

U.S. SECURITIES AND EXCHANGE COMMISSION

SEC ROUNDTABLE ON EXECUTIVE COMPENSATION DISCLOSURE
REQUIREMENTS PANEL

Thursday, July 26th, 2025
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AUDIO TRANSCRIPTION

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

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2

3 Paul Atkins, SEC Commissioner, Chairman

4 Hester Peirce, SEC Commissioner

5 Mark Uyeda, SEC Commissioner

6

7 Panelists

8 Terry Adamson, Partner, Infinite Equity

9 Mark Borges, Principal, Compensia

10 Debra Cafaro, Human Resources Committee Chair, PNC

11 Ning Chiu, Partner, Davis Polk & Wardwell

12 James Cotton, Assistant Corporate Secretary, Corporate

13 Governance & Executive Compensation Managing Counsel,

14 United Airlines

15 Sarah Fortt, Deputy General Counsel and Corporate

16 Secretary, Ford Motor Company

17 Ola Peter Krohn Gjessing, Lead Investment Stewardship

18 Manager, Norges Bank Investment Management

19 Keir Gumbs, Principal and Chief Legal Officer, Edward

20 Jones

21 Drew Hambly, Investment Director, Stewardship,

22 California Public Employees' Retirement System

23 Ani Huang, President and CEO, Center on Executive

24 Compensation

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1 APPEARANCES (Cont.):

2

3 Panelists (Cont.)

4 Blair Jones, Managing Director, Semler Brossy

5 Michael Lennartz, Executive Vice President, Total

6 Rewards, Mastercard

7 Zachary Levine, Vice President, Corporate Secretary and

8 Bank Counsel, Metropolitan Commercial Bank

9 David Lynn, Partner, Goodwin Procter

10 Michael McCauley, Senior Officer, Investment Programs

11 and Governance, State Board of Administration of Florida

12 Bob McCormick, Executive Director, Council of

13 Institutional Investors

14 Ronald O. Mueller, Partner, Gibson Dunn

15 Brandon Rees, Deputy Director, Corporations and Capital

16 Markets, American Federation of Labor and Congress of

17 Industrial Organizations

18 John Roe, Head of Investment Stewardship in the

19 Americas, BlackRock

20 Roland Schustereder, Global Head of Total Rewards,

21 ExxonMobil

22 Marc Trevino, Partner, Sullivan & Cromwell

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

2 DEPUTY DIRECTOR GOMEZ: Thank you. Well,
3 it's my distinct pleasure to welcome you all here. It
4 is so nice to see so many people here in person. I
5 was wondering what the audience would look like, and
6 then we started getting RSVPs, and we had to go and
7 find some additional chairs in the building to be able
8 to fit everyone. So I appreciate you all coming. We
9 are also webcasting this on the web.

10 My name is Sebastian Gomez. I'm the acting
11 Deputy Director over Legal and Regulatory policy in
12 the Division of Corporation Finance. And I'm so
13 excited about today's roundtable.

14 A few logistics. I'm going to welcome the
15 Chairman to provide some remarks, followed by
16 Commissioner Peirce and Commissioner Uyeda.
17 Commissioner Crenshaw, unfortunately, was not able to
18 join us today. She would like to be here -- and
19 instead, she will be providing remarks that will be
20 published on the SEC website. Since we have a lot to
21 cover, I am not going to spend more time here, and I'm
22 going to just turn the podium over to Chairman Atkins.
23 Chairman.

24 CHAIRMAN ATKINS: Uh-huh. Make it official.
25 Super. Well, thank you, Sebastian. And it's great

1 to see everybody here, and hopefully you made it
2 through the line okay upstairs in the lobby. But it's
3 a pleasure to see so many familiar faces as well who
4 are here.

5 So, I welcome all of you who are attending
6 here in person, obviously, and watching and listening
7 to today's roundtable on executive compensation. I
8 thank the very distinguished group of panelists who
9 are assembled here today for volunteering their time
10 to contribute your thoughts on this important topic.

11 So, as one of the enumerated disclosure
12 items in Schedule A to the Securities Act of 1933, the
13 requirement to provide executive compensation
14 information is as old as the federal securities laws
15 themselves.

16 Over the past 90 years, the Commission has
17 adopted numerous rules requiring more and more
18 information about executive compensation. Some of
19 these rules have come about from congressional
20 mandates, while others have not. So, actually, I've
21 been at the SEC in one role or another for a couple of
22 these changes, including the 1992 rulemaking initiated
23 by Chairman Richard Breeden that created the summary
24 compensation table, and then after that, when I came
25 back as a Commissioner, the 2006 rulemaking that

1 introduced compensation discussion and analysis and
2 added other compensation tables.

3 So, today, one might describe the
4 Commission's current disclosure requirements as a
5 Frankenstein patchwork of rules.

6 The volume and complexity of these rules may
7 be just as scary to a loss firm associate -- I was one
8 of those once upon a time -- performing a form check
9 of a proxy statement, as the monster was to Dr.
10 Frankenstein himself when the monster opened his eyes.

11 So the Commission amended Item 402 of
12 Regulation S-K in 1992 to state specifically that, and
13 I quote, "This Item 402 requires clear, concise, and
14 understandable disclosure of compensation," unquote.
15 So one could say that this well-intentioned three
16 decade old statement has perhaps become a little bit
17 facetious with the passage of time, in light of the
18 lengthy narrative disclosure and the numerous tables
19 and charts that appear in today's proxy statements.

20 Our rules must be grounded in achieving the
21 Commission's three-part mission, and that is investor
22 protection; fair, orderly, and efficient markets; and
23 capital formation.

24 These rules should be cost effective for
25 companies to comply with, and provide material

1 information to investors in plain English. Most
2 importantly, the information required to be disclosed
3 should be material to the company and understandable
4 to the Supreme Court's objective, reasonable investor.

5 The outcome of our rules is not effective when
6 companies require highly specialized lawyers and
7 compensation consultants to prepare a disclosure that
8 the reasonable investor struggles to understand.

9 Today's roundtable is one of the first steps
10 in considering whether the current executive
11 compensation disclosure requirements achieve these
12 objectives, and if not, how the rules should be
13 amended.

14 In connection with this process, I
15 previously asked the Commission staff to consider
16 several questions in this area for the public to
17 provide their views on those questions.

18 So thank you to those who have already
19 submitted comment letters. For others who intend to
20 submit a letter, please do so as soon as possible over
21 the next several weeks, to provide the staff time to
22 consider and incorporate your views into any potential
23 rulemaking proposal that will come along.

24 Thank you to the staff of the Division of
25 Corporation Finance, the Office of Support Operations,

1 the Office of Information Technology, and the Office
2 of Public Affairs for organizing this roundtable. I
3 very much look forward to your discussion this
4 afternoon. Unfortunately, I won't be able to stay
5 here the whole time, but I'm sure I will listen to it
6 here over the next few days. So, thank you very much,
7 and good luck, and I look forward to the outcome.
8 Thank you.

9 (Applause.)

10 COMMISSIONER PEIRCE: Good afternoon, and
11 thank you all for being here. Thank you, Chairman
12 Atkins, for convening today's roundtable, and I
13 appreciate those of you who are moderating and serving
14 as panelists today to discuss this important topic.

15 On a recent trip to Alaska, one of the most
16 striking sites for me was the beautiful mountainsides
17 of trees that were lining the water. And I quickly
18 stowed my binoculars in favor of looking at that whole
19 scene, which was really quite magnificent.

20 Absent a distinguishing feature, maybe a
21 special kind of tree, or an intriguing root system, a
22 bald eagle perched in the branches, or a bear lurking
23 in the shadows of a tree, the grandeur of the forest
24 is really lost when you look at the individual trees.
25 Trying not to lose sight of the forest for the trees

1 in beautiful Alaska brings me back, of course, to
2 executive compensation disclosure and the ugly reality
3 of what it is.

4 Over the years, executive compensation
5 disclosure has become increasingly unwieldy and
6 expensive, and decreasingly useful. The SEC's rules
7 focus excessively on random trees rather than giving a
8 realistic view of the forest. They direct readers'
9 attention to a set of executive compensation items
10 that largely entertain the onlooker rather than
11 educate the investor. Preparing lengthy and complex
12 disclosures eats up lots of resources, management time
13 and attention, attorneys and accountants, billable
14 hours, and even trees as the pages of disclosure pile
15 up. And they distort corporate decision making.

16 Done right, disclosure rules are one form of
17 investor protection. Material information provided to
18 prospective investors arms them with a rational basis
19 to evaluate a company and its resources, and its
20 securities in the words of Alan Levenson.

21 My primary question for today's panels is
22 whether our current disclosure rules on executive
23 compensation accomplish that goal.

24 Some executive compensation rules seem more
25 responsive to the general public's curiosity than a

1 genuine investor need for material information.
2 Painstakingly calculated tallies of perks like rides
3 on the corporate jet, housing allowances for overseas
4 assignments or car services, give us a little window
5 into executives' lives, but do little to fill out an
6 investor's picture of what the company actually is.

7 Lately our rulemakings have taken a "more is
8 better" approach to executive compensation disclosure.

9 These tack-on rules to the growing alphabet of Item
10 402 of Reg S-K -- we're almost all the way through the
11 alphabet -- do not provide new information. Instead,
12 these rules repackage and represent data that
13 investors mostly already have, or they add details
14 that are immaterial.

15 Do investors even look at this new
16 information? And, if they do, are we confident that
17 it gives them a rational basis to evaluate a
18 security's price? Consider, for example, pay ratio
19 disclosure and pay versus performance disclosure. In
20 his statement of dissent on the pay ratio rule, then
21 Commissioner Dan Gallagher noted that it could have
22 been, quote, "marginally less useless if it were
23 limited to U.S. full-time employees." While not
24 quite a ringing endorsement of the rule or any of its
25 possible permutations, his comment highlights that,

1 even with respect to a rule that's mandated by
2 Congress, as this rule was, the Commission retained
3 some latitude to implement it in the best way
4 possible.

5 More recently, pursuant to another Dodd-
6 Frank mandate, the Commission adopted the Pay Versus
7 Performance rule. The overarching feedback I hear on
8 that rule is that it's a regulatory tax on public
9 companies without a corresponding benefit for
10 investors. Management and the high-priced consultants
11 and lawyers they hire spend hours preparing the
12 various narratives -- and this is no offense to
13 anyone in the room -- spend a lot of time preparing
14 those various narratives, tables, and graphs that
15 produce nothing but yawns of disinterest for
16 investors.

17 More concerning than the direct cost of
18 producing executive compensation disclosures, however,
19 are the costs that arise from the distortion of
20 corporate behavior in response to disclosure mandates.

21 Perhaps a company opts for a compensation scheme that
22 is less effective at aligning incentives because of
23 the way such a scheme will be reflected under SEC
24 disclosure rules, and that may not exactly -- or
25 actually represent economic reality. Or perhaps a

1 company opts not to provide security for its
2 executives because it appears in a laundry list of
3 examples of perks in a 2006 Commission release that
4 declines to even define what a perk is.

5 Now may be time for the Commission to return
6 to a more nuanced approach to personal security
7 disclosure that considers the context in which those
8 measures are provided. Some companies even have gone
9 so far as to eliminate perks altogether, while
10 offsetting such cost-saving measures with increases to
11 base salaries.

12 Executive compensation disclosure, along
13 with other disclosures, should reflect, rather than
14 direct, corporate actions. The age-old philosophical
15 question is whether a falling tree makes a sound in
16 the forest when there's nobody around to hear it. The
17 more relevant and less philosophical question for
18 today's discussion is, if the disclosures we're
19 mandating do not provide investors a rational basis to
20 assess a company, why mandate them at all?

21 I look forward to hearing from today's
22 panelists and moderators about how we can improve our
23 executive compensation disclosure mandates. Thank
24 you.

25 (Applause.)

1 COMMISSIONER UYEDA: Well, good afternoon,
2 everyone. Great to see everyone here in person at the
3 Commission. So I also want to give my thanks to
4 Chairman Atkins for convening today's roundtable. And
5 I look forward to engaging in a dialogue with
6 panelists and commenters on whether the executive
7 compensation disclosure framework can be improved.
8 Already, the Commission has received a number of
9 comment letters on executive compensation, which is
10 posted to our website, and which I found helpful in
11 preparing for today's roundtable.

12 Now, at the outset, the Commission has no
13 statutory authority to set or limit compensation paid
14 at public companies, whether with respect to
15 executives, workers, or contractors. SEC executive
16 compensation disclosures should not drive compensation
17 decisions or seek to influence compensation practices.

18 Moreover, it is inappropriate to use SEC
19 regulations with the intent of addressing desired
20 political or social outcomes with respect to income
21 and wealth inequality in the United States. To the
22 contrary, executive compensation disclosure should
23 provide information material to an informed investment
24 or voting decision.

25 Attempts to control executive pay through

1 indirect means have often proven clumsy, and result in
2 the exact opposite effect. In the 1990s, Congress
3 passed tax legislation to make it less favorable to
4 provide chief executive officer salaries in excess of
5 \$1 million. Rather than limit CEO pay, the
6 legislation significantly accelerated equity based
7 forms of executive compensation.

8 In 2006, our then Chairman, Chris Cox,
9 described this effort, which backfired, as, with
10 complete hindsight, quote, "We can now all agree that
11 this purpose was not achieved. Indeed, this tax law
12 change deserves pride of place in the museum of
13 unintended consequences," unquote.

14 Other executive compensation disclosures
15 appear to have dubious purposes. The CEO pay ratio is
16 one such example. There appears to be little nexus to
17 investor protection concerns. Instead, aspects of the
18 CEO pay ratio rule and the underlying Dodd-Frank
19 statutory provision seem to have a name and shame
20 motivation. The Commission's rulebook should not
21 serve to further political agendas.

22 In addition to distracting from the
23 Commission's primary mission of providing material
24 information with respect to executive compensation,
25 this rule also increases regulatory compliance costs

1 without providing any corresponding investor benefits.

2 We've received many recent comment letters
3 on executive compensation that are critical of the CEO
4 pay ratio disclosure. One letter noted that, quote,
5 "CEO pay ratio does not provide an accurate comparison
6 of pay equity within organizations, as various
7 industries have different workforce and compensation
8 structures, which prohibit meaningful evaluation,"
9 unquote. Another recent letter stated that the CEO
10 pay ratio, quote, "does not appear to have played a
11 material role in compensation committee discussions,
12 investor decision making, or the rapid rate of
13 increase in executive pay relative to that of the
14 wider workforce," unquote. Disclosures that are both
15 costly and complex to produce while not material to
16 investment or voting decisions are at odds with any
17 form of good regulatory disclosure.

18 Regarding the adoption of clawback rules,
19 the scope and impacts of the rule may have increased
20 uncertainty. Specifically, market participants
21 indicated that there is a lack of clarity as to what
22 types of accounting errors need to be analyzed, and
23 when boxes need to be checked. Further, third party
24 analysis indicates that few companies have analyzed
25 the underlying accounting errors potentially requiring

1 a clawback. As such, the benefit of this framework
2 appears minimal. Now, perhaps these issues could have
3 been avoided, had the Commission -- if not for its
4 haste -- had not decided to rush in 2022 to adopt a
5 proposal from 2015 left over from the Obama
6 administration, without first perhaps updating its
7 economic analysis. And, second, maybe we should have
8 engaged with stakeholders as to how best to implement
9 that rule.

10 Similarly, the recent pay versus performance
11 rule adoption relied on stale economic information.
12 We relied on data that went back as far as 25 years
13 prior to the date of the reopening of the comment
14 period. And moreover -- perhaps companies will be
15 relieved to hear this -- but we relied on paperwork
16 reduction estimates that were 16 years old. So we
17 assumed that your legal costs were only \$400 per hour.

18 Now, I've been told that that's a blended rate.

19 Since 2006, the Commission has added
20 numerous requirements to the executive compensation
21 disclosure on a piecemeal basis without undertaking a
22 review of the overall reporting environment. The
23 Commission is long overdue for a review of both the
24 executive compensation disclosure rules from the
25 perspective of what information gets reported, as well

1 as from the lens of whether scaled disclosure is
2 appropriate, depending on the size of the reporting
3 company. Any rules should promote transparency into
4 compensation frameworks and structure, rather than
5 function as a tool to dictate compensation decisions.

6 In 1992, then Commissioner Richard Roberts
7 addressed these concerns when he stated, quote, "The
8 Commission is not interested in dictating the level of
9 pay for corporate executive officers. That is the job
10 of the board of directors as elected by the
11 shareholders. The Commission's interest and
12 jurisdiction in this area is limited to full and fair
13 disclosure." Unquote. Those words still ring true
14 today. The Commission should refrain from expanding
15 its rule book simply because some may think that
16 executive compensation is too high.

17 So, I thank everyone on our staff for their
18 efforts in organizing today's roundtable. I thank all
19 of you for coming out and attending in person and for
20 all of your future -- if you haven't made a submission
21 already, the future submissions -- as we think about
22 this very important and timely topic. Thank you.

23 (Applause.)

24 DEPUTY DIRECTOR GOMEZ: Thank you, Chairman
25 and Commissioners, for those remarks. We are not

1 going to waste any time, and I'm going to ask our
2 first panel to go to the table. As you can imagine,
3 we have a lot to cover today. So I've asked the
4 moderator and each of the panelists to jump directly
5 into the substance. We are not going to go through
6 bios, but their bios are on the website. So if you
7 are interested in that, please -- encourage you to
8 take a look at that. And, with that, Keir, I am going
9 to turn it over to you. Thank you so much.

10 PANEL ONE: EXECUTIVE COMPENSATION DECISIONS: SETTING
11 COMPENSATION AND INFORMING INVESTMENT AND VOTING
12 DECISIONS

13 MR. GUMBS: Great. Thank you very much,
14 Sebastian. And again, thanks to all of you for
15 joining us this afternoon. We're going to have a
16 great discussion this morning. We're going to focus
17 really on three questions. We're going to try to
18 answer three questions at least. The first, in the
19 context of executive compensation, who sets executive
20 compensation? What are the factors that influence the
21 compensation decision making, and the process by which
22 compensation decisions are made generally,
23 incorporating the views of institutional investors and
24 other parties.

25 I'm joined by a fantastic panel representing

1 public company directors, executive compensation
2 practitioners, executive compensation advisors, and of
3 course institutional investors. I'm thrilled and
4 excited. We have an hour and a half. We can spend
5 three hours on this. So we'll do our best to kind of
6 compress all of the rich discussion that we had in
7 preparing for this discussion today. So, Debra, if
8 you don't mind, I may actually start with you. Who
9 generally is involved in the process of setting
10 executive compensation at a firm?

11 MS. CAFARO: Thank you, Keir. Good
12 afternoon, everyone. It's an honor to be here -- I'm
13 sure for all of our panelists. So, do you want to
14 just repeat the question, and I'll --

15 MR. GUMBS: Yes. So, who is involved in the
16 process of setting executive compensation at a
17 company?

18 MS. CAFARO: Well, the -- I'm the Chair of
19 the HR committee at PNC. And compensation is a really
20 year-long continuous process, and there are many
21 parties involved. At PNC, the board has delegated the
22 leadership for executive compensation to the HR
23 Committee, or -- we'll call it the HR Committee, or
24 the Comp Committee -- and we meet many times per year.
25 We are supported by the management team within the

1 company, as well as independent consultants.
2 Everybody on the Compensation Committee, of course, is
3 an independent director. We engage multiple times
4 throughout the year with people in the Risk
5 Department, the Chief Human Resources Officer -- we
6 also engage regularly with other board members. We
7 report to them. We review market data, of course, and
8 we're informed by feedback that we get on compensation
9 trends. We're, of course, informed also by investor
10 feedback that we receive on a regular basis. And --
11 those are some of the key participants.

12 We also consider, over the course of the
13 year, management's recommendation about the
14 performance of certain NEOs, we get performance
15 updates as well from the NEOs, and performance
16 evaluations about them.

17 MR. GUMBS: Very helpful. So, a year-long
18 process. Management is involved. The board is
19 involved. I'm going to come back to that. We talked
20 about advisors being involved in the process, and
21 we've got some great advisors up here, so I'm going to
22 ask some of you to weigh in on that. There are
23 investor perspectives, and other members of
24 management. So, Mike, maybe I'll turn to you next.
25 Does that align with your experience in terms of who's

1 involved in the process?

2 MR. LENNARTZ: Yes, completely. I would say
3 that the answer to that question remains static over
4 time, at least in the 30 years that I've been doing
5 this work. It starts with the board and its
6 compensation subcommittee. To Debra's point, the
7 compensation subcommittee has taken on a broader remit
8 in recent years to focus on broader HR issues, but it
9 still does the core compensation approvals. It's the
10 independent consultant to that committee, and it's the
11 management team. And when I think about the work that
12 gets focused on, and the committee's remit with
13 respect to compensation items, I think about it really
14 in three buckets. It's sort of very high level
15 principles around compensation philosophy. It's how
16 do you define the labor market as approximated by a
17 peer group. It's what is your desired position in
18 terms of how you want to pay relative to that peer
19 group. It's the mix of pay elements. It's a broader
20 pay for performance relationship that we're trying to
21 affect.

22 And then, there's another category that's
23 sort of substantive, programmatic things. It's the
24 design of annual and long-term incentive plans. It's
25 important policies around stock ownership

1 requirements, change of control and severance, that
2 type of thing. And then there are a lot of items that
3 the committee approves, again, with the assistance of
4 the consultant and the management team, that relate to
5 the normal cadence of setting performance goals on the
6 front end, evaluating performance against those goals
7 on the back end, and figuring out what the
8 compensation consequences of that result are. And
9 then there's a lot of work that goes around setting
10 compensation prospectively as well.

11 So that's my experience on the management
12 side. It's always the CHRO. It's the head of reward.
13 Sometimes the head of executive compensation. And
14 then depending on the topic at hand, could be the CFO,
15 it could be the legal team, including the corporate
16 secretary -- it could be all of those people. The CEO
17 is involved, obviously, except with respect to the
18 determination of his or her own performance and
19 compensation.

20 MR. GUMBS: So, we've heard a couple
21 references on this panel to advisors. And we have the
22 good fortune of having two advisors who are part of
23 this process -- part of this discussion that we're
24 having today. I wonder, Ani or Blair, if there
25 anything you might add to that perspective that's been

1 shared so far?

2 MS. JONES: I can start. So, the reference
3 to the independent consultant, that's the role that we
4 play. So, during the year-long process that Debra was
5 referring to, we are the independent partners to the
6 committee, making sure that the right conversations
7 take place at the right times, with the right people
8 in the room in the right ways. So if you think
9 through the different discussions that Michael was
10 talking about, we make sure that the principles are
11 there and they've been revisited each year, because
12 they do change as your strategy changes. They change
13 if you have new leadership. They change if you have a
14 transaction and you're a different kind of company.
15 So we're making sure that that conversation takes
16 place.

17 We're working with the chair to make sure
18 that the peer group is up to date, that it makes sense
19 to the external world as the investors are looking at
20 it, and it makes sense to the company internally in
21 terms of who they're hiring from, and losing people
22 too. We're helping with the how -- the design part
23 that Michael talked about, showing what other
24 companies are doing, thinking about what the strategy
25 suggests. So, if you've got a growth strategy, you

1 might have a different set of measures and a different
2 mix of pay than if you're a mature company trying to
3 optimize your operations and be highly productive.
4 And all of that suggests different outcomes that it's
5 valuable for the Committee to discuss and revisit over
6 the course of time.

7 Goal setting needs tires kicked. So we
8 usually work with management, the finance team, and
9 the total rewards head, to help make sure that the
10 goals are rigorous, and that they reflect the plan and
11 the expectation of the investors. We help test the
12 pay and performance relationship that Michael was
13 talking about. So, are we getting the right pay
14 outcomes for the performance that's being delivered?
15 And then, finally, are we working with legal and
16 outside legal advisors in the right way to make sure
17 that we're complying and disclosing things in the
18 right way? So, we're a partner throughout that
19 process independently for the committee, and working
20 with management to make sure that their strategy, and
21 also their cultural priorities and talent priorities
22 are reflected.

23 MR. GUMBS: Ani, what would you add to that?

24 MS. HUANG: So, I would just add that,
25 you've heard everybody talk about eleventy (sic)

1 billion people that are engaged in determining CEO
2 pay, and figuring out how best to design it. The
3 person who is the least involved is the CEO. I mean,
4 I think we just -- I just want to really make that
5 clear that sometimes there might be this feeling that
6 it's management and the CEO who's driving CEO pay, but
7 I think that the panelists have made that really clear
8 that, in fact, that's not the case. I would also
9 say -- so we're the Center on Executive Compensation,
10 we're part of HR Policy Association, which is the
11 community for Chief HR officers of large companies.
12 And this is the one area within their remit that they
13 are so really focused on getting right, and having be
14 so rigorous and independent, that we had to create an
15 entire Center on Executive Compensation just for them,
16 just for this topic. So I think that really speaks to
17 the focus on it.

18 We often say at the Center, executive
19 compensation is unique because it is a powerful form
20 of communication to a variety of stakeholders. And
21 that's never been truer than now, when we have these
22 extensive disclosures that sometimes communicate
23 things we don't want to communicate. So I think
24 that's partially why there's so many resources devoted
25 to this topic.

1 MR. GUMBS: All right, Ani. Ola Peter, I'm
2 going to come to you in a moment, but I want to
3 challenge something you said, if that's okay.

4 MS. HUANG: Of course.

5 MR. GUMBS: So, you said the CEO is the
6 least involved in this process. Now, what I heard
7 Michael say was, the CEO is not involved in setting
8 his or her own compensation. So can you reconcile
9 those two statements?

10 MS. HUANG: Yes. So, I should have said,
11 "in his or her own compensation."

12 MR. GUMBS: Got it.

13 MS. HUANG: For sure.

14 MR. GUMBS: Okay.

15 MS. HUANG: Yeah.

16 MR. GUMBS: Okay.

17 MS. HUANG: CEO is definitely involved in
18 the compensation of his or her direct reports, as you
19 would expect, but not in his or her own pay.

20 MR. GUMBS: Got it. Perfect. Thank you.
21 Okay, Ola Peter, you might have a view as an investor.

22 MR. GJESSING: Thank you, yeah. We get
23 involved increasingly so, I would say, not only just
24 before the shareholder meeting, but throughout the
25 year. But before I go into that, a big thanks to the

1 SEC for setting up this roundtable. And thanks to
2 everyone participating here and on the stream. Thanks
3 for inviting me and my institution, the Norwegian
4 Fund, which reaps the benefits of investing in the
5 United States. The majority of our global equity
6 portfolio is invested here in America. And one of the
7 things we love -- if you can say that -- I like in the
8 US is how companies emphasize equity-based pay, and
9 how CEOs own stock in the company.

10 We like it in particular when that stock
11 commitment is long-term and irrevocable. However, it
12 has become slightly more complex for companies over
13 the last, say, 20 years. You could say the freedom
14 for companies to pay in such simple stock structures
15 has become curtailed. And it's almost become a market
16 norm that equity-based pay, or the majority of it,
17 should be paid in much more complex performance share
18 units.

19 Another concern that we can come back to and
20 discuss is that the companies that lock in those
21 shares for longer than the usual three years don't get
22 the credit they deserve for that. And that's a little
23 bit strange, because that's one thing many investors
24 would like to see, a long-term lock-in of equity-based
25 pay. So you could say executive compensation has

1 gotten more complex, more intricate, and maybe even to
2 the point where you could discuss how well say on pay
3 works today.

4 So, this is a question we will, I guess,
5 come back to and discuss through this panel, whether
6 any update to the disclosure rules, which is maybe
7 part of the issue here, can help us out of this
8 suboptimal situation. So we can come back to all
9 that. I just wanted to provide you with a little bit
10 of a flavor on why we get involved in discussing pay
11 with individual companies we own, as well as in the
12 broader discussion on market practices here in the US.

13 So thank you.

14 MR. GUMBS: I want to throw down a pin for a
15 couple things that you said that I want to make sure
16 we come back to. One of the things that you mentioned
17 was that it's harder to use simple stock structures,
18 and you refer to PSU specifically. And so I'd like to
19 come back to that, whether the disclosure rules are
20 influencing that difficulty, or whether it's investor
21 behavior, or something else. So that's one thing.
22 You also mentioned the role that the disclosures play
23 in your investing decisions and proxy decisions,
24 which -- certainly a topic will come back to. One of
25 the phrases that one of the Commissioners mentioned

1 earlier was this idea of a tree falling in the woods.

2 If a tree falls in the woods. So if disclosure
3 disappeared -- that's the tree falling in the woods --
4 would that make a difference for your investment and
5 voting decisions? And I'd love to come back to that
6 later if we could.

7 Before we do that though, Debra, I want to
8 come back to you. In your remarks, you mentioned --
9 and I'm asking you this in your role as Chair for the
10 Human Resources Committee at PNC -- from that vantage
11 point, you mentioned earlier the role of the
12 compensation committee versus the rest of the board.
13 And I wonder if -- for the audience, if you could
14 unpack that a little bit more. What's that
15 relationship like?

16 MS. CAFARO: Yes. So, the relationship is
17 very similar to the other major committees that
18 investors would be familiar with, which is, the board
19 is really delegating to a skilled sort of experience
20 subset of directors. The oversight and management of
21 executive compensation, and certainly under our
22 charter, which is very clear about our scope of
23 responsibilities, other parts of compensation within
24 the firm. And I would just describe it as, we are
25 doing the heavy lifting on behalf of the board,

1 ultimately on behalf of the shareholders, to recruit,
2 retain, and motivate the key employees of the
3 organization. And we then do the heavy lifting, we --
4 it's a very rigorous process. We spend a lot of
5 time -- like most of the other committees, the chair
6 would pre-meet to understand the agenda, the content,
7 the materials, the analysis that would be presented to
8 the committee.

9 Then the committee would meet and talk about
10 whatever the content of that particular agenda item
11 is. And that happens maybe six to eight times a year.

12 And then, at every board meeting, we present a
13 chair's report to the full board that explains what
14 happened in the meetings. Give the board -- the other
15 board members a chance to ask questions. I try to
16 make sure we educate the board members who may be
17 experts in technology, but not in executive comp, what
18 these decisions mean for the corporation, for the
19 NEOs. And then the directors who aren't on the comp
20 committee have a chance to engage and ask questions.
21 And when we would talk about the CEO comp, we often do
22 that outside the presence of the CEO.

23 And so that's how it works, just like you
24 would expect with audit, or a technology committee, or
25 governance committee, we're doing the detailed, deep

1 work that we can then do on behalf of the board, on
2 behalf of the shareholders.

3 MR. GUMBS: That's very helpful. I
4 wonder -- I want to emphasize a couple of things you
5 said there. You mentioned six to eight meetings in
6 addition to the regularly scheduled meetings. Is that
7 right?

8 MS. CAFARO: Well, six to eight HR Committee
9 meetings --

10 MR. GUMBS: Yeah.

11 MS. CAFARO: But then, as chair, there's
12 always a pre-meeting.

13 MR. GUMBS: Right, right.

14 MS. CAFARO: So you can multiply it by two.

15 MR. GUMBS: So that's 12, yeah.

16 MS. CAFARO: Yeah.

17 (Laughs.)

18 MR. GUMBS: So 12 to 16 meetings. And the
19 reason I wanted to emphasize that is just that you
20 mentioned -- you used the word "heavy". It's a lot of
21 work.

22 MS. CAFARO: It is.

23 MR. GUMBS: -- if you're a member of a
24 compensation committee. I think often there's an
25 assumption, audit committee has the heaviest

1 lifting -- and that may be true. A ton of work, it
2 sounds like, for a compensation committee. So I
3 just -- thank you for sharing that. Very helpful.
4 So, I'm curious -- Ani, I'm looking at you as I say
5 this. What are you seeing? Is that consistent with
6 the industry?

7 MS. HUANG: Yes. And not only -- my voice
8 is so loud, you can probably hear me anyway, but I'll
9 turn the mic on. Not only is it consistent, I would
10 say that the Comp Committee chair -- well, personally
11 I think they have the heaviest lift, but I think that
12 what we find among our members is that there's then
13 all of these meetings that are occurring to prepare
14 for the prep meeting with the Comp Committee chair.
15 So you can actually now add another at least dozen
16 meetings onto that, because everybody's having a prep
17 call for that. One of the things I just -- I think
18 it's clear from what Debra said, is that, although
19 management may be very engaged in the process, in
20 bringing to bear all kinds of data, and talking about
21 the company culture and the philosophy, among our
22 members, there is a very deep and strong understanding
23 that the Comp Committee is the one making the
24 decision, and that the comp consultant is employed
25 directly by the Comp Committee. So I just also wanted

1 to mention that. There's a, I think, among our
2 members, certainly a very, very strong understanding
3 of that. And that's why they want to make sure they
4 have every single bit of information that either the
5 comp consultant or the Comp Committee chair would
6 need.

7 MR. GUMBS: So we've mentioned a couple of
8 outside helpers, help mates, so to speak, for the
9 executive compensation practice. You mentioned -- we
10 talked about advisors, so that's one. I heard law
11 firm for another one. What about some of the
12 calculations? So when you think about the pay ratio
13 table, or the pay versus performance, are there other
14 players that are part of that process? And that's
15 really maybe a question for the group.

16 MR. LENNARTZ: Yeah, I'll take a first pass
17 at it. I think most of the calculations are done
18 internally by the management team. It requires a
19 Herculean effort to produce all of the numbers that go
20 into the tables. There are certain tables that
21 generally require outside assistance when I think
22 about the pay versus performance table. That requires
23 the revaluation of all outstanding equity awards, and
24 equity awards can be quite complicated. So you're not
25 just valuing the award when it's granted, and as it

1 appears in the grants of plan-based awards table, and
2 the summary comp table, it's being revalued every
3 single year to reflect the experience that has
4 happened since the grant date. That's got to be done
5 for every single award, every stock option, every PSU
6 that's got a market condition that's share price
7 based, relative TSR, et cetera. That is expensive,
8 and it requires a lot of outside assistance.

9 MR. GUMBS: And I'm curious, who is
10 providing that assistance? Obviously we know, Blair,
11 that your firm, among other firms, provides that kind
12 of work, but are there other, whether it be actuaries,
13 account CPAs -- like, who is that constellation of
14 service providers that executive compensation experts
15 like you rely on in doing the calculations or other
16 disclosure preparation?

17 MS. JONES: So, we actually don't do the
18 valuation work. There are outside firms that do that
19 work, that are not the standard independent
20 compensation consulting firms. And then the other
21 people who come in are accounting experts and tax
22 experts, as you're trying to structure different
23 compensation arrangements, and they have different
24 implications, then those people have to be brought in
25 as well, and that often creates extra meetings, at

1 least for the chair, but often for the committee as
2 well.

3 MR. GUMBS: That's very helpful. And I'm
4 going to go back to a theme for this panel, going off
5 script a little bit. How much of this is driven by
6 the rules, and how much of it is driven by practice?
7 Just what we've talked about so far.

8 MS. HUANG: Well, I think I'm comfortable in
9 saying that 100 percent of the work on the pay versus
10 performance table is driven by the rules. So I think
11 that there's almost no company that I know of that
12 would be doing those calculations in that way if it
13 wasn't for that rule. I would say something similar
14 for the tables that follow the summary compensation
15 table. It's not that nobody is using them now, but
16 the question you asked was, why are we doing these
17 calculations. It's because the rule is requiring it.
18 The third one, I would say, is even -- with the Dodd-
19 Frank pay ratio -- so when that came up, there was a
20 question of -- I think some policy makers said, well,
21 what do you mean you don't know what the median
22 employee globally makes? And the reason we didn't
23 know that is because there was no business reason to
24 calculate pay the way they were defining it, and then
25 figure out who that median employee was globally, so

1 no company was doing that. So then again, that's a
2 calculation we had to pay for that was solely because
3 of the SEC rule.

4 MR. GUMBS: Very helpful. Okay. There is
5 one more set of stakeholders we haven't mentioned in
6 this conversation, which are the proxy advisory firms.
7 And so I'd love -- Michael, maybe I'll start with you
8 on this one. What role do the proxy advisory firms
9 play in this overall process of setting executive
10 compensation?

11 MR. LENNARTZ: I would say that it's a
12 tangential role. Most companies, in my experience, do
13 certainly consider the policy guidelines that the
14 proxy advisors publish. If you don't sort of do it at
15 your own peril, I don't think it dictates what
16 companies do, but it's certainly a consideration. In
17 my experience, a lot of companies, including companies
18 that I've worked for, do avail themselves of the
19 consulting services that they offer. And there are
20 software tools, including pay for performance
21 modelers, that essentially replicate the policy
22 guidelines for some of the diagnostic tests, that you
23 can pay to use.

24 So it would be -- it's imprudent to ignore
25 that. I don't think that -- like I said, I don't

1 think it dictates what companies do, but it's a
2 consideration, just like peer practices are a
3 consideration. We try to triangulate answers based on
4 all of the available information. And then we make it
5 bespoke for the company's specific objectives.

6 MR. GUMBS: Okay. I'm going to challenge
7 that, if that's okay. So, it's been my experience --
8 not completely challenge, by the way -- but it's been
9 my experience that, when you're designing your program
10 overall, you're thinking about the elements of
11 compensation, the design of your plans, for example,
12 that the proxy advisor guidelines could actually play
13 a pretty significant role in the things that you're
14 deciding to establish, just from a framework
15 perspective, even if the individual decisions
16 themselves may be more bespoke. What do you think
17 about that -- or if others have a perspective on that,
18 I'd welcome them as well.

19 MR. LENNARTZ: Yeah, I mean, I agree with
20 you. And that's kind of why I was saying that I think
21 it's a consideration. So when you think about the
22 strong preference for what's deemed performance-based
23 compensation, I think that that probably does affect
24 the way in which companies structure long term
25 incentives. In general -- and I'm not going to call

1 out any specific proxy advisor -- but, in general,
2 stock options are not considered performance-based.
3 Restricted stock units are not considered performance-
4 based. And if there's a preference to have at least
5 half of the long-term incentive portfolio being
6 performance-based, you know that you can't have more
7 than 50 percent in RSUs and stock options, or you risk
8 problems in terms of say on pay vote recommendations.

9 MR. GUMBS: Ola Peter?

10 MR. GJESSING: Yeah, I'm happy to provide a
11 perspective on that. From our perspective as a
12 diversified investor, we're holding 1,800 U.S.
13 companies in our portfolio. Almost 9,000 companies
14 globally. Clearly, the proxy advisors are necessary
15 and useful for us in gathering information, presenting
16 it to us in a readable quasi-standardized format. And
17 also -- which is not the topic today, but also quite
18 important -- in helping us execute our vote
19 intentions across the globe. So they are a super
20 important, very helpful service. But on this item, I
21 must say, we strongly disagree with their policy that
22 you just spoke about, Michael, which I touched on in
23 my first remarks -- where they have quite a strong
24 preference for the majority of an equity-based pay to
25 be provided in the form of rather complex, at least

1 more complex than the alternative, performance share
2 units.

3 And I think you're right, Keir, that this
4 has an influence on which elements are chosen,
5 which -- by companies, and how they're emphasized.
6 And that is a peculiar thing, because, from our
7 knowledge -- to our knowledge, there is no evidence
8 that PSUs work better in driving performance than
9 simpler stock grants. The little data that's out
10 there, on the contrary, shows the opposite. But I
11 would emphasize, there is little data out there. But
12 when we run our data across 1,800 U.S. companies, we
13 do make the same -- make the same finding, that there
14 is no basis for the intuition that I agree many people
15 have, that multi-year performance conditions drive
16 performance.

17 So I think this is one of the reasons why
18 pay has become more complex than, in our view, it need
19 to be. And it causes some distractions, sometimes
20 some problems. I was eager to hear what you were
21 saying about that, Debra and Michael, from the
22 corporate perspective, when things turns out different
23 than you had expected. Thank you.

24 MS. HUANG: Keir, can I just add two other
25 examples?

1 MR. GUMBS: Or three.

2 MS. HUANG: Or three.

3 MR. GUMBS: Go. Yes.

4 MS. HUANG: Of how proxy advisors might
5 specifically influence the board and management in pay
6 design. I think really what's influencing is maybe
7 not so much the policy itself, but the recommendation
8 that the proxy advisor is making on the say on pay
9 vote specifically. So the policy leads to the
10 recommendation on the say on pay vote. The
11 recommendation on the say on pay vote is correlated to
12 about a 25 to 30 percent swing in say on pay. This is
13 a significant swing for boards and for companies. It
14 absolutely will influence how they design pay. And
15 although the larger investors will say, hey, we're not
16 voting right in lockstep with proxy advisors, I think
17 we know that some of the smaller investors might be
18 more likely to be doing that, and that's why you're
19 seeing that swing.

20 So, because of that, a couple of things --
21 as an example, proxy advisors generally have a list of
22 pay practices which they view as problematic under any
23 circumstance. That has been extremely influential on
24 management and companies in terms of just avoiding
25 those practices altogether. So whether or not they

1 think it's best for the company, if it's going to
2 single handedly drive a negative proxy advisor
3 recommendation, it essentially goes. Which is why
4 we've seen such a homogenization of executive pay over
5 the past 10 to 15 years. I think it's impossible to
6 ignore that there's just much, much less difference
7 between companies than there used to be. The choice
8 of option versus performance share would be another.
9 I think the third example is the ubiquitous use of
10 relative TSR as a performance metric.

11 So I think you'll find that before the proxy
12 advisors kind of zeroed in on that as sort of the
13 definition of pay by which we're going to do our pay
14 performance analysis and thereby come by a
15 recommendation, then you saw companies feeling
16 obligated to include relative TSR as a metric in their
17 pay plan, even if it wasn't necessarily what they
18 would have come to on their own. So, from that
19 perspective, I think it's been quite influential.

20 MR. GUMBS: Debra, I notice you nodding your
21 head. Is that consistent with your experience as
22 Chair for the PNH Human Resources Committee?

23 MS. CAFARO: I'm just offering emotional
24 support.

25 MS. HUANG: Thank you, Debra. I so

1 appreciate that.

2 (Laughter.)

3 MS. CAFARO: Certainly the proxy advisors,
4 their policies, their practices are important
5 contextual information amongst a host of important
6 contextual information, including investor feedback.
7 And there is overlap in those two subjects. And so
8 it's important for the comp committee to understand
9 that context, to understand the decisions that are
10 being made in that context, and how things will appear
11 to investors and proxy advisors. But at the end of
12 the day, the role of the committee and the board is to
13 make the right decisions for the company at that time
14 to drive shareholder value.

15 MR. GUMBS: Absolutely. Okay. Before we --

16 MR. MCCORMICK: Keir --

17 MR. GUMBS: Yes, please.

18 MR. MCCORMICK: Can I just make a comment on
19 that?

20 MR. GUMBS: