.

3 Now, let's turn to the next slide and a
4 capital raising proposals. I thought I'd be a few
5 water bottles down by now. Doing all right.

6 At-the-market offerings. I mentioned this
7 earlier, I heard the Acting Chair mention shelf
8 offerings. Here, we start to finally get to the
9 specific tangible regulatory proposals that could be
10 helpful. The way at-the-market shelf offerings work
11 in a very quick primer, although, I think, there are
12 probably folks here who understand it very, very
13 well, if you are a well-known seasoned issuer,
14 which, basically, means you have a market capital of
15 seven hundred million or greater, you file an SEC
16 Form S-3, it is automatically effective, you can
17 then sell shares in a number of ways. One of those
18 is through an at-the-market offering; meaning,
19 through a regulated broker without selling efforts,
20 it's not a road show, it's not a big production,
21 through a regulated broker, you sell shares into the
22 market at the prevailing market price. So it really
23 is kind of a method of accessing whatever the market
24 is, as opposed to a fixed price offering.

25 If you are much smaller, but still have at

1 least seventy-five million dollars in public float,
2 you can still file a Form S-3. If you have less
3 than seventy-five million dollars in public float,
4 you're offering -- your potential offering in a
5 shelf is only one third of whatever your public
6 float is, so you're really reducing the amount of
7 capital that can be raised. Lowering -- so that's a
8 lot of information for that first bullet.

9 Lowering the S-3 public float filing
10 threshold, which is a tongue twister, either from
11 the WIKSI standpoint, the Well-Known Seasoned Issuer
12 standpoint, to bring that down to something like
13 small companies two hundred fifty million or
14 lowering that seventy-five million dollar threshold
15 to be able to do a real offering would be helpful.
16 What I think might be even the most impactful for
17 OTC-traded companies is using Regulation A, a topic
18 that I know gets discussed in this Committee and in
19 this room a lot. Regulation A already has built in
20 offering limits to it, again, as you all know very
21 well. If you allowed -- and there's a provision in
22 Regulation A that just very clearly says, at-the-
23 market offerings are not permitted in conjunction
24 with Regulation A. The only adjustment needed is
25 just to delete not, and you would have a whole --

1 you would actually have a whole regime of potential
2 capital raising opportunities. The securities are
3 publicly available immediately upon issuance, so it
4 wouldn't influence or wouldn't have a negative
5 impact on the existing public market for those
6 companies. If a stock was getting more and more
7 valuable, this is one way to prevent a stock from
8 getting overvalued. It's also a way, obviously, to
9 give real capital raising. This is the kind of
10 thing that our companies ask us about and want to be
11 able to do. I'll tell you what they do instead.
12 But I want to see if there are any questions because
13 this is a real proposal.

14 MR. DILLASHAW: Just to refresh my memory,
15 for Reg A offerings, that just applies to the
16 registered securities? It doesn't -- does it open
17 up a market for the secondary sales to piggyback off
18 a Reg A registration?

19 MR. ZINN: It's only by itself. You can
20 use that seventy-five million if you're going for
21 the full limits, yeah.

22 MR. DILLASHAW: Just for the registered
23 security --

24 MR. ZINN: Just for the registered --

25 MR. DILLASHAW: It won't open up the

1 market for like -- unlike, a, you know, a BDD
2 regulated company, like, you know, you could always
3 just be trading in the other securities?

4 MR. ZINN: Right.

5 MR. DILLASHAW: If it's a Reg A, it's
6 still just going to be whatever's covered by the
7 registration of the offering?

8 MR. ZINN: In terms of what could be
9 offered --

10 MR. DILLASHAW: Yeah. Yeah.

11 MR. ZINN: -- what could be sold in that
12 way, but it would flow into the existing market
13 that's already there at potentially that market
14 price.

15 MS. DUGNAN: Could I ask you why you
16 think the SEC currently doesn't have the at-the-
17 market offerings to be included in Reg A?

18 MR. ZINN: I've been doing this for longer
19 than it might appear, so I was around when the JOBS
20 Act and Reg A+ came to fruition, as well, and the
21 feeling at the time was, let's see if this works,
22 let's see if we can make Regulation A or A+ really
23 work in this whole new way and have affinity
24 investing in all of the goals of Reg A, let's not
25 overcomplicate it by also introducing at-the-market

1 offering, which made perfect sense, because we asked
2 them, I guess, is the thing I should say. It just
3 hasn't been revisited.

