

U.S. SECURITIES AND EXCHANGE COMMISSION

SMALL BUSINESS CAPITAL FORMATION ADVISORY COMMITTEE
AMENDED: 8/31/2026

Thursday, August 6, 2026
1:00 p.m.

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

1 APPEARANCES:
2
3 Committee Members
4 Marcia Dawood, Committee Chair
5 Rose Standifer, Committee Vice Chair
6 Bart Dillashaw, Committee Secretary
7 Herbert Drayton, III, Committee Assistant Secretary
8 Wemimo Abbey (Left early, midway through the meeting)
9 Robert Bolen
10 Anya Coverman
11 Joseph Lucosky
12 Diego Mariscal
13 Claire McHenry
14 Erica Duignan Minnihan
15 Andrew Prystai
16 Davyeon Ross (Joined late, midway through the meeting)
17 Rodrigo Seira
18 Marc Oorloff Sharma
19 Joseph Lucosky
20 Wendy Stevens
21 Erik Syvertsen
22
23
24
25

1 APPEARANCES (Cont.):

2

3 SEC Staff

4 Courtney Haseley

5 Jennifer Riegel

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C O N T E N T S

1		
2		PAGE
3	Opening Remarks	6
4		
5	Continue Exploring Market Access Modernization:	9
6	Encouraging IPOs and Small Public Company	
7	Capital Formation	
8		
9	Closing Remarks	79
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

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

2 CHAIR DAWOOD: Good afternoon and welcome to
3 today's meeting of the SEC's Small Business Capital
4 Formation Advisory Committee. I call this meeting to
5 order. I want to extend a warm welcome to everybody
6 that's joining us today. As most of you know, today's
7 meeting is a continuation of our previous meeting from
8 July 21st. While that meeting was adjourned due to a
9 building emergency, we are excited to be back to
10 continue our discussion. We also appreciate members
11 of the public who have tuned in to watch the meeting
12 via webcast on SEC.gov.

13 So Courtney, do we have a quorum?

14 MS. HASELEY: You do have a quorum, Marcia.
15 And just a little bit of an SEC disclaimer for anyone
16 who might be participating, for any SEC staff that
17 speak today, any views provided are in the speaker's
18 own capacity at the SEC, but they don't necessarily
19 reflect the views of the Commission, the Commissioners
20 or other members of the staff. Thank you and I hope
21 you all have a great continuation meeting.

22 CHAIR DAWOOD: Great. Thanks so much,
23 Courtney.

24 So a few weeks ago we met in person to focus
25 on modernizing market access, including how to

1 encourage more private companies to go public. And
2 during that meeting we heard from Jim Maloney and
3 Christina Thomas from the Division of Corporate
4 Finance, also known as CorpFin, who provided remarks
5 with respect to certain of the SEC's proposed rule
6 changes, like registered offering reform and the
7 proposals focused on semiannual reporting and filer
8 status categories.

9 We also heard from an OTC markets
10 representative and a former CEO of a small app biotech
11 previously listed on Nasdaq, who each shared their
12 perspectives on the proposed rules and on ways to help
13 smaller companies go public and stay public. So in
14 particular, Sue Washer provided some candid feedback
15 on some of the frictions that she experienced as a
16 former CEO of a small public company, including
17 capital raising and SEC compliance challenges that
18 could be improved through target rule changes.

19 So many creative and potentially impactful
20 suggestions and recommendations were discussed on how
21 to improve the public markets especially for smaller
22 companies considering going public.

23 So today, in line with the SEC's recent
24 flurry of rulemaking proposals focused on reducing
25 regulatory friction and facilitating capital formation

1 in public securities markets, we will continue our
2 discussion of the recent SEC proposals related to
3 encouraging IPOs and facilitating access to public
4 capital. So again, our overreaching goal is to share
5 our views on how these topics will impact small public
6 companies and private companies looking to go public.
7 And I'd like for us to be able to finalize any
8 recommendations that we have related to this.

9 So at our last meeting we welcomed five new
10 Committee members, which we were very excited about.
11 One of them, Anya Coverman, was unable to attend the
12 July meeting due to unavoidable circumstances, but she
13 is here with us today. So we wanted to give her an
14 opportunity to introduce herself. Anya?

15 MS. COVERMAN: Thank you, Marcia. I am so
16 excited to be here. I'm so excited to be part of this
17 Committee and I see a lot of very familiar faces and
18 many new faces and certainly very excited that this is
19 an opportunity for the public to be a part of this
20 session and tune in.

21 Just to give you a very brief background, I
22 am the President and CEO of a trade association based
23 in Washington, D.C. focused -- the Institute for
24 Portfolio Alternatives, we are focused on the
25 alternative and private market sector which spans if I

1 focus in on asset classes, real estate and credit and
2 infrastructure, venture capital. And we represent
3 firms really across the whole ecosystem from issuers
4 to intermediaries as well as many third-party service
5 providers.

6 More importantly, I would really take a step
7 back and just say, my entire career has been very much
8 focused, and I'm very passionate about small business
9 capital formation, both on the investor side as well
10 as on the issuer side. It's really something you have
11 to think about in tandem. And I previously worked with
12 state securities commissioners. I was in private
13 practice. And I've just cared very deeply about how
14 do we support capital formation, support the economy,
15 through the lens of small businesses and frankly,
16 investors as well. One thing we talk about in my
17 business today is just there's -- there are ways to
18 engage that the institutional channel thinks a lot
19 about. But how do we make sure retail investors can
20 also think about those opportunities, save for
21 retirement, as well as, small businesses.

22 Hopefully that was a good introduction. But
23 again, really excited to contribute to this Committee
24 and the discussion. I think this discussion today is
25 a really important one. So thank you.

1 CHAIR DAWOOD: Thank you, Anya. And we're
2 so happy to have you as part of the Committee.

3 So before our meeting was cut short last
4 month we did discuss and vote on recommendations with
5 respect to semi-annual reporting. To recap this,
6 here's what we talked about, we said: Small public
7 companies should have flexibility with respect to
8 cadence and the scope of periodic reporting and
9 disclosures. Also, the Committee is generally
10 supportive of the Commission's proposal to permit
11 public companies to report semiannually. And small
12 businesses should have more access to pre-IPO
13 education on the IPO process, benefits and obligations
14 of being a public company.

15 Now let's turn to where we left off the
16 meeting before which was at filer status. So I'm
17 going to turn it over to Rose Standifer.

18 VICE CHAIR STANDIFER: I'm going to give a
19 quick recap of where we were in our discussion and we
20 were talking about. The filer status proposal at a
21 high level, it simplifies the filer status and puts
22 two main categories, our large and our small. And
23 where we had left off on this discussion was talking
24 about the lower and the upper limit to qualify as a
25 small non-accelerated filer. The SNAF as it's

1 referred to in the release.

2 We were discussing the 35 million -- total
3 assets of 35 million or less for the two most recent
4 years. And we had a discussion, one; whether we
5 thought that was the appropriate dollar amount, and,
6 two; when we were interrupted, how are we calculating
7 that dollar amount.

8 So to Marcia's point, the goal here is do we
9 have alignment amongst the Committee; do we support
10 the proposal as its written. Do we have a specific
11 recommendation that's different or do we generally
12 support and recommend that the SEC look at one or two
13 things in more detail.

14 So I will start with mine and then let's go
15 around the room. This is a bit more challenging on
16 Teams than when we were in person. There is a raise-
17 the-hand function, so please use that if there's not a
18 natural break for you to come into the conversation.
19 So I would like to see this come, it could be even
20 lower and I do think we need clarity based on our
21 discussion before as to how we're calculating. I would
22 suggest that our recommendation is asking the SEC to
23 look at more data as to how this would be calculated
24 to really benefit all the small filers.

25 With that, I'm opening it up to

1 conversation. We can go around the room or I can call
2 on folks if no one wants to jump in to continue our
3 discussion from the last meeting.

4 MR. BOLEN: I remember when we talked about
5 this there's a question, are these numbers consistent
6 with other agencies. And I remember that there was
7 close to if not a consensus that the numbers seemed
8 reasonable. And then I provided the perspective that
9 this actually is exactly in line with SUSB data
10 consensus. And from what we see at SBA, used across
11 the Federal Government as small entity sizing. So it
12 does match the most recent numbers and it's pretty
13 consistent with what everyone else is doing.

14 VICE CHAIR STANDIFER: Thank you, Robert.
15 This was a robust discussion when we had the fire
16 alarm. So please others chime in.

17 MR. DILLASHAW: I'll take off. I think if I
18 remember correctly we were sort of honing in on that
19 the big advantage of the extra time was probably most
20 driven by access to accounting results. So I would be
21 kind of curious to hear from others as to, basically
22 how much of a time block that is; does anybody have
23 any sense of how extreme the auditors are. If we sort
24 of set this threshold at this \$35 million asset level,
25 is that kind of frankly alleviate some of that log

1 jam. I believe that was sort of ultimately if I sort
2 of understood correctly probably the where the main
3 benefit was.

4 So for those that are either in the
5 accounting world or have sort of experience trying to
6 get through what is lovingly referred to as the busy
7 season, I'd be curious to hear whether we think this
8 threshold is providing enough breathing room there.

9 VICE CHAIR STANDIFER: Wendy, aren't you in
10 the accounting world?

11 MS. STEVENS: Are we inviting me to speak?
12 So I can't remember where we left off. I think
13 there's a couple issues at hand here. The \$35 million
14 threshold -- I seem to remember being focused on the
15 lower end.

16 VICE CHAIR STANDIFER: It is. So the 35
17 million is if you are under this threshold this is
18 where you have the extended time. If you're between
19 35 and 2 you're non-accelerated. And if you're above
20 2 billion you become the large accelerated filer.

21 MS. STEVENS: Right. But are we also
22 talking about what it means to be an accelerated filer
23 and all the bells and whistles that come with that or
24 are we just focusing on the low end right now?

25 VICE CHAIR STANDIFER: So right now we're

1 focusing on the low end and how we're categorizing
2 those companies that should be entitled to the
3 additional time.

4 MS. STEVENS: Yeah. So I think I spoke on
5 this but I'll just summarize what I said previously.
6 The \$35 million threshold at the asset level I think
7 is fine, 25, 50 whatever. 35 seems to sit in the
8 right place. I was concerned that there's no net
9 income or revenue threshold because I thought that
10 also would be meaningful and other SEC measurements do
11 use those measurements. But as it relates to the 30
12 days, I think that's more than generous but necessary.

13 I think I had mentioned last time and it's
14 probably easy to find out, I think a lot of companies
15 that fall in this 20 percent bucket right now probably
16 go on extension often. And that creates a lot of
17 stress for everybody. And the extension isn't
18 necessarily -- the entities would probably say it's
19 auditor driven. The auditors would say that the
20 entity is not ready. So it doesn't really matter.
21 But I think there are a lot of times when the Q's and
22 the K's are late. So this would make more -- it would
23 give the opportunity to the smaller entities to be
24 timely, which I think is critical for other reasons,
25 like from a listing perspective and things like that.

1 I don't think, Bart, it will necessarily
2 alleviate that quote-unquote busy season thing,
3 because most people that do these small companies are
4 also doing non-public companies and those often have
5 April 30th deadlines.

6 So the work is still going to be compressed.
7 But I think it does benefit the smaller entities
8 tremendously and helping them be timely. And one last
9 point, if they're already timely, I don't think small
10 companies are going to say okay great, I have five
11 more days. They'll still continue to report before
12 the deadline.

13 VICE CHAIR STANDIFER: So is one suggestion
14 there that there should be multiple tests, not just
15 the 35 million or less in assets that you want?

16 MS. STEVENS: I think it should be examined
17 whether or not that's a meaningful threshold for all
18 industries because I don't think it is.

19 MR. BOLEN: I remember we did talk about
20 this a little bit. If the SEC were to switch it over
21 to revenue then the SEC would have to promulgate 297
22 size standards because by law size standard based on
23 either revenue or employees must be varied by industry
24 looking at the NAICS codes. And so one of the reasons
25 this is such a strong choice is that it streamlines

1 the process and it lets you simply say, okay, I'm a
2 small non-accelerated filer because I have this many
3 assets as opposed to, okay, our primary business is
4 tech but we do some finance, so but we might be this,
5 we might be that, which would then require more
6 examination time. And then they have to build out an
7 appeals process.

8 VICE CHAIR STANDIFER: This is rose speaking
9 again. I'm supportive of a recommendation asking the
10 SEC to look at this. Because I think we can have
11 small businesses accessing and seeing the benefit of
12 the public markets that are non-revenue businesses and
13 have assets who would greatly benefit from this
14 extension of time. And so I do think it's worth
15 having the SEC further look at this. I understand the
16 benefit of simplicity and I'd also like to understand
17 a little bit more if there is something that could
18 benefit non-revenue companies. Because part of the
19 discussion we've had in our past two meetings was one
20 of the groups of private companies that sees
21 significant benefit of the capital raising potential
22 of the public markets is actually those non-revenue
23 companies.

24 MR. BOLEN: But at present it doesn't
25 exclude non-revenue and putting a revenue cap on

1 industry would not be more beneficial for a non-
2 revenue company.

3 MS. STEVENS: I'm not following, Robert. So
4 you could have over 35 million in assets, let's take a
5 teeny tiny bank, or maybe that's not a good example.
6 But you could have a circumstance where somebody has
7 over 35 million in assets but they're still very much
8 in the startup phase and they have expenses that
9 exceed revenues. So I don't know if maybe I said it
10 wrong, maybe there's some other measurement we could
11 use, but I find assets may have unintentional
12 consequences. That's all. So I'm not suggesting it
13 must be revenues or it must be net income, but we have
14 to perhaps think of other parameters that would allow
15 the neediest companies where this would benefit to
16 scope in.

17 MR. BOLEN: I'd be in favor of moving that
18 number up from 35. If that would mitigate the concern
19 it would make sense to me.

20 VICE CHAIR STANDIFER: Andrew, I see your
21 hand raised.

22 MR. PRYSTAI: Wendy, I was going to ask you
23 from your experience working with a variety of
24 companies, and obviously others can jump in as well if
25 they have opinions on this. Are there certain types

1 of asset classes that you've seen in your experience
2 would get over that 35 million that from those small
3 companies that could benefit from this extension that
4 those should maybe be excluded from that asset test?

5 I think obviously if it's current assets,
6 cash on hand, for sure, some of those things that they
7 have access to then that would not necessarily be a
8 problem if they had 35 million in cash. But it's more
9 of like large buildings or machinery, potentially
10 patents or IP if that was considered an asset on the
11 balance sheet, are there certain types of asset
12 classes that we could exclude that would make you feel
13 more comfortable with that threshold or with keeping
14 an asset threshold?

15 MS. STEVENS: Probably not since we don't
16 know where to define digital assets at this point,
17 which would make it really confusing and a lot of
18 subjectivity. I'm okay with the assets. I'm just not
19 sure that it should be only assets.

20 MR. ABBEY: What stops it from this being on
21 the revenue -- if I'm a startup, I got \$40 million in
22 paid in capital and I'm just getting off the ground,
23 I'm a new AI company, like does it make sense for me
24 to report at that point?

25 VICE CHAIR STANDIFER: So I think two

1 things. At this level you're getting the benefit of
2 the extra time. So you're getting the benefit of your
3 finance team taking the extra time. You're not --
4 you're less likely to have to file the extension. So
5 if you become a public company, yes, you have to put
6 this out there. The question is, how long and what
7 timeframe are you going to be under. And so who are
8 the companies that it would greatly ease the burden
9 for them to have the extra time, not have to file the
10 extensions, not be concerned that they're going to be
11 late and fall out of compliance with their reporting
12 under the Securities Exchange Act, the 1934 Act.

13 MR. ABBEY: That's helpful, Rose. So I
14 think revenue should be a better threshold as opposed
15 to assets because if you have \$35 million in total
16 assets you're probably a small cap company. It's not
17 going to apply to a lot of companies. So we can go
18 look at -- we can do a test and just look at how many
19 companies have \$35 million and below in assets
20 currently publicly traded and see the impact of what
21 this recommendation would be. Or we look at companies
22 that have \$35 million or less in revenue. I would
23 argue \$35 million or less in revenue is greater than
24 \$35 million or less in assets.

25 MS. DUIGNAN MINNIHAN: I'll just mention

1 that according to the sheet it looks like right now
2 that's about 20 percent of non-accelerated filers, 18
3 percent of public companies and 22 percent. So we are
4 getting basically the bottom fifth of companies would
5 be covered already. So it's a pretty substantial
6 portion.

7 MR. ABBEY: How about revenue, what's the
8 impact if we look at revenue?

9 VICE CHAIR STANDIFER: We don't have those
10 numbers. So one of the things we can do with our
11 recommendations again, are we generally supportive as
12 written as having this based on assets, as Erica
13 points out that brings in the smallest approximately
14 20 percent, are we generally supportive and want the
15 SEC to look at what the impact of revenue and whether
16 there's a revenue standard that could be more
17 meaningful to small companies. Do we think a greater
18 percent than 20 percent should have access to these
19 extended timelines. Are we not supportive of this
20 recommendation. Right now what I'm hearing is that
21 middle one. We're generally supportive of this. We
22 want more small public companies to have the benefit
23 of the extension of time. And we would like the SEC
24 to look at if there's other metrics to even increase
25 the number that would be small non-accelerated filer.

1 Wendy, I see your hand.

2 MS. STEVENS: Just a quick add-on to that,
3 Rose. I'm comfortable with the 20 percent. This would
4 impact 20 percent of issuers. All I'm saying is you
5 could have less than \$35 million in assets and \$250
6 million in revenues and I think those companies with
7 \$250 million in revenues could probably report timely.
8 That's all.

9 VICE CHAIR STANDIFER: Does anyone else --
10 I'm looking to see if anyone else raises their hand.
11 Does anyone else have a question or comment on this is
12 the small non-accelerated filer, the SNAF sort of
13 threshold. If you are below this, you get extra time.
14 Joe.

15 MR. LUCOSKY: Thank you, Rose. I was just
16 going to say, from my perspective advising dozens of
17 smaller Nasdaq and New York Stock Exchange public
18 companies and some of the better OTC companies,
19 generally most of them are always struggling with the
20 shareholders equity calculation which keeps them
21 listed on the Exchange. Which really means that their
22 assets relative to their liabilities are not in
23 proportion and their asset amount is really not that
24 high.

25 So by my sort of just quick math, there's

1 probably a thousand or more companies on the Nasdaq at
2 least and probably 10 percent of that on New York
3 Stock Exchange, that would probably be able to benefit
4 from this asset test. Because again, revenue, like
5 some others have said, varies by industry. But I do
6 think the companies that need this protection the
7 most, which is the extra time, are the ones that are
8 still obviously building and creating and trying to
9 get their financial house in order. That takes the
10 bottom 20 percent like the data suggests or 1,000
11 companies that I'm speaking about on the Nasdaq and
12 New York Stock Exchange. That's probably a good thing.

13 I do think revenue would be tricky and
14 applied inconsistently. And I think opening up if
15 then or A or B test might be too complicated. So my
16 perspective would be that we stay with asset value and
17 maybe propose adjusting the number instead of trying
18 to recreate the wheel if we're trying to get this done
19 timely for the Commission. And when I say adjust, I
20 mean maybe raise that threshold a tad or keep it where
21 it is. But I do think in order to give
22 recommendations, this is probably the right test in my
23 experience with these lower end New York Stock
24 Exchange and Nasdaq companies.

25 VICE CHAIR STANDIFER: Thanks, Joe. Anyone

1 else? Andrew, is that new hand raised, Andrew, you put
2 your hand down, sorry.

3 MR. PRYSTAI: That was a new hand. Sorry.
4 I was on mute. I'm used to Zoom, not Teams here. So
5 having some, feels like the first day at school again.

6 I was just going to say to the topic of if
7 we adjust the asset qualification there, that bright
8 line in the, not the fact sheet, but in the overall
9 filing for this on page 136 there's a breakdown of the
10 distribution of how many filers have by different
11 asset breakdowns and saying that 50 million it's about
12 24 percent or 24.7 percent of those filers are under
13 50 million in assets if I'm reading the chart
14 correctly.

15 So I think maybe we had talked about that
16 earlier, 35, 50 million, some of those other ones. So
17 maybe raising it up to that 50 million would bring in
18 a decent percentage of extra companies there beyond
19 that 18 to 22 percent, but still be well within the
20 bounds of small.

21 VICE CHAIR STANDIFER: Great. Thank you.

22 Robert, I see your hand up.

23 MR. BOLEN: I agree with that. I think if
24 we wanted to move it to 50 that would remain
25 consistent with the data my office has seen of

1 businesses across multiple sectors. And that would
2 hopefully address some of Wendy's concerns and it
3 would, to Joe's point, be far simpler than moving to a
4 secondary task which could be applied inconsistently.

5 Would the group be open to 50?

6 VICE CHAIR STANDIFER: I'm hearing two
7 potential recommendations on the table. One is that
8 we are generally supportive of this threshold for the
9 small non-accelerated filers. We are supportive of
10 the timeframes that are in the release. And we would
11 be supportive of the SEC re-looking at the asset test
12 number and whether or not that can go up to give more
13 relief to the small non-accelerated filers. Another
14 one, and I'm hearing general census, we have not taken
15 our vote yet.

16 And the other one that I am hearing that we
17 may not have general consensus on is asking the SEC to
18 also look if there are alternative tests to bring in
19 companies that would have more than those assets but
20 could still benefit from the extended time.

21 Wendy, I see your hand up.

22 MS. STEVENS: No, I was just going to say, I
23 don't support raising it to 50. I think 35 million
24 and 20 percent of the population is more than enough.
25 So I'm willing to live with that measure to keep it

1 at the 20 percent if there is consensus not to seek
2 the SEC's views on other thresholds. I don't have the
3 perspective of why they didn't consider other
4 thresholds that are to me common in the SEC world,
5 whether it's assets, investments, revenues, net
6 income, other measurements that are used in other
7 circumstances. That's all. Thank you.

8 VICE CHAIR STANDIFER: Okay. Great. Then
9 I'm hearing three different from proposals that we're
10 going to vote on. We're going to use the hand
11 raising. Courtney, who will be taking tallies as we
12 vote. You will. Okay.

13 Everyone, if you can please, I'm going to
14 call them, raise your hand. And I'm going to give you
15 a second. Courtney a second to count it. She'll
16 confirm that it's counted. And then put them down so
17 that we can do the next vote. And hopefully we can go
18 through this rather quickly and this is for our voting
19 members.

20 The first is similar to some of the
21 proposals that we had at our last meeting. We are
22 generally supportive of the Commission's proposal to
23 have a 35 million or less asset test to be eligible to
24 be a small non-accelerated filer with additional time.
25 If you are supportive of that recommendation please

1 use your hand raise, either this or in Teams.

2 Thank you. Everyone put your hand down.

3 Let's see. I see them cleared. There we go. The
4 next -- so Courtney, did we have a passing vote on
5 that?

6 MS. HASELEY: You did.

7 VICE CHAIR STANDIFER: Great. Okay. The
8 next one is, we're generally supportive of an asset
9 test to be a small non-accelerated filer. And we
10 would like the SEC to look at whether or not it should
11 be greater than 35 million, likely with an upper bound
12 of 50 million. But that's not a hard recommendation
13 to say 50 million. We are supportive and we want the
14 SEC to look at whether it should be raised from 35
15 million. If you are supportive of that, raise your
16 hand?

17 MR. DRAYTON III: Is this in addition to
18 what we just voted for?

19 VICE CHAIR STANDIFER: This is a separate
20 proposal because we heard some are generally
21 supportive of the asset test at 35 and they wouldn't
22 want to raise it. Some of us are supportive at 35 and
23 we would ask the SEC to consider raising it.

24 MR. DRAYTON III: Okay.

25 MS. HASELEY: Rose, I'm seeing six, which

1 would not pass.

2 VICE CHAIR STANDIFER: Okay. Let's put our
3 hands down. And then our last recommendation on this
4 is, are we recommending that the SEC review and
5 evaluate alternative thresholds to qualify as a small
6 non-accelerated filer, alternative thresholds could
7 include revenue or other thresholds than assets. If
8 you are supportive of this raise your hand.

9 MS. HASELEY: Seeing six.

10 VICE CHAIR STANDIFER: Thank you. Everyone.
11 So on our threshold for small non-accelerated filers
12 we have a recommendation that we are generally
13 supportive of the SEC's current proposal of having
14 this be an asset test at the 35 million or less level.

15 We're now going to move on and talk about
16 the next bucket. So these are our large non-
17 accelerated filers. This is currently between a 35
18 million in assets and a 2 billion in public float. It
19 was previously 7 million. If you were over 7 million
20 you were an accelerated filer. We're going to come
21 back to that in a second. Now that raise is to 2
22 million.

23 Wendy, I am going to call on your accounting
24 expertise real quick. One of the key differences here
25 is if you are a large non-accelerated filer. So you

1 have less than the currently proposed 2 billion in
2 public float. You do not have to do an auditor's
3 attestation. This can be quite burdensome and time
4 consuming for companies. But Wendy, if you could give
5 us a very quick refresher on the time and expense and
6 what is actually involved in this that would be
7 reserved for our largest companies.

8 MS. STEVENS: Rose, this is an interesting
9 question. So I'm going to try to keep it as simple as
10 possible.

11 VICE CHAIR STANDIFER: That's my ask. So
12 thank you.

13 MS. STEVENS: The attestation for internal
14 control over financial reporting, in its initial --
15 it's probably 10 years old at this, no, it's probably
16 20 years old at this point, come to think of it. Was
17 very burdensome and there was a lot of pushback. Fast
18 forward to today there are a lot of large companies
19 that actually think it's beneficial and has helped
20 them in financial reporting.

21 What it involves is a separate or combined,
22 with your financial statement on it, opinion on the
23 company's system of internal control. It is -- the
24 problem I'm having with this proposal, it is
25 burdensome for the category that is now going to not

1 have to do it. And it's probably not so burdensome
2 for the larger companies.

3 So it's kind of backwards. We're going to
4 say, the largest companies that already do this well
5 and generally don't have internal control
6 deficiencies, we're going to continue to let your
7 auditors do that for you. And then this middle
8 population, that was probably struggling with it, is
9 now going to get an off ramp and not have to do it.

10 So it's kind of an unintended consequence if
11 you ask me. And it goes back to something that one of
12 the commissioners said that I took sort of exception
13 to in a very early meeting that I was at when she
14 mentioned that smaller companies have bad internal
15 controls. Which I think is a bad sort of, just to
16 have that bias to begin with, because there are some
17 small companies that have fine internal controls.

18 I am worried, although I don't have a
19 proposal and alternative, I'm worried that the
20 threshold for the non-accelerated filers is too high
21 and will actually take out some reporting that may be
22 protective of investors and may actually be helpful to
23 those companies from a financial reporting
24 perspective, even though in some of the initial stages
25 companies complain it cost too much money.

1 So for auditors, auditors know how to do
2 this. This is not going to matter one way or another.

3 I do feel like the threshold might be too high going
4 from the number that it's at to 2 billion. So maybe
5 that's my recommendation. Maybe we consider lowering
6 that threshold so that more companies would have to
7 record ICFR and have an attestation by their auditors.

8 Sorry that was a little long winded.

9 VICE CHAIR STANDIFER: No. It's great to
10 remind us because we have had these conversations at
11 prior meeting and we're coming back after having our
12 unfortunate interruption at our last meeting. We had
13 briefly touched upon this. I see this as having
14 indirect impact on the small businesses that we are
15 focused and just the indirect impact of how companies
16 are moving up in the market, how companies can
17 differentiate themselves to investors. From that
18 perspective I agree with you, Wendy. I think it's too
19 high.

20 I don't have a specific proposal because
21 where we put that and those indirect impacts to the
22 small business, my recommendation here would just be,
23 we're supportive of a group above the small non-
24 accelerated filers, that continue to be excused from
25 the attestation requirement. And asking the SEC to

1 re-look at the upper bound of that to make sure that
2 smaller markets are -- smaller companies are still
3 able to be nimble and differentiate themselves before
4 they have to do this requirement, right, if they could
5 stand out with those internal controls.

6 But given this really is for those larger
7 companies and we're talking about those indirect
8 effects down to, I'm going to call them our small
9 businesses, or small public companies.

10 I'll open up to any comments here if there's
11 any alternative recommendations that folks would like
12 to propose. Bart.

13 MR. DILLASHAW: One sort of precursor
14 question. If I remember correctly, if you break it
15 down into percentile, was it like the top 20 percent
16 or top 15 percent as a percentage of the total market
17 participants that were in the sort of upper camp?

18 VICE CHAIR STANDIFER: The release is 19
19 percent. So we're talking about 20, 20 middle.

20 MS. STEVENS: It's a large percentage of the
21 total public float. It's 93 percent.

22 MR. DILLASHAW: Okay. So that's good
23 perspective as well. And I guess my second maybe
24 modification to Rose, what you just said was, if we're
25 going to ask them to re-look at the thresholds maybe

1 also look at whether or not there's an opportunity for
2 a scaled type of approach to this, as well. I don't
3 know that -- I sort of put that out more as a topic of
4 discussion, because I know a lot of the initiative
5 right now is to decrease the number of categories, try
6 to make this more simple, which I do think is an
7 admirable goal. But as Wendy said, it is sort of this
8 fairly significant jump where you go from no review
9 over your system controls to a lot of review, and
10 where you draw that line I think there's ultimately
11 going to be a tradeoff. The bigger you go the more
12 work that's inherently, the lower you go the more
13 burden it is.

14 But that's also a very significant cost when
15 you're factoring in the cost of going public. So I
16 don't really have a solution here other than that
17 like, there's this balance between, when we ease our
18 way into it and soften the burden of all this extra
19 expense at the same point of being cognizant and
20 trying to protect some of the stockholders out there.

21 VICE CHAIR STANDIFER: And I should clarify,
22 it's not just attestation. That is a key one that we
23 worked on. But it's also things that may or may not
24 continue to be disclosure requirements, say on pay,
25 say when on pay, scaled executive disclosure, sealed

1 executive compensation disclosure, the number of
2 years, right. So there is a package of things that
3 we're asking our very very large companies to report
4 out into the market, have the public market react
5 whether or not they're going to trade in their stock.

6 And then there's a middle bucket that does
7 not have an extension on when they have to file their
8 reports, but they don't have to include this
9 information. I would say I'm in my experience, I
10 would say not to scale it beyond what it is because
11 that is one of, and we've heard that from the speakers
12 that come and talk to us, and we've heard that from
13 the Committee in the experience that we all bring to
14 this table, that the complexity of figuring out the
15 filer status really is a burden.

16 Now, our core constituency, if you will, is
17 now going to be in that small non-accelerated filer
18 status. So this is we're thinking as they graduate.
19 So I'll invite a couple more comments here, but given
20 that we are now moving into the larger companies with
21 the indirect on the small companies that we're the
22 focus on, we have a lot on this agenda, so I don't
23 want to have us get bogged down in this one area.

24 Robert, I do see your hand raised.

25 MR. BOLEN: To your point, Rose and this is

1 less the direction of the Committee and it would be
2 very hard to, I think, deliberate on a top number, but
3 perhaps the vote be, is the Committee generally in
4 favor of a category above small non-accelerated filers
5 that has these benefits, instead of making it so
6 specific that we split or don't put anything in there.

7 VICE CHAIR STANDIFER: So right now -- thank
8 you Robert. What I'm writing down on our very brief
9 discussion here is we generally support the proposal,
10 which is the 2 billion as the upper limit. We
11 generally support the proposal and we invite the SEC
12 to look at whether or not that 2 billion continues to
13 be appropriate. And then the third one that was
14 raised was, we're generally supportive, and we would
15 invite the SEC to look if there's a middle group.
16 This is your scaled disclosure, Bart.

17 I'm going to look to see if anyone has their
18 hand raised for another proposal. Otherwise, we will
19 run through these three for votes. All right. I am
20 not seeing anything.

21 Courtney, are we ready to take a vote, yes.

22 So our first recommendation is we are
23 generally supportive of the proposal. Again, this is
24 part of the overall proposal of simplifying the filer
25 status. We're generally supportive of the proposal

1 that there is a middle group of our large non-
2 accelerated filers from that small non-accelerated
3 filer limit we've been discussing, all way up to 2
4 billion in public market float. Are you generally
5 supportive of the proposal as it is written?

6 MS. STEVENS: For clarity, Rose, can you
7 vote for more than one?

8 VICE CHAIR STANDIFER: You can vote for more
9 than one, Wendy.

10 MS. HASELEY: We have a majority.

11 VICE CHAIR STANDIFER: Thank you. Everyone
12 lower your hand please. Thank you. The next, this is
13 directly to the question that was just raised. You're
14 generally supportive and you recommend that the SEC
15 consider an upper threshold less than 2 billion.

16 MS. HASELEY: I am not seeing a majority
17 there.

18 VICE CHAIR STANDIFER: Okay. And then our
19 final one in this category is, we would recommend that
20 the SEC further look at the categories and consider
21 scaled disclosure for this middle group as opposed to
22 you're either non-accelerated, all of this doesn't
23 apply, and then you're accelerated. Is there some
24 scaled disclosure as you move up in size before you
25 become the large accelerated filer. If you support

1 that recommendation, please raise your hand. Okay.

2 So on that, so for our -- just to recap, on
3 the filer status proposal, we had talked before that
4 we are supportive of simplifying it. We are
5 supportive of the small non-accelerated filers at 35
6 million or less in assets. And our recommendation is
7 that we are supportive of the next level being the
8 large non-accelerated filers as written in the release
9 between that small non-accelerated up to the 2 billion
10 in public float.

11 At this point I'm going to turn it over
12 to -- let me look at my notes. Sorry. We do still
13 have the expansion of the emerging growth timeline to
14 discuss on this proposal. This goes back actually to
15 our April and our July meetings. Let me refresh my own
16 memory on the expansion of this, unless there is
17 somebody else that wants to jump in.

18 In an emerging growth company you are
19 relieved of disclosure burdens. And we had discussed
20 before and had recommendations from some of our
21 speakers before about extending this benefit as an
22 onramp. Think of this as your onramp to being a
23 public company. I'm going to invite comments or
24 questions.

25 MR. LUCOSKY: Rose, can we go over what the

1 proposal actually is because I wasn't at the prior
2 meeting and I'm not sure I'm fully up to speed.

3 VICE CHAIR STANDIFER: Sure. This removes
4 the auditing requirements and I apologize, I am myself
5 getting back up to speed since we were interrupted in
6 our last meeting and if somebody else has -- I
7 apologize. I do not have this at my fingertips.

8 MR. DILLASHAW: If I remember, and I may be
9 making this up, but I think the proposal was something
10 along the lines of whether, like right now it phases
11 out automatically after five years. And I think they
12 were saying, oh, should we consider having it be
13 indefinite and having some sort of milestone like a
14 revenue or size of float or something else that would
15 sort of activate those as opposed to having it be
16 based on time.

17 VICE CHAIR STANDIFER: That's right. And
18 now I'm remembering why I can't find this. This was
19 part of our overall discussion on filer status and
20 whether or not we as a Committee wanted to recommend
21 extending the emerging growth company status. This
22 was before there was the proposal of the 35 million in
23 assets are left for the small non-accelerated filer.
24 And so this was sort of left over, Bart, thank you,
25 from those April discussions when we had our wish

1 list. Some of our wish list as we discussed in July
2 is, we've gotten better than we asked for the small
3 companies.

4 So given this small non-accelerated filer
5 and this expanded timeline, do we also think that it
6 will be primarily this group of companies will need
7 even more time to scale up their disclosures across
8 the board?

9 MR. DILLASHAW: I guess I'll go first. My
10 general thought is, with the other changes that are in
11 the sort of reduction to everybody in sort of our
12 purview being a non-accelerated filer, I think that in
13 my mind that solves the vast majority of that issue,
14 yeah. I think this is less of a true issue than it
15 was when we first started talking about it.

16 VICE CHAIR STANDIFER: Let me add one more
17 thing. Looking back at my notes from April, as well, a
18 key theme that came from that April conversation is
19 prior to the discussion there was a hypothesis that
20 perhaps companies were not going public because of the
21 cost and the disclosure burden of going public.

22 From that conversation, with our collective
23 experience and the people coming, the overwhelming
24 consensus, it was not a recommendation that was voted
25 on, was that the cost and the burden disclosure was

1 not what was preventing companies from going public.
2 Yes, there's benefit to simplifying things, to making
3 it easier to making it streamline, but the disclosure
4 burden in and of itself was not, and the cost of that,
5 the cost of going public and then doing that, was not
6 the roadblock.

7 So Bart, I tend to agree with you, that
8 given this simplification, given the other proposals
9 on the table, I don't know that we need to add further
10 layers of complexity here because this is not
11 addressing what this Committee after discussion has
12 highlighted as the reasons these small companies are
13 not taking advantage of the public markets.

14 Please raise your hand, anyone, if you want
15 to chime in or Joe, I see you off mute. So why don't
16 you go.

17 MR. LUCOSKY: I'm sorry. Was that directed
18 to me, Rose?

19 VICE CHAIR STANDIFER: It was, yes.

20 MR. LUCOSKY: Thank you for the clarity, I
21 completely agree. I don't think we need to complicate
22 things. I just wanted to understand what we're going
23 to be called to opine on. I don't have anything
24 further to add. Thank you.

25 VICE CHAIR STANDIFER: Unless I hear

1 otherwise, I'm not hearing that there's a
2 recommendation. This was a talking point that we had
3 raised in April. We have new proposals. We have new
4 discussions since April. So unless I hear differently
5 from a significant group of the Committee, I don't
6 know that there's a recommendation to be voted on
7 here.

8 MR. LUCOSKY: I will say, Rose, on the
9 record, I do agree with your assessment, the
10 Committee's assessment from April that companies
11 aren't being deterred solely because of the disclosure
12 burden and the cost. I agree with that. I do think
13 there's other things that we, I guess the Committee
14 will talk about, what is deterring them.

15 I know this is not the time and place, but I
16 do think in connection in our analysis as we go
17 forward, we do have to discuss the interplay between
18 not just the SEC and the disclosure reporting
19 requirements and the cost and the burden but the
20 interplay between the Commission and the Exchanges.
21 Because I do think it takes both groups to obviously
22 get a company public and to encourage companies be
23 public.

24 And while the SEC may be softening their
25 rules in the sense to have more efficiency and less

1 bureaucracy and lower costs, it doesn't seem like the
2 Exchanges, at least for the micro and small and
3 emerging growth companies, are doing the same. In
4 fact, it's quite the opposite. They are making things
5 harder, more burdensome and passing rules to not allow
6 some of these companies to stay listed once they do
7 get listed if they run into some turbulence or some
8 trouble. So I do think this Committee should be
9 looking at both sides of the equation and not just on
10 disclosure obligations.

11 VICE CHAIR STANDIFER: Thank you, Joe.

12 Robert, I see your hands raised. We are
13 going to be talking about that in our last agenda item
14 which is the open comment right now on the
15 modernization of the IPO process. So Robert, if we're
16 going to dig more into this I would ask that we wait
17 until that agenda item, unless there's something
18 specific you wanted to chime in right now, Robert.

19 MR. BOLEN: I'm good to hold until then.

20 VICE CHAIR STANDIFER: Okay. Great. Unless
21 I'm hearing anymore about the continuing the emerging
22 growth company, the ECG onramp, I'm not seeing
23 anything on that, hands raised, people coming off
24 mute. Then I'm going to turn it over to Bart and
25 we're going to talk about, now we have the companies

1 that are gone public, we have the small companies that
2 are there.

3 One of the things we've talked about is they
4 are going public to take advantage of being able to
5 raise money in the capital markets. That is very
6 difficult right now for small businesses. The
7 registered offering reform, there are some things that
8 were on our wish list. So we're going to talk through
9 these. And then as mentioned, we're going to end by
10 going back to more of our open-ended discussions,
11 things like the exchanges, analyst coverage, other
12 reasons that it's making it challenging and there's
13 the cost benefit analysis to our small companies that
14 perhaps they're not actually getting the benefit of
15 the public markets. So Bart.

16 MR. DILLASHAW: Yeah. So, as Rose just
17 said, this was one of the other major releases that
18 the SEC sort of put out there. This one really comes
19 down to, the biggest one in here is the eligibility
20 for S-3 status. Which is a shorter form registration
21 statement that sort of streamlines the entire process
22 for being able to register additional shares for sale
23 into the public markets.

24 The biggest change to the proposal is that
25 they're making S-3 eligibility become basically

1 automatically active immediately after going public
2 where there used to be this one-year seasoning period
3 and then there was some sort of float requirements for
4 eligibility to it as well.

5 I think the stats was they're opening up S-3
6 eligibility for virtually all public companies at this
7 point. The benefits that come from that are lower
8 cost registering, quicker registration, it's a review
9 process that's not quite as extensive. It provides
10 for state preemption which Dan Zinn with OTC talked
11 about is a very big deal for them because previously
12 they had to go through all 50 states for the non S-3
13 eligible requirements.

14 And addition to that they're also opening up
15 and expanding some of the WKSI rules and the WKSI is
16 the Well-Known Seasoned Issuer, which is basically
17 their category for bigger more established higher
18 float companies. So back in the April meeting we had
19 talked about some of these things as well, including
20 enhancing the use of S-3 shelf registration for
21 everybody. I think this offer directly responds to
22 that and frankly opens it up even more than we had
23 talked about in the April meeting. And also some of
24 the WKSI eligibility and extension communication
25 protocols there, as well.

1 So I think in this one, maybe the first
2 thing we can talk about are, what do we think about
3 the broader S-3 eligibility. Is this a major
4 attraction for smaller companies. I think in
5 particular this was, Commissioner Peirce asked a very
6 specific question of us at the last one. She asked us
7 to consider whether companies seeking newly available
8 Form S-3 eligibility facing unique or operational
9 infrastructure challenges in taking advantage of this
10 S-3 eligibility.

11 If so, what further reforms would smaller
12 issuers like to see beyond those proposed. And what
13 additional things could this Committee think of that
14 may continue to make being public even more attractive
15 even beyond making the sort of short-form registration
16 available. I'll pause there and put it out to the
17 group to see if anybody has any specific thoughts on
18 this.

19 MS. COVERMAN: I'll just start, thank you
20 for that opening, by saying I appreciate this
21 Committee's opening with, do we support that proposal
22 in a holistic manner. In a way, there's many layers
23 to why, and many things that can be fixed into why
24 companies aren't accessing the public markets as much
25 as they could. There's a lot of tools that the SEC

1 does have to address this. And this is really
2 something that chairs on both sides of the aisles for
3 the last decade have spoken about. I like your point
4 about Commissioner Peirce's -- first of all, just
5 taking a step back. This is -- this proposal, which
6 is addressing registered offerings on EDGAR, SEC
7 reviewed, prospectuses nationwide, Securities Act
8 liability, as a very threshold matter I think that's
9 an important point to recognize when we're thinking
10 about what kinds of companies and what are they
11 accomplishing that's, that we're already starting with
12 as a baseline.

13 So how do we get them to the next level of
14 really accessing the public markets. And Commissioner
15 Peirce did say, we want to give companies more
16 control, more certainty over timing. I know Sue, I
17 wasn't at the meeting but I did look at the
18 transcript, and Sue gave an important example of
19 having done the post IPO, having that momentum. They
20 just filed everything and now they have to do a second
21 S-1 with the 15-day wait, and really lost momentum in
22 the process, probably left, I think she mentioned like
23 20 percent on the table.

24 So this is really a big fix for that. And
25 it really matters to the smallest newest issuers. And

1 it's two new tests that are not based in the 1990's
2 but are really reflective of the world we live in
3 today and real-world examples of how we can get more
4 companies to be thinking about the registered market
5 and public offerings.

6 So I guess I would say, I'm supportive of
7 that, but then the proposal holistically with the
8 research coverage, with preemption and there's -- I
9 think there's a lot of things that this Commission can
10 do and I'm excited about this Committee being able to
11 really put their views in the record for that.

12 MR. DILLASHAW: That's great, thank you.
13 Erica.

14 MS. DUIGNAN MINNIHAN: I just had a
15 question. Is there any differentiation in the
16 proposal on whether it's primary versus secondary
17 capital?

18 MS. COVERMAN: The proposal it's mostly
19 about primary, you know, your first public offering.
20 I think what Dan was talking a little about, we
21 certainly want the proposal to move forward, but as
22 the SEC takes this action and then down the road
23 considers ancillary work it can do, it might be that
24 the secondary market can be a piece of the next phase
25 of that.

1 MS. DUIGNAN MINNIHAN: Yeah. I mean, to me
2 it just feels like it would probably be appropriate
3 for capital raises but wouldn't want to see it being
4 too much used for secondary, so.

5 MS. COVERMAN: That's probably a bit longer
6 discussion on the secondary market, but good for us to
7 keep it in our minds, but I agree with you.

8 MR. DILLASHAW: Joe.

9 MR. LUCOSKY: Thank you, Bart. I have a
10 question just about the proposal. I found Dan Zinn's
11 presentation in our last meeting very helpful on this
12 topic. And those of us who routinely practice with
13 emerging growth and micro-cap companies, either on the
14 OTC or on the Nasdaq capital markets or NYC American,
15 know that preemption is a big issue.

16 And just by way of background quickly. It
17 is very hard, almost impossible, to do a, what we call
18 a banked deal right now on the OTC because of this
19 preemption issue and blue sky rules. There's no sense
20 getting into those details.

21 This rule, as I understand it and this is
22 what I would like to discuss, takes away some of these
23 artificial barriers like the \$75 million threshold or
24 the one-year waiting period from both newly public
25 companies and existing public companies who want to

1 raise capital and don't have a \$75 million public
2 float. And that would apply to all companies on the
3 New York Stock Exchange and on Nasdaq. And the way I
4 understand it, certain companies on the OTC.

5 The problem is that I think this preemption
6 issue will go away for those categories covered by the
7 rule. But there's another exception that I thought I
8 read in the rule and would like the Committee's
9 opinion on this, which is; if you have been what's
10 considered a penny stock within the last five years, I
11 believe is the rule, you will not be able to take
12 advantage of these new capital reforms. Which to me
13 seems, at least I'm going to need a better
14 explanation, seems crazy to me that companies that are
15 fully reporting with the SEC, on the OTC fully
16 reporting highest tier, maybe not on the OTC QX, but
17 those on the OTC QB and have not been a penny stock,
18 get to take advantage of it. Those that have become a
19 penny stock don't. And the only difference is where
20 you've raised money. That's typically the practical
21 rule.

22 Bart, I know you've seen this many times as
23 well. If you raise money under five dollars over the
24 last few years, couple other tests, you're considered
25 a penny stock. Well, every emerging growth company,

1 every micro-cap company, I should say most,
2 overwhelming majority, raises money under five
3 dollars. So we're excluding a significant number of
4 companies that could take advantage of this rule by
5 allowing that penny stock exception.

6 Now, I wasn't at the April meeting. If
7 there's been more discussion on that I'd love to hear
8 the Committee's rule. But if we're going to truly
9 benefit all emerging growth micro-cap small
10 businesses, it seems if you're fully reporting with
11 the Commission there should be no difference or no
12 penalty if you raise money under five dollars in the
13 last few years.

14 MR. DILLASHAW: This is a question because I
15 don't have the release in front of me. Was it penny
16 stocks or was it former shell companies?

17 MR. LUCOSKY: No, I think it was a penny
18 stock exemption, Bart. Shell companies of course
19 that's different. We have a whole other debate on
20 that. I'm not arguing that shell companies should get
21 any relief. I'm just saying that if we're truly here
22 to benefit small companies then we should really be
23 talking about this penny stock exemption, again, if it
24 truly exists. I couldn't tell from the proposal.

25 We didn't talk about it at our last meeting.

1 I wasn't at the April meeting. The Commissioners
2 didn't address it. Dan Zinn did a little bit. But it
3 seems like another artificial gate that doesn't really
4 benefit the people that we're supposed to serve here
5 because most companies are raising money under five
6 dollars, and there's a few other tests, I'm just using
7 that one because that's the one that most likely trips
8 practitioners in the trenches. So maybe we can have
9 some discussion on that. And we can perhaps come to
10 some clarity or conclusion and get rid of that penny
11 stock exemption in the rule.

12 MS. DUIGNAN MINNIHAN: Can I just clarify
13 something. When you say most companies are raising
14 under five dollars, what do we mean by most? Are you
15 saying more than 50 percent of companies IPO with a
16 share price under \$5?

17 MR. LUCOSKY: Thank you, Erica. That's a
18 great question. So what I'm talking about is, most
19 companies that are going to go public in the micro
20 emerging world are generally, have a history of
21 raising capital at below five dollars for the previous
22 one, two or three years while they're private leading
23 up until their public offering. If you do that,
24 again, there's other tests that will take you out of
25 this, but if you do that you are generally considered

1 a penny stock. And if you're not on the Exchanges --
2 now if you're on Nasdaq, New York Stock Exchange this
3 wouldn't apply, because I think it applies to all the
4 companies on the senior exchanges.

5 I'm specifically talking about companies on
6 the OTC that may be getting ready for senior exchange
7 listing, are on the OTC fully reporting with the SEC,
8 they would be not able to take advantage of this
9 registered offering reform even though the \$75 million
10 rule would go away, the one year waiting period would
11 go away, they would still get tripped up I believe by
12 the penny stock exemption.

13 Now again, if I'm reading this incorrectly
14 or if someone else has some clarity on this, but I
15 think if we're going to broaden this capital raising
16 function for the smallest companies, these emerging
17 companies, then that seems like an artificial gate
18 that doesn't make much sense simply because they've
19 raised money under five dollars in the last few years.

20 Meaning, we should broaden it to those companies.
21 Again, not the ones who aren't fully reporting, not
22 the ones who are on pink sheets, not the ones who are
23 just mildly reporting, but truly the fully reporting
24 companies just because they're on OTC doesn't mean
25 they shouldn't take advantage of these capital raising

1 reforms.

2 VICE CHAIR STANDIFER: So this, just going
3 back to this reform directly addresses several issues
4 that came to the forefront in our April meeting as to
5 why companies are skeptical that if they spend the
6 money to go public and decide to subject themselves to
7 that regime they will get the full benefit of the
8 capital markets. So I am very much supportive of
9 this.

10 I think there is room for clarity,
11 especially for the smaller companies, both
12 clarification on who are our ineligible issuers for
13 these expanded S-3 rules, taking a close look at that
14 and I think that's your point on the penny stocks, to
15 make sure that we're not inadvertently excluding
16 companies whose information is out there in the market
17 but they're nonetheless excluded, right? That was a
18 lot of conversation we had. The underpinning is trust
19 and transparency. So the information for the
20 companies is out there.

21 To Sue's example, that information was out
22 there. They had already filed an S-1. Why did they
23 have to wait and redo an S-1. If you're fully
24 reporting, your information is out there. So making
25 sure this is available. But the extending the

1 communication flexibilities that are currently
2 reserved for WKSIs for small companies, that is huge.

3 When companies obtain that WKSI status and they can
4 move on a dime to take advantage of market
5 opportunities, that is one of the prime benefits of
6 the capital markets.

7 If you can entice more companies and say,
8 when the market turns in your favor you will be able
9 to immediately tap the public market, again, assuming
10 you're current on your information, assuming that the
11 information about the company is out there, you are
12 able to do that and you have the flexibility to do
13 that. I think that changes the calculus in the minds
14 of boards and executives as to whether or not they're
15 going to make that switch. Right now it's like, we're
16 going to get public and then we're going to be
17 hamstrung and are we going to move fast enough or by
18 the time we have our new reports out there is the
19 market going to be turned.

20 I am very supportive of this reform. I
21 think it could use refinement as to the ineligible
22 issuers for the S-3. I think it can use refinement as
23 to what is or is not a listed registered offering.
24 This goes precisely to where Dan Zinn was going. I
25 mean, this does, on the preemption side it opens it up

1 beyond NYSE and Nasdaq into some of the more senior
2 OTC. But it still leaves where some shares are. And
3 I don't have a definitive answer on that.

4 I just think it should be looked at in
5 further detail with data that the SEC has. Part of
6 this recommendation is not SEC go do XY, but I'm
7 supportive. And I think you should roll up your
8 sleeves and continue to research a couple of these
9 things. So my position is I'm supportive but can we
10 shrink those ineligible issuers on the S-3 and can we
11 look at the preemption and is there more that should
12 be within that scope.

13 MS. COVERMAN: Yeah, and I agree with
14 everything you just mentioned and I would just add the
15 caveat that this is probably one of the most
16 significant steps forward in really thinking
17 holistically about the public markets that we've seen
18 in a long time. So I like that this Committee is
19 saying to the SEC, we're supportive of moving this
20 forward. Don't hold this up, but keep thinking about
21 another layer because I think that's what it is.

22 Now that we have this in front of us, even
23 at our organization, we thought about things that are
24 somewhat related, but not in this proposal itself, but
25 think about the next layer that could follow this but

1 don't not move this forward because we haven't seen a
2 proposal as important as this for the public markets
3 in a long time.

4 MR. DILLASHAW: Joe, is your hand still up
5 or --

6 MR. LUCOSKY: No. I was just raising my
7 hand 'cause -- thank you. I agree with that Rose and
8 Anya. I think your point is extraordinarily well
9 taken and I do support this. I will support this. I
10 think it is long overdue especially for the emerging
11 and smaller companies. But I think, Rose, you made
12 some really great points because you keep bringing
13 this back to the original question, which was,
14 barriers to entry, cost compliance disclosure.

15 The way I think about it is this, when we
16 think about companies going public, that doesn't just
17 mean IPO'ing on Nasdaq or New York Stock Exchange.
18 That also means being public and fully reporting to
19 the SEC on the OTC markets, which is a very large
20 portion of our emerging community.

21 So when you talk about barriers to entry,
22 and you tell a company, hey, we're going to have less
23 disclosure. We're going to make it more efficient and
24 quicker. But then when you get to the OTC, if that's
25 your first stopping point before the Exchanges, then

1 you're not going to be able to take advantage of these
2 capital raising rules even if you're fully reporting,
3 even if you're fully audited, because you happen to be
4 a quote unquote penny stock.

5 Now, I will make one other point, that most
6 of the companies in that capital markets on the Nasdaq
7 and New York stock Exchange, but for being on the
8 Exchange would be considered penny stocks. So there's
9 no difference between the companies on the global
10 capital markets and the NYSE American who but for
11 being on that Exchange would be a penny stock. The
12 fact that they're on the Exchange they're exempt from
13 the penny stock definition. So why would we limit the
14 companies on the OTC who have the exact same
15 disclosure profile, the exacts same capital raising
16 profile, but for being on a senior Exchange and not
17 allow those companies to raise capital in the same
18 way.

19 If we are serious about disclosure being the
20 holy grail of safety and transparency of our capital
21 markets, then the fact that they've raised capital,
22 the same as every other smaller company in the
23 Exchanges just on the OTC, but fully reporting
24 shouldn't matter.

25 To wrap this up, my point is, I fully

1 support the measure. It's necessary. But I do think
2 we shouldn't exclude a large portion of those issuers
3 currently fully reporting on OTC. Or then we need
4 another exchange or another process between the OTC
5 and the senior exchanges, if it you truly is about the
6 definition of an exchange and being exempt from penny
7 stock.

8 I just want to bring to this Committee's
9 attention, because I practice in this every day. I
10 know, Bart, you do, some others, Rose. There's a
11 large amount of companies this is going to benefit.
12 And if we're going to try and really do a once in a
13 generation reform, we should include those companies
14 or at least have some research or some discussion
15 about not sweeping up these penny stocks in the same
16 definition as SPACs and shell companies, which are the
17 other two categories that would be exempt from this
18 registered offering reform.

19 MS. DUIGNAN MINNIHAN: I just want to make
20 one comment, and I don't really have a massive dog in
21 the fight here, but I would say I think the reason for
22 excluding the penny stocks is because by definition
23 the idea is that these penny stocks have very limited
24 liquidity. So because there is not a lot of
25 liquidity, there's a lot more risk to the purchasers

1 so they don't want to give them access to this.

2 So if we're thinking of like what is the
3 purpose of excluding them, I think that that's it.
4 Not that okay, they're reporting, yes, that's
5 wonderful, but there's just a lack of liquidity for
6 buyers. So just something to think about as the
7 reason that they probably put them in that group.

8 MR. LUCOSKY: Look, Erica, I think that's a
9 fair point. Liquidity is always an issue. Even on
10 Nasdaq and the New York Stock Exchange liquidity isn't
11 amazing. So if liquidity is the test, it should be
12 applied uniformly. Now it probably does apply to
13 these companies on the OTC. But I will tell you that,
14 if the disclosure is the same and the capital raising
15 function is the same, and it's just the functional
16 liquidity, then maybe we put some sort of liquidity
17 exception, but then we're going down a rabbit hole.

18 If we're going to do a generational offering
19 reform, I'm just making the point that we shouldn't
20 because of definition not research or consider those
21 companies that again, are only fully reporting, fully
22 transparent, fully audited, not every company that's
23 on the OTC, but just those companies, or then not for
24 this discussion, but there needs to be some other
25 platform that trades in between the Nasdaq and the OTC

1 that has exchange status that could be exempt from
2 this. Because this is truly an amazing reform and I
3 do supported it. But I don't want to overlook those
4 companies that are by definition getting caught up and
5 not going to be able to use these wonderful reforms.

6 VICE CHAIR STANDIFER: I just wanted to --
7 if we are going to and we've started this, the Chair,
8 the Commissioners have asked, think big, look at blank
9 piece of paper. What are the changes that we could
10 make to both going public and being a public company
11 that would help again capital formation, would help
12 these small businesses tap different and bigger pools
13 of capital in the public markets. One of the reasons
14 there's lack of liquidity and thinly traded shares on
15 the pink sheets is because they, it's very difficult
16 for them to do new offerings. It's difficult for them
17 to put more securities. It's difficult for them to
18 increase the tradeable shares out there.

19 So I do think you might have a chicken and
20 the egg problem. So if they're fully reporting, if
21 the information was out there, and I think this goes
22 to an earlier point of the Exchanges as a gatekeeper.

23 You have the SEC as the gatekeeper. You have the
24 Exchanges as the gatekeeper. This is making the
25 companies more visible. This is making sure people

1 have access to the information. It's 2026. People
2 have access to the information.

3 So if you have small businesses that have
4 gone through the IPO process or they've filed a Form
5 10 so they are fully reporting companies to the SEC
6 and the information is out there, I don't have a
7 recommendation today that says, yes, all of them
8 should be in the umbrella. But I do absolutely think
9 it is worth the discussion that could be
10 transformative. That could actually increase the
11 trading and de-risk the stock because you don't -- now
12 you have more liquidity. This could actually be a
13 path to -- and that's one of the issues we've talked
14 about, liquidity and analyst coverage. Analyst
15 coverage leads to thinly traded leads to liquidity.
16 You keep going back and forth.

17 If you're able to have a preemptive
18 registered offering on an S-3 with communication
19 flexibility to get out there in front of people and do
20 more offerings, are you starting this momentum to no
21 longer be thinly traded, to now have liquidity, it
22 could be transformative. I'm absolutely supportive of
23 what we have here and I don't want the conversation to
24 end here.

25 MR. LUCOSKY: Rose, let me make one other

1 point quickly, I know we have to wrap up and move on.

2 Erica, just to your point, I did go back into the
3 rule and I have some notes here. It seems like the
4 rule specifically says these categories of issuers,
5 meaning shell companies, SPACs and penny stocks, have
6 given rise to certain disclosure and other
7 deficiencies. Well, if again, I'm only talking about
8 the companies that are fully reporting to the SEC,
9 fully audited, higher tier of the OTC. I'm not
10 talking about pink sheets or any of the non-reporting
11 companies.

12 If disclosure is really the issue and they
13 are disclosing and they are emerging and they are
14 trying to grow their businesses and raise capital, it
15 wouldn't make sense to exclude them simply because
16 they have raised capital under five dollars in the
17 last few years, because that is really the main
18 practical test. There's other tests, too. But I'm
19 telling you as a practitioner, that comes up on every
20 deal, we have to do a penny stock analysis. And it
21 comes up to, how did you raise capital and at what
22 price. Again, if they're fully reporting just like the
23 lower levels of the Exchanges then we should at least
24 have a discussion as to including them because this
25 really is a truly generational reform.

1 MS. COVERMAN: Yeah. Can I just add I agree
2 with everything. So I don't want stick on the
3 discussion I want to move on. The thesis of the 1933
4 Securities Act is that you get a benefit out of being
5 a fully reporting public company. So I think that it
6 goes back to the importance of disclosure and SEC
7 reporting should be meaningful in what it does. So
8 layering on standards is in some ways antithetical to
9 what the decision that was made by, back in 1933, and
10 why we even have our securities laws today.

11 MR. DILLASHAW: This has been an awesome
12 discussion. I'm going to do my best to try to
13 summarize all this into what I think can breakdown
14 into three proposals. I think we got one proposal that
15 sort of, we are generally supportive of the securities
16 offering reform. And I think we have probably one
17 proposal that is a recommendation to revisit the
18 current exceptions to S-3 eligibility to look for
19 whether or not those are appropriate. And probably
20 another one that is a more aggressive recommendation,
21 Joe, to your point of specifically we do not believe
22 that the penny stock exclusion should apply to
23 companies that are otherwise in full reporting.

24 Claire, do you have a comment?

25 MS. MCHENRY: I just have a question, if we

1 had moved onto talking about the purchaser portions of
2 this rule or if we were still just on the S-3?

3 MR. DILLASHAW: We're still on the S-3.

4 MS. COVERMAN: That's not true. We talked
5 about preemption which is the qualified purchaser
6 piece.

7 MR. DILLASHAW: Oh, sorry.

8 MS. COVERMAN: That's just the SEC's
9 technical point of how it's accomplished. So we did
10 cover that.

11 MS. MCHENRY: Okay. If I may, I'd like to
12 provide some additional commentary of the state
13 preemption. I would like to note NASAA's concern in
14 opposition to the rules that would preempt state
15 authority to review registered securities offerings.
16 And I encourage the Committee to review the comment
17 letters from the state regulators in NASAA. These
18 letters go into much greater detail than I can at this
19 point but I would appreciate some opportunity to
20 highlight some of our concerns.

21 These letters point out that state review is
22 typically limited to the non-traded REITs, BDCs, other
23 direct participation programs and debt offerings. And
24 that these carry unique risks for retail investors
25 that have been highlighted by the SEC and FINRA.

1 State review ensures that these offerings disclose all
2 material information and meet basic fairness and
3 investor protection requirements.

4 I would say that state regulation and
5 registration of these offerings are not duplicative
6 and unnecessary. They fill an important gap. The
7 Commission does not engage in merit review and may
8 selectively conduct a disclosure review of these
9 registered offerings, but it's incorrect to think that
10 these registered securities offerings are not subject
11 to additional substantive investor protection
12 standards beyond the Commission's disclosure review.

13 As mentioned, the Exchange listed securities
14 must comply with the Exchange's substantive listings
15 standards. The Commission imposes substantive
16 protections under the Investment Company Act and
17 was not limiting a dual state and federal
18 framework, but was instead intended to preempt
19 offerings and purchasers where there was a qualified
20 by a virtue of sophistication or a need to protect
21 where those protections of the state registrations
22 were not needed.

23 So essentially this proposed rule is
24 creating a new class of registered securities for
25 which the offerings would have fewer investor

1 protections and not based on any level of
2 sophistication or qualification of the investor. It's
3 merely because of the registered security status. And
4 the Commission has not indicated that it will do
5 anything to close this gap. So it's unclear why
6 registered unlisted offerings should have fewer
7 protections than Exchange listed securities and
8 registered investment company securities. So I would
9 consider for this Committee to oppose preemption of
10 state securities registration.

11 MR. DILLASHAW: Thank you.

12 MR. LUCOSKY: Can we talk with Claire a bit
13 about this or is this not for this time. I think she
14 said some really fascinating things here.

15 MS. COVERMAN: I would like to raise my hand
16 because this directly impacts our members. Let me
17 start with our basic premise which we've all
18 discussed. We represent non-traded REITs and BDCs,
19 registered -- they are registered offerings. They
20 actually are sponsored by large, very reputable global
21 asset managers. I'll tell you, BDCs are, it's
22 actually a sort of a double capital formation, small
23 business issue in the sense that they are investing
24 into small medium size businesses that are not getting
25 traditional bank loan financing. And real estate

1 companies are financing deals that are supporting
2 construction, development, economic development in
3 states with your local businesses and trades. And on
4 the flip side of that, it's about investors having
5 access to the same opportunities that anyone should
6 have access to that is a public reporting company.

7 And Commissioner Uyeda said, you know, look,
8 we're looking at the cumulative effect of a 54 state
9 jurisdiction burden. And frankly, even a single state
10 substantive merit review standards, which is what
11 we're talk about, distort a national offering that
12 goes to the national distribution channel. But the
13 most important thing here is, where is the capital
14 going. It's going to Reg D private offerings.

15 So I appreciate all of Claire's points about
16 state authority, but at the end of the day the market
17 has moved to these issuers conducting private
18 offerings without ordinary investors being able to
19 participate. And the proposal that the SEC puts
20 forward pertains state enforcement. It retains state
21 ability to take action against an actor that has done
22 something wrong. It retains notice file and filings
23 to states.

24 So I feel pretty strongly about this that
25 this is holistically part of this proposal which we

1 talked about earlier, that you have fully transparent
2 SEC reporting companies that should not be subject to
3 a duplicative layer of state blue sky laws. And the
4 reality is, they're not. Because they're already doing
5 public offerings. So I just wanted to add that point
6 that we're here to say, how are we helping companies
7 access the public markets. There's a big amount of
8 companies that are financing small businesses, that
9 are giving ordinary investors access to opportunities
10 to be on par with institutional investors and
11 supporting real estate financing. And they're not
12 doing public offerings because of the burden of state
13 blue sky law.

14 MS. MCHENRY: May I respond?

15 MR. BOLEN: I'm worried we're not going to
16 have a vote if we keep pushing it back. I agree with
17 the points that have been made, but I think the vote
18 doesn't directly apply to that portion. And I would
19 like to get the vote through first.

20 MS. COVERMAN: Well, the vote is the
21 proposal, right, and the proposal includes preemption.

22 MR. BOLEN: I understand that, yes.

23 MR. DILLASHAW: This is a great discussion.
24 Thank you for bringing this up. This is exactly what
25 this Committee is for. I think is wonderful dialogue.

1 I am going to try to wrap this up because we have the
2 whole other section of IPO modernization. I think we
3 now have four proposals that are broad categories in
4 here. One we sort of have, are we generally
5 supportive of the Offering Reform Act. I think we
6 then have, do we want them to revisit the exclusion S-
7 3 eligibility. Do we want to make a specific
8 recommendation on the penny stock one. And then I
9 think Claire, to your point, I think it's worthy of a
10 proposal to the group. Correct me if I'm wrong, if
11 I'm getting the sentiments of this right; do we want
12 the SEC to revisit the extent applicability of state
13 preemption in light of the expanded eligibility for S-
14 3?

15 MS. MCHENRY: I think this was in relation
16 also and to the definition of expansion of qualified
17 purchaser to address any registered offering.

18 MR. DILLASHAW: Okay. So it would be --

19 MS. COVERMAN: I want to simplify that down
20 just a minute. This is the SEC saying, if you are a
21 registered offering, you should not have the
22 duplicative level of blue sky law. You should have
23 the benefit of full SEC reporting which comes with
24 being able to sell to investors that are interested in
25 accessing your offering. The technical way that they

1 propose it is just how the SEC has authority to act.
2 But it essentially boils down to, if you're a
3 registered offering should you have the benefit of
4 full SEC reporting, which means there's no duplicative
5 layer of blue sky merit review layered on top of that.

6 MS. MCHENRY: I do think it's important to
7 note, the mechanism that they have chosen to use this
8 through is through a definition of qualified purchaser
9 to expand it to include the purchaser of any
10 registered offering.

11 MS. COVERMAN: Yes, which they use for
12 Regular A. They already used this proposal before.
13 They have tier 1 where you're subject to state blue
14 sky law, and tier 2 where you're not. Nobody uses
15 tier 1. There's tons of statistics around that
16 because blue sky law has become so difficult everybody
17 uses tier 2. So this is a tested use of this
18 definition. This is the way that the SEC has
19 authority to move forward.

20 MS. MCHENRY: Yeah, it just --

21 MS. DUIGNAN MINNIHAN: Claire, seems like
22 you have a concern. Can you just really clearly say
23 what specific case, situation, example, that you're
24 worried about because it sounds like you are not in
25 favor. Tell us the scenario.

1 MS. McHENRY: I would point to the state
2 comment letters for a lot more specific information,
3 that within them they did highlight specific examples
4 of situations where registered offerings were approved
5 by the SEC but were denied under the State
6 Registration Review Program. And then those
7 ultimately did end up having to go through an
8 enforcement action because of other actions. So in
9 certain instances I would highlight Washington's
10 letter where they highlight the iCap fraud that was a
11 registered securities offering under the SEC but was
12 denied under Washington. Massachusetts letter also
13 highlights several instances of enforcement actions
14 that were taken. There's also just the instance of
15 these are the types of products that have been
16 highlighted by both the SEC and FINRA about the nature
17 of the risks that are unique with these particular
18 products.

19 My concern also is that, what we're doing is
20 that there may be some unintended costs that are
21 associated with preempting state review by shifting
22 review to an after the fact enforcement posture, which
23 may actually be costing additional costs to both the
24 issuer and potentially also just shifting costs to
25 broker-dealers and sales agents who are actually

1 selling these.

2 MS. COVERMAN: I'm sorry. The iCap example
3 was a publicly-traded offering, which is irrelevant to
4 the SEC's proposal. I've looked at the comment
5 letters. And frankly, Massachusetts disapproves
6 Apple's IPO offering. So there's a lot of examples of
7 it slowing down, efficient access to the public
8 markets. And frankly, the states own records show
9 minimal enforcement activity. But more important than
10 that, the issuers are not doing state reviewed
11 offerings anymore because of this difficulty. So that
12 really is the crux. We want issuers to access the
13 public markets. They're not doing that now because of
14 this one barrier.

15 VICE CHAIR STANDIFER: So I wanted to bring
16 us back and remind the Committee of some discussions
17 that we have had including discussions with Claire
18 specifically around Reg A and whether or not we wanted
19 to be supportive of expanded preemption on Reg A,
20 right, which there was in this group. So we have had
21 some of these discussions before about, I don't know
22 if overutilization is the right word, but people
23 aren't going public. People aren't doing things
24 because it is so easy to raise under 506(b) and (c).
25 One of the reasons it is is because of preemption.

1 So we have talked about some of these
2 discussions at length. And this, I see this as a
3 continuation of the discussion. I do think it is
4 worth looking at, does the change here have unintended
5 consequences. Is it worth looking at, the goal is to
6 have preemption, make it easier. This is what this
7 Committee has been discussing about from the speakers
8 we've heard, from our perspectives, to make it easier
9 for these companies to access the markets.

10 So if you've gone through the burden to
11 become a registered company, you're current, should
12 that be, even though you're not on NYSC or Nasdaq,
13 should you get the benefit of preemption, even though
14 you don't have those Exchanges as your gatekeeper to
15 access the market. But is there similar to how
16 we're -- what I've heard is, we're not asking the SEC
17 to re-look whether or not a shell company should now
18 be an eligible issuer for S-3.

19 Is there some group, that's probably going
20 to be well in the middle of Anya and Claire, what
21 you're talking about, but we as a Committee have
22 generally been supportive of preemption with
23 guardrails to allow the company to access. So what I'm
24 hearing is that we're still supportive of that, but
25 let's make sure those guard rails are still there.

1 Because again, if we completely take the guardrails
2 off, we had this discussion at length in April, do we
3 have the unintended consequences that we've eroded
4 trust in the markets in the process in which case it's
5 going to be very hard for anyone to bring in capital
6 if you don't have the foundation of trust.

7 MS. COVERMAN: And that's what I love about
8 the public markets. You have full disclosures. Full
9 Securities Act liability. You've got EDGAR filings,
10 prospectus nationwide. Those are guardrails. That's
11 why we are supportive of this proposal.

12 MR. LUCOSKY: I just want to add. Thank
13 you, Claire, for your perspective. I thought it was
14 very helpful and I'm very fascinated by the preemption
15 issues. I would love to continue this conversation at
16 the appropriate time because some of these companies
17 are not exchange listed and I think, Anya, you also
18 have made some amazing points. And I welcome this
19 discussion in the future.

20 MR. DILLASHAW: Yeah, this is great. I will
21 add, this type of robust disclosure is what this
22 Committee is for. We have talked with the
23 Commissioners. This is the type of feedback and
24 dialogue when they're reading the transcripts they
25 love to see. So this is great. Okay. With that, I

1 will try to conclude this section with a couple of
2 proposals. I think the first proposal that I will put
3 to the group and we can kind of vote on is, that the
4 Committee is supportive of the registered offering
5 reform and the -- supportive of the Registered
6 Offering Reform Act including providing companies with
7 a clear pathway to S-3 and the expansion of WKSI
8 eligibility. And unless anybody has a better way to
9 say that, although in favor, raise their hands.

10 MS. COVERMAN: I thought preemption was part
11 of that in the lengthy discussion that we had.

12 MR. DILLASHAW: It is. The proposal is that
13 we are generally supportive -- we are supportive of
14 the Registered Offering Reform proposal that the SEC
15 has put forth, which includes all sorts of things.

16 MS. COVERMAN: Thank you.

17 MS. HASELEY: You have a passing vote.

18 MR. DILLASHAW: Okay. Hands down on that
19 one.

20 I think the next one that I heard was that
21 the proposal would be the Committee recommends that
22 the SEC re-evaluate the current exemptions to
23 eligibility for the extensions to S-3 eligibility of
24 which penny stocks is one, but there are several. And
25 I think this is a broader recommendation to look at

1 all of the exemptions and consider whether or not they
2 make sense. All those in favor?

3 MS. HASELEY: We have support there, too.

4 MR. DILLASHAW: And the next proposal will
5 be a more specific version of the previous one, and
6 Courtney correct me if I'm wrong, but I think this is
7 a more specific proposal that the Committee recommends
8 making S-3 eligible to penny stocks that are current
9 in the reporting obligations notwithstanding what was
10 otherwise the penny stock exclusion?

11 MR. LUCOSKY: Right.

12 MR. DILLASHAW: Joe, is that the way you
13 would say that?

14 MR. LUCOSKY: Fully reporting companies that
15 may have been -- may be a penny stock regardless of
16 where they trade. Because this affects the OTC more.

17 MR. DILLASHAW: So this is --

18 MS. DUIGNAN MINNIHAN: Can you say that from
19 the beginning?

20 MR. DILLASHAW: The Committee recommends
21 that formally penny stock companies that are currently
22 reporting should be eligible for S-3.

23 MR. LUCOSKY: Fully reporting with the SEC,
24 right.

25 MR. DILLASHAW: Fully reporting with the SEC

1 should be eligible for S-3.

2 MS. STEVENS: Is that a defined term, fully
3 reporting or currently reporting?

4 MR. LUCOSKY: Well, how about this --

5 MR. DILLASHAW: In compliance with the
6 reporting -- reporting obligation under the Exchange
7 Act. So you're filing your 10-K's and 10-Qs. That's
8 what we mean by fully reporting. So you're audited --

9 VICE CHAIR STANDIFER: This is a concept
10 that is used in other securities rules, as well, that
11 you are current and in compliance with 1934 Act
12 reporting obligations.

13 MS. DUIGNAN MINNIHAN: I guess really what
14 we're saying is the penny stock categorization should
15 not automatically exclude them to be able to
16 participate in S-3 filing.

17 MR. LUCOSKY: Exactly.

18 MS. HASELEY: You have a passing vote.

19 MR. DILLASHAW: Okay. Then the final
20 proposal, and Claire, help me word this if I get it
21 wrong. The SEC should re-evaluate the expansion of
22 the qualified purchaser definition in light of its
23 effect on state preemption.

24 MS. COVERMAN: I'm sorry. I just have to
25 disagree with that. I think that's taking a negative

1 tone. I think we've already said we support the
2 proposal as written. I would ask that the Committee
3 take a vote that they continue to support state
4 preemption for primary offerings as written as stated
5 in the proposal, which includes the Reg A avenue for
6 accomplishing that. But, I don't know how you can
7 take a vote that we support the proposal with
8 preemption as written and then say the SEC should re-
9 examine that. And I would feel uncomfortable with
10 that as the way it's phrased.

11 VICE CHAIR STANDIFER: So we have taken
12 before that we can generally support, right, we're
13 generally supportive of the rulemaking and we ask that
14 the SEC continue to evaluate portions of it. I don't
15 see this as any different than that. You can be
16 generally supportive of something and ask that
17 something be -- we're doing the same thing. We're
18 generally supportive of expanding S-3 eligibility and
19 we're asking them to consider if they should tweak the
20 ineligible issuer definition. It's the same sort of
21 structure.

22 MS. COVERMAN: I understand that. I think
23 the tweak for S-3 is to broaden the proposal. This
24 would be to limit the proposal.

25 VICE CHAIR STANDIFER: We have it right.

1 Generally supportive and asking for portions of it to
2 be reevaluated, whether that's narrow, broad, goes
3 sideways, up down.

4 MR. DILLASHAW: Okay. I'll go back to, six
5 of one and one of the other, maybe we can have two
6 proposals. Do we want to have a proposal sort of
7 specifically speaking to the issue that Claire raised
8 of the drilling into this qualified purchaser
9 definition in light of the state preemption. Maybe
10 I'll start it there and have that be one proposal and
11 Anya -- this may be one where we may not be able to
12 both be consistent with. But in order to try to cover
13 both sides of the coin I'll propose one and then
14 propose the other and see if they get passing votes.

15 VICE CHAIR STANDIFER: Bart, if I may,
16 because I'm looking back at some of the other
17 conversations we've had on preemption. I would
18 suggest a proposal that reaffirms that this Committee
19 is broadly supportive of preemption to facilitate
20 small businesses accessing capital. And the
21 recommendation is having the SEC review and confirm
22 that this proposal is achieving those goals without
23 unintended consequences.

24 MR. DILLASHAW: Very nicely said. I don't
25 think I could say it better. So shall we vote on the

1 proposal that Rose just made.

2 MS. DUIGNAN MINNIHAN: I mean, that's
3 basically saying we're fine with it as written.

4 VICE CHAIR STANDIFER: We're fine as written
5 and we would like the SEC to double-check, double-
6 check its math --

7 MS. DUIGNAN MINNIHAN: We're asking them to
8 double-check?

9 VICE CHAIR STANDIFER: Well, it's very
10 broad, Erica, right. So it is in line. We're
11 supportive of it because it achieves our goals and
12 it's very broad. Does that broad scope have
13 unintended consequences that aren't needed or are in
14 conflict with those goals.

15 MS. DUIGNAN MINNIHAN: Do we have an
16 example?

17 VICE CHAIR STANDIFER: I mean, I think if
18 you go to the comment letters.

19 MS. HASELEY: You have support for passing
20 that proposal.

21 MR. DILLASHAW: Thank you, everybody, for
22 helping me struggle through the proposal process. A
23 lot of this was trying to do real time. So I
24 appreciate everybody tolerating me. With that, this
25 has been a great discussion. I think initially we were

1 going to go onto the broader offering reform
2 discussion, but I think we may be running out of time
3 at this point. So Marcia, I guess I will kick this
4 back to you as our fearless leader to figure out what
5 the next steps are.

6 CHAIR DAWOOD: Yeah. This has been a
7 fabulous discussion. Thank you everybody for
8 participating and bringing such very specific and
9 actionable views. I love the fact that we were able
10 to vote on so many aspects and get so many different
11 perspectives today. So we are almost at the time
12 allotted and we want to make sure for all these
13 discussions we at least have a quorum.

14 Next up would be talking about IPO
15 modernization more and we can do that for the October
16 meeting, which just to let everybody know, the next
17 meeting will be in October, October 27th of 2026.
18 That will be our last quarterly meeting for '26. And
19 just for people who are wanting to know what's going
20 on in '27, we will have a meeting February 2nd, 2027,
21 April 1st, 2027, July 20th and October 26, 2027.

22 So thank you all for joining today and we
23 will be in touch.

24 VICE CHAIR STANDIFER: Marcia, can I just
25 add one quick clarification before. So we will be

1 putting together a recommendation based on our
2 discussions in July and today. This is regarding the
3 SEC's active rulemaking. So originally we had
4 intended to do a recommendation that had discussed the
5 active rulemaking as well as the more general open-
6 comment file on IPO modernization. So there will be a
7 recommendation on sort of these active rules that have
8 been proposed and then we will come back on the more
9 general conversation in October.

10 MS. STEVENS: Is October virtual or in
11 person?

12 MS. HASELEY: The intention is that it be an
13 in-person meeting.

14 CHAIR DAWOOD: Thank you so much for
15 everyone's participation. And we will see you in
16 October.

17 (Whereupon, at 2:56 p.m., the meeting was
18 adjourned.)

19 * * * * *

20
21
22
23
24
25

PROOFREADER'S CERTIFICATE

In The Matter of: SMALL BUSINESS CAPITAL FORMATION
ADVISORY COMMITTEE
File Number: OS-0001
Date: Thursday, August 6, 2026
Location: Washington, D.C.

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

Kyleigh McGinnis
8/6/2026
(Date)

CERTIFICATE OF REPORTER

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

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

DEBRA GOODFRIEND, CRC, RPR
LICENSE NO. XI100228900