4 MS. NIKLASON: So I have a question what
5 about stocks that are thinly traded, right? So part
6 of the theory about an ATM is to have a well-traded
7 stock, so I know what the market price is.

8 MR. ZINN: Right.

9 MS. NIKLASON: So if I have a thinly
10 traded stock, and I'm going to put a bunch out there
11 in a primary, does the ATM pricing theory still
12 hold?

13 MR. ZINN: There are a couple of ways to
14 look at it. So one is where I was getting before,
15 which is the danger sometimes of a thinly traded
16 stock is overvaluations, that you're going to pay
17 too much for this thing. By introducing more supply
18 into the existing public market, you're actually
19 controlling for some of the big dangers of thinly
20 traded stocks.

21 The other, I'll get into this in the next
22 proposal that we talk about, is to put some
23 additional guardrails around it. For example, what
24 some of the states have done, you don't see it in
25 legislation or in SEC rules, is actually name our

1 markets and say, if you're an OTCQX company, that
2 means your disclosure is such that, you know, we'll
3 give you manual exemption treatment.

4 So whether you call it OTCQX or OTCQB, you
5 could name or just describe a standard saying you
6 need to meet X standard as an OTC traded company in
7 order to be able to use Regulation A. So that could
8 be a couple of float requirement. There could be a
9 number of market makers' requirement. I don't think
10 there's a needs to be, but there could be guardrails
11 like that that get built in to help alleviate
12 concerns about things like that.

13 I want to make the point kind of a what
14 happens because this is not necessarily an option.
15 It's not black or white. There's a lot of grey and
16 other areas in between. But what we frequently see,
17 and I'll talk about this with respect to exchange
18 listed securities as well, are companies, think
19 about any entrepreneur, that some of you are
20 entrepreneurs, and think about entrepreneurs that
21 you know, right, this idea is going to work, I just
22 need to fund it, I'm not going to worry so much
23 about where that funding comes from, and what
24 happens is we call debt spiral financings, but
25 financings where I will get ten million dollars from

1 whoever's financing it, and in exchange, I will
2 issue convertible warrants. And the deal with those
3 warrants is that they will always in every
4 circumstance convert at a discount to the then
5 existing market price. So if my stock is a dollar
6 at the time that warrant converts, it will convert
7 for eighty cents, you better believe that lender is
8 selling all of it in as much as it possibly can to
9 get the spread between what they convert it at and
10 what the public market price is and also that it's
11 dragging every other investor all the way down.
12 That's why I can't do it without making the spiral
13 motion, right. It's a downward spiral kind of
14 financing. And sometimes that's all that is
15 available.

16 The other, I think, maybe way to think
17 about the question you're asking is, if there's not
18 interest, if it's going to the other way, if there's
19 not interest because it's thinly traded, then it
20 won't trade. Just like if you were an individual
21 investor trying to sell it, you'd either sell it at
22 a much lower price, or you wouldn't trade it. So
23 the company is much less likely to try to drag down
24 its stock price in an ATM offering. There's no --
25 there's not a real economic interest in doing that.

1 So it's -- I raise that only because it's
2 that important to think about whether it's a shelf
3 offering at-the-market and using Reg A or other
4 capital raising adjacent ideas that will go over.
5 It is important, what you all are doing, the fact
6 that you're having this meeting, and that I really
7 was so, so happy to be invited to come because these
8 things matter. They matter to a lot of companies.

9 I will flip to the next slide. And this
10 is another proposal. If there are more questions
11 about, again, anything, we can do it at the end, or
12 you can always bring me back to the slide if you
13 need to.

14 This maybe a more esoteric proposal. It's
15 around margin eligibility. It's another one of
16 those things that nobody really thinks about. Very
17 briefly -- I will be doing this again on Capitol
18 Hill tomorrow, talking about this issue. Very
19 briefly, it used to be that the fed, which was OTC
20 Margin List, meaning if you were on that list, there
21 were criteria. If you made that list, your
22 securities, your stock could be margin eligible.
23 Your investors could it in a margin account. I
24 think we all, basically, know what that means.

25 Then the feds said, this is ridiculous, we

1 don't want to do a list anymore. This was late 90s,
2 early 2000s. If you're on NASDAQ, you're OTC margin
3 eligible. We're just going to go that way. Great.
4 That'll make sense to everybody, too.

5 Then NASDAQ became an exchange in 2007,
6 and none of those securities were OTC anymore, and
7 the feds just never backfilled the requirements. So
8 there is now no way for a US-based company to gain
9 margin eligible stats. None of the OTC US trade
10 companies are margin eligible.

11 If you are a foreign share, the real
12 foreign share that trades overseas, the SEC has
13 jurisdiction to write a no action letter and grant
14 margin status. This is a way to Regulation T.
15 There's a lot of detail we can get into. This is a
16 federal.

17 If you are domestic, it is fed controlled,
18 and they just have not updated this requirement.
19 This is the pulling of markets. It's the nuts and
20 bolts that is not very exciting, but does make a big
21 difference.

22 When I do go to the Hill when we talk
23 to -- because there's a legislative path to this,
24 too, one of those potential ideas is to say, let's
25 make this all SEC jurisdiction, and then the SEC can

1 make a determination about -- this goes to the
2 answer we were talking about before. There are
3 criteria involved. I would never suggest, nor do I
4 think anybody here would agree that every -- all
5 twelve thousand securities should immediately be
6 margin eligible. You need to have criteria in
7 place, which is what the feds used to do, and what
8 we are proposing they do again, or that the SEC does
9 again.

10 That second bullet sort of gives in very
11 broad strokes what that criteria might look like.

12 The third bullet, because we have done
13 this before in a legislative context, I'm not going
14 to talk about ESOPs, or Employee Stock Ownership
15 Plans, other than to say they were similarly
16 outdated rules, there were Treasury regs that
17 related to ESOP programs and the ability of OTC
18 issuers to allow their employees to participate in
19 them. We worked with a lot of people on the Hill,
20 and as part of Security Act 2.0, they updated that
21 so that now there's a recognized pathway, there's a
22 set of criteria that an OTC company can meet, and if
23 they do, they can offer an ESOP plan to their
24 employees just like an exchange listed company can.

25 That is the concept for whether it's the

1 fed or the SEC that ultimately makes a margin
2 eligibility determination to do something like that.

3 Now that the ESOP bill is out there, it's been
4 vetted. It's gone through the Joint Committee on
5 taxation. You know, these criteria are well
6 understood at least by some. That's the kind of
7 thing, I think, we can work on. And, again, if
8 you're, even from a capital raising perspective, if
9 you are trying to sell securities to either
10 institutions or sophisticated investors or retail,
11 one of the questions they're going to ask are, what
12 are my options, what are my liquidity options, you
13 know. A lot of that is, am I going to be IPO, or
14 are you going to sell the company, or what kind of
15 public market do you have? Sometimes it's, can I
16 borrow against this stock, can I put it my margin
17 account? And if you can't, you are, even if it's ten
18 percent, less likely to buy that security. Or if
19 you own that security and you need to send your kid
20 to college, but you believe in that company, or you
21 need to redo your kitchen or whatever, you have to
22 sell, and it depresses the prices of the OTC
23 security, and it, again, chills further investment.

24 I can make a mountain out of a molehill.
25 So with margin eligibility, I think it's a big

1 issue, but, again, things that we know are really
2 important because we deal with this stuff all the
3 time.

4 MS. NIKLASON: Actually, I have a follow-
5 up question since you touched on that. I mean,
6 maybe can you explore for the Committee based on
7 experience of companies on the OTC how does it
8 impact their primary capital raising if they aren't
9 margin eligible or if they are, if they have an
10 active secondary or they don't, right?

11 MR. ZINN: Right.

12 MS. NIKLASON: Because the company's not
13 getting money off the margin, and the company's not
14 getting money off the secondary.

15 MR. ZINN: Right.

16 MS. NIKLASON: So how is having that
17 helping the company get the money?

18 MR. ZINN: It's really how they talk about
19 it with investors. We -- we did a lot of education.

20 I was saying that I was in this role when Reg A+
21 became a thing. We did a lot of education around
22 the investor and broker community just recognizing
23 that maybe the key aspect to Reg A is that these
24 were immediately publicly tradable securities.

25 So, again, it's the point that investors

1 always want to know, it's great, this stock, it's
2 lovely in my account, but how do I turn this into
3 money? And so there are a number of ways to do
4 that. Some if having an active secondary market.
5 Some is by being able to borrow on margin. I wanted
6 very much to be able to provide harder statistics
7 around that sort of thing. It's anecdotal in terms
8 of margin at least because we hear about it from
9 companies, particularly as their potential investor
10 base, whether it's public or private becomes more
11 sophisticated. They ask questions like, I have a
12 margin account, you know, this is how I normally
13 invest, you know, this is my strategy, could I do
14 that here. And when they say no, they lose a
15 potential investor. So it impacted un-satisfyingly
16 indirect, but it is real.

17 Where are we? We can flip to the next
18 slide? Who's in competition among trading venues?
19 So this is maybe getting ahead of an issue that's
20 been out there -- I guess it's not getting ahead --
21 it's been out there for quite a few years. It's
22 been called the Main Street Growth Act. It's been
23 called Center Exchanges. It's something that I
24 think has been discussed in maybe even prior
25 iterations of this Committee. It's the idea of

1 creating a new venue to consolidate all the
2 liquidity in certain smaller securities. And the
3 idea, as I understand it and I've talked to every
4 congressional office that has considered this
5 option, is that if you consolidate all the liquidity
6 is one place, investors will know what the price is
7 and it'll be easier and that might lead to greater
8 liquidity for those companies.

9 And that is a notion that, I think, would
10 have made sense with the pink paper phone book many,
11 many years ago before Bloomberg and all the rest,
12 FactSet, and the like made it so that you can always
13 find the price of every security all the time, and I
14 think for quite a few number of investors, even for
15 the largest stocks, they couldn't tell you if it's
16 on the New York Stock Exchange or NASDAQ. They
17 don't care. They couldn't tell you if their
18 transaction went through on the New York Stock
19 Exchange or on one of the forty ATSS that trade NMS
20 trade exchange listed securities. They don't care.

21 Did they get the best price? Did they get the
22 price that they saw in their screen? Did they get
23 it fast? Whatever it is that they're interest was
24 in, did that lap for them?

25 And so this is kind of repeating for

1 purposes of this Committee what we have been talking
2 about for a while in other context, which is, we are
3 very clearly in favor of examining rules and
4 changing things to help small companies thrive. So
5 it's not that I think the underlying premise of
6 something like a venture exchange is bad. It's just
7 that aspect of consolidation of liquidity in one
8 place -- what the bill as it's been proposed in many
9 iterations would do is prevent, not only trading on
10 another venue, but prevent broker/dealer
11 internalization, which we can spend another hour and
12 a half on, but is one of the main reasons why larger
13 market makers are willing to put up capital for
14 smaller companies because they might have a customer
15 that wants to buy, they might have a customer that
16 wants to sell maybe there's a little spread, you do
17 that often enough, and you have a pretty good market
18 making business. That's why they're willing to
19 quote something on the market like ours in many
20 cases.

21 Everything is attributable. There's no --
22 you quote on OTC and ATS. You see the market maker
23 on one side. You see the market maker on the other
24 side. They see each other. They communicate. All
25 of that comes from that choice and competition. I

1 can it with my competitor, my neighbor down the
2 road. I can do it internally. I can do it across
3 the system. Things that would take that away that
4 would grant, basically, a system of monopoly are a
5 concern to us.

6 Our thoughts around that are to just
7 ensure that there is, again, competition in choice.

8 Nothing wrong with venture markets. Nothing wrong
9 with venture exchanges as being an option. If
10 there's competition. If there's things that NASDAQ
11 does or an upstart does that are different in the
12 exchange space, that's great, but don't limit it to
13 that. Include ATSS. Include potentially other
14 kinds of market structure that come along down the
15 road. Particularly with lower price securities, you
16 want choice competition options, so that people are
17 more likely to engage in that market. Okay. End of
18 that rant.

19 I'm going to move to investor protection
20 initiatives. I know I've been talking for a really
21 long time, and I appreciate it so much. Again, if
22 you have questions about anything, please let me
23 know.

24 If you can flip to the next slide. A few
25 key investor protection initiatives. There are

1 many. And I spent some time going through the ways
2 in which we try to inform investors as much as
3 possible where there are things that might represent
4 risk or something that's valuable to their trading
5 position. I only put up the negative risk flags
6 before. We have positive ones, too.

7 But there are a couple of things that are
8 beyond our control that are really not that
9 difficult to achieve. One is updating Section 17(b)
10 of the Securities Act. Section 17(b) has existed,
11 again, for quite some time, and it dictates what has
12 to happen if you were going to publish stock
13 promotion. It's from an era where stock promotion
14 was published and then sent out in a circular to
15 your mailbox where you would go and see it, and you
16 needed to find out was that stock promotion or was
17 that actually the local -- whatever, the local
18 paper, the penny save, whatever it was.

19 So it requires that you say, oh, it was
20 paid to put this advertisement in. Great. Very
21 useful. It doesn't require you to say, who paid
22 you, what that person's affiliation was to the
23 company. It doesn't necessarily always cover all
24 the ways in which stocks can be promoted,
25 particularly nowadays. So we are -- again, another

1 thing I'll do on Capitol Hill tomorrow, we are
2 talking about ways to enhance the requirements for
3 stock promotion, one, because it will, of course,
4 provide more information and let investors know that
5 this is a promotion. Two, because it will give a
6 direct pathway to all of the incredibly hard working
7 and fortunate people in this building who are always
8 trying to find out who's responsible for a fraud or
9 scam. If you required that publication in every
10 stock promotion, I'm not saying everybody would
11 always comply or it would always work perfectly, but
12 it'd be a lot easier to find out who's responsible.

13 It's almost always, not surprisingly, somebody who
14 has something to gain. It's an insider. It's
15 somebody who owns a lot of stock. If you updated
16 the rules, it would help. And then it would also
17 just chill instances of promotion generally because
18 it would be harder to make your fraudulent buck
19 using that method.

20 Another investor protection initiative
21 that -- again, we're disclosure based. That's a lot
22 of what we think about. Expanding 13(f). 13(f) is
23 the disclosure requirement for institutions that
24 hold over a hundred million dollars. They are not
25 required to disclose their OTC holdings. I get it,

1 and I think people question why we push in this
2 direction, but it's valuable for companies to
3 understand who their holders are. It's valuable for
4 other investors to understand who is invested in a
5 company.

6 Every time I've talked to an institution
7 about this, yes, it is more work, but they would
8 also be really interested to see who else holds, and
9 so they actually would be, I think, generally okay
10 with this.

11 There is a recent increase in
12 responsibility around 13(f) that you guys are
13 probably familiar with around short sales, which
14 would be inclusive of the OTC market, everything you
15 sell short now has to be reported. So if you are
16 already required to differentiate and report that
17 this was a short in an exchange rated security or an
18 OTC security, you might as well just report it on
19 all -- you're doing the work anyway. You might as
20 well just report on all of your OTC holdings to
21 begin with. So would love to see that. And this is
22 really about support for some of these things. I
23 know that some of them are more legislative than
24 regulatory in nature, but they all are really in
25 practice performed and acted upon by the folks in

1 this building.

2 The final one on this slide, increase
3 insider and affiliate disclosure. So for anybody
4 who's familiar with Form 3, 4, and 5, that and 13(b)
5 and 13(g) for that matter, those are the SEC
6 required forms for SEC reporting companies where if
7 you are a director or an officer or a ten percent
8 holder, and you buy some shares or you sell some
9 shares, you have to report that. People want to
10 know.

11 If you're an institution and you take a
12 five or ten percent interest in a company, that's
13 kind of important, too. That's 13(b) and 13(g). It
14 doesn't apply to OTC securities. It should. We
15 have the capacity to do it. It's not paper anymore.

16 It's -- the rails are all there. We're already
17 getting all of this information from all of these
18 companies. We're hosting the trading.

19 I don't know if it's an insider affiliate,
20 right? We don't have customers. Like I said, the
21 traders on our system are only the FINRA member
22 broker/dealers, but you could require this kind of
23 disclosure from all of our subset. And, again, more
24 information would let people know what's going on in
25 our market. Almost done, I promise.

1 Next slide, please. This is what I
2 foreshadowed earlier about Blue Sky, and I do use
3 the P word. And for anybody who's affiliated with
4 NASA, I apologize, but I think it's the best way to
5 communicate this. P word being preemption.

6 I won't rehash the entire scenario from
7 the map that I showed earlier, but the way those
8 state rule work, those Blue Sky rules work, they act
9 on the broker, and they, basically, say you can't
10 solicit a transaction, unless the security is Blue
11 Sky qualified or exempt in your state. So, yes,
12 that means calling an investor and saying, I think
13 you should buy somebody, but it also means
14 purchasing in a managed account. So if somebody
15 gives you, as the broker, responsibility over an
16 account, you cannot buy anything in the state -- you
17 can't buy a security if it's not Blue Sky eligible
18 in your state.

19 And it also means, this is maybe the most
20 important point, distribution of research. Research
21 is a topic, I think, again came up in the
22 Commissioner's remarks this morning. It is
23 something everyone talks about for smaller
24 companies, whether they're exchange listed or OTC.
25 How do we get more information, more research out

1 there? We have talked to larger -- think national
2 brokerages, and it's not -- not to name anybody
3 specific, but like Raymond James is a good kind of
4 example for that sort of thing. They have offices
5 everywhere. If they're going to distribute
6 research, they want to distribute it to all of their
7 offices, all of their affiliates all over the
8 country. That means even if there are only nine or
9 fifteen jurisdictions where a security is not Blue
10 Sky eligible, they're not going to distribute
11 research anywhere. They don't want to get in
12 trouble, and I don't blame them.

13 So when you have such overwhelming state
14 level support for something where it is disclosure
15 paced, you know, it meets a 15c2-11. It already
16 meets an SEC regulated standard. There are some
17 states that I get either don't want to engage or
18 have actively decided that they know the pink paper
19 phone book and knows securities are bad and we're
20 never going to do this. It harms the companies, and
21 it shouldn't be that way. And so it may be time to
22 explore whether there is a more national-based
23 solution for that sort of thing.

24 One more slide before the one that says
25 questions. Thank you. I talked about this a

1 little, as well. This is sort of a juxtaposition,
2 right, because it discusses exchange listed
3 securities, but it's to kind of make a point about
4 OTC. We are nothing if not clever again. Lawful
5 but awful is the tag that we have used to describe
6 the practice of noncompliance securities, and by
7 this, I mean mostly securities that fail a bid price
8 test on the exchanges and frequently NASDAQ that
9 linger at NASDAQ listed companies for a year or more
10 because of the way the rules work. They have
11 started to at the edges propose rules and change the
12 rules to help curb this practice, but it's still
13 really not good.

14 And one of the big reasons is, regardless
15 if I did this for an hour, if I did this for ten
16 hours, if we did this every day, most of the
17 investing public is still going to think exchange
18 means safe and good. Listed on NASDAQ is fine. OTC
19 means dangerous. Even forgetting the second half of
20 that, right, which, obviously, I don't believe in,
21 if you just believe, no exchange means everything is
22 safe and good, and you have securities that are
23 trading way below the stated compliance price to be
24 on an exchange, you are sort of twisting that
25 understanding, and you are harming investors. And I

1 think one of the big fears with changing those rules
2 and seeing those companies delist is the impression
3 that, oh, my God, if you're not on NASDAQ, even if
4 you're trading at fifty cents, if you're not on
5 NASDAQ, you are falling into the abyss, this is
6 going to be terrible, what happens to you?
7 Everything we've just talked about is what happens
8 to you. You go into a regulated market that's
9 overseen -- the trading's overseen by FINRA and the
10 SEC, everything is disclosed, everything is public,
11 and if you're not there and not making it public, we
12 make that very well known, too, and you have those
13 two black diamonds next to your stock symbol and no
14 price is available to investors.

15 So it's understanding that it's okay, and
16 the graduates that thought, I'll play into this,
17 too, it's fine. Some of those graduates are
18 companies that were listed, came down, figured out
19 something with their business, fixed their cap
20 table, whatever they needed to do, and then decided
21 that they wanted to go back. That's great. That's
22 a fine story, and, again, one that is better served
23 than seeing those debt spiral financings I talked
24 about or the reverse splits that companies do, I
25 think, you guys have talked about here over and over

1 and over again just to keep their bid price above a
2 NASDAQ or New York Stock Exchange standard. It
3 harms investors. It actually takes investors out of
4 the cap table entirely. It's almost always a bad
5 story, and it doesn't need to be that way. It's
6 okay. It's a safe place, the OTC market. And if
7 the company is not safe, we'll also make sure people
8 know that, as well.

9 As I said before, I'll say for the final
10 time, end of rant, thank you, thank you, thank you.

11 If you change to the next slide, that's really all
12 it says. I so appreciate the invited and the time
13 to speak to all of you and the consideration that
14 you all give. The fact it even wound up on the
15 agenda in this way is a wonderful, wonderful thing.

16 We know we are -- I think the OTC market
17 is one third of one percent in terms of dollar
18 volume for the entire NMS market, right? What we do
19 all year is like Nvidia's, you know, day or maybe
20 week. That's fine. That's the way that it should.

21 So I understand that these issues are not going to
22 be at the forefront of every conversation that
23 happens in this building or Capitol Hill, but it's
24 so valuable to those that are really impacted by it.

25 Anyway, like I said, end of ramp, but I

1 really appreciate the opportunity.

2 Any questions?

3 MS. DUGNAN: Thanks, Dan. We appreciate
4 your time, as well.

5 Any questions?

6 MR. DILLASHAW: Yeah. Mr. Zinn, what is
7 the breakdown between -- like how many of the twelve
8 thousand that's listed, how many of them are 34 Act
9 reporting companies, how many of them are, you know,
10 Reg A-ish or -- like what is -- or are any of them
11 like private, like a hundred percent private? Kind
12 of what's the breakdown there?

13 MR. ZINN: You didn't miss it. I don't
14 think I put that number in, but it's a good
15 question. I'm glad you asked.

16 So to take most of that junk away, of the
17 twelve plus, about nine thousand are non-US, so --

18 MR. DILLASHAW: And are they pre or
19 foreign markets? You mentioned like Canadian, so --

20 MR. ZINN: Yes.

21 MR. DILLASHAW: -- was that Canadian
22 markets and this was just sort of like the American
23 exchange version of it?

24 MR. ZINN: That's exactly right. So
25 they're all traded on a foreign exchange. And then

1 there's a rule. They make all the rules about our
2 markets very complicated. 12g3-2(b), which,
3 basically, says, if you take your home country
4 disclosure, make it available in English in the US,
5 and you qualify the form private issuer; meaning,
6 basically, most of its operations are outside the
7 US, you can trade here without being fully SEC
8 registered. So that's why Roche and Heineken can do
9 it. With Canadian stocks there's so much regulatory
10 cooperation, it's very easy for them to trade and
11 for stocks to move. So that's a big chunk.

12 Of the three thousand-ish -- I think it's
13 actually -- it might be less than three thousand
14 that are US-based companies, about fifteen, sixteen
15 hundred are SEC registrants. A number of them are
16 that ARS, that Alternative Reporting Standard that I
17 mentioned. I think we read something about it
18 includes Reg A in those types of companies. We had
19 high hopes for Reg A when it came out as a real
20 avenue for smaller companies. It hasn't evolved
21 exactly the way that we thought it would. Now you
22 see a number of Reg As. They do a Reg A. They do
23 the short form registration to then become exchange
24 listed companies. And then they come to us through
25 that third bullet, and they delist. A lot of them

1 have that story where they want to go to an
2 exchange, but they weren't really quite ready until
3 they come back.

4 That's roughly the breakdown. I can send
5 you the specific numbers, too, because I think it's
6 interesting to see how it call bears out.

7 MS. DUGNAN: All right. Thanks, Dan. I
8 really appreciate it.

9 Any more questions from the Committee?

10 Okay. Wendy.

11 MS. STEVENS: So very interesting
12 presentation bringing back some memories, but I have
13 that same question, actually, on the number. But it
14 you went to the CEOs and the CFOs of the companies
15 that are listed either OTCX, you know, somewhere,
16 what would their feedback be? What would their ask
17 be, you know, in terms of regulation or anything?
18 Do you get that?

19 MR. ZINN: I do. We actually use the
20 convene committee. We call it the OTCQX Advisory
21 Committee, which was exactly that, CFOs and CEOs of
22 OTCQX companies, so that top level company. We took
23 them to Capitol Hill once and talked about their
24 issues.

25 That's where a lot of this stuff comes

1 from. So the -- I didn't dwell on it too much, but
2 the Employee Stock Ownership Plan, we used to have
3 that committee, and I would be like, let me tell you
4 what's happening in Washington. And they told me --
5 this is a thing that's really important for me to
6 focus on. So Employee Stock Ownership and margin
7 eligibility are -- those are things that they hear
8 back from investors. They also -- I didn't get into
9 it quite as much, but I think it's an offshoot of
10 education and interpretative guidance, why are my
11 investors telling me they can't deposit shares at
12 this broker, or why are my investors telling me, you
13 know, this broker has a policy, unless they have an
14 account that's worth two hundred thousand dollars,
15 they're not allowed to trade in securities under two
16 dollars, or whatever? That is a big concern for a
17 lot of them.

18 So we had toyed with -- you know, there's
19 de-banking. This is de-broking or de-clearing in
20 some ways because it stems from that over -- I
21 understand it. I'm a general counsel. You know,
22 I'm conservative in the way I handle compliance with
23 our company, and I understand when people do that in
24 their own, but that is a big concern for CEOs and
25 CFOs, why are these -- why are some brokers saying

1 no, some say yes, it's freely tradeable, it meets
2 some rule? They don't understand what the issue is.

3 So that's maybe the underlying feeling.

4 MS. DUGNAN: Greg.

5 MR. DEAN: Hi, Dan. I hope you can hear
6 me?

7 MR. ZINN: I can.

8 MR. DEAN: Oh, great. And Greg Dean from
9 FINRA. So I'm sorry I'm not there today with you,
10 but thanks for appearing before the Advisory
11 Committee today.

12 I just want to say a couple of quick
13 notes. Thank you for your comments on the Reg
14 Notice 09-05. Yes, it has been sixteen years since
15 that notice was posted, and markets have changed,
16 and as you mentioned, 15c2-11 has been updated a
17 couple of times.

18 To the OTC Bulletin Board, that was pulled
19 down four years ago, and we did not realize it was
20 still up on the SEC's website or at least references
21 to, so we will work with the Commission on that, as
22 well.

23 And then as you know, last year, we did
24 kind of a retrospective rule review of all our
25 corporation finance rules and capital formation,

1 which we took comments last year, and we're working
2 on a few items with that now, but we still have our
3 comments open. We'd love to have people come in,
4 talk about things, not just yourself and OTC Markets
5 and Cromwell, but others across. If you're coming
6 up on Capitol Hill with others, let them know that
7 our door's open. And we are with the Committee
8 here, as well, the Advisory Committee listening to
9 find out what changes we can make to our rules to
10 help the broker/dealers that are part of the capital
11 information process and market and help make it
12 smoother, and also make it smoother for
13 entrepreneurs to gain access to that capital with
14 the investors that they are seeking.

15 MR. ZINN: That's great. Thank you, Greg.
16 And I'll even take you up on that point, and I'll
17 place this to the room, as well, it's really to
18 Wendy's question, too, if it is helpful, we're not
19 an industry group, right, but we are sometimes the
20 conduit for exactly the kind of information you were
21 asking about. And if it's helpful from a FINRA
22 perspective or an SEC perspective at any point to --
23 for us to help convene CEOs and CFOs and those that
24 are involved at this stage. You guys do a wonderful
25 job of not only creating a Committee full of people

1 in that boat, but listening to them through
2 everything that your office does, but we're happy to
3 facility that to whatever extent we can, also.

4 MR. DEAN: Thank you. I really appreciate
5 it.

6 MR. ZINN: Yeah. Thank you.

7 MS. DUIGNAN: Dennis.

8 MR. SUGINO: So would you like to see us
9 make some recommendations to the Commission?

10 MR. ZINN: I would.

11 MR. SUGINO: Would you mind putting the
12 number of things that you said down on paper with
13 the rationale for it?

14 MR. ZINN: Not at all. There are some
15 people listening right now who, hopefully, working
16 on that.

17 MR. SUGINO: Okay. Thank you.

18 MS. DUIGNAN: All right. Thank you so
19 much. We really appreciate this presentation, the
20 level of detail, and certainly, like I said, for any
21 sort of follow-up communication that you'd like to
22 share with the Committee to give us some invite into
23 possible recommendations. So thank you.

24 MR. ZINN: Thank you so much, thanks,
25 everybody.

1 MS. DUIGNAN: All right. And thanks to
2 the Committee for all these great questions. We
3 appreciate it.

4 All right. So I want to thank everybody
5 for a great discussion on several very important
6 topics today.

7 We also want to let everyone know that our
8 next meeting is scheduled for Tuesday, May 6th, and
9 I believe it's going to happen virtually. It will
10 happen virtually. So for all of those who joined us
11 via Zoom, we'll all be on Zoom next time, so --
12 great.

13 Any last minute thoughts, concerns,
14 comments from the Committee, things that we should
15 think about for our next meeting?

16 All right. Wonderful. I think we got a
17 lot done today. I want to thank everybody for your
18 time and energy. And I, hereby, move to adjourn the
19 meeting.

20 MS. DAWOOD: So moved. Second.

21 MS. DUIGNAN: Okay. Great.

22 Meeting is adjourned. Thank you.

23 (Whereupon, at 3:12 p.m., the proceeding
24 was concluded.)

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CERTIFICATE OF REPORTER

I, BRIGITTE ROTHSTEIN, Court Reporter, hereby certify that the foregoing transcript is a complete, true, and accurate transcript of the testimony indicated held on Tuesday, February 25th, 2025 in the matter of:

SMALL BUSINESS ADVISORY COMMITTEE MEETING

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

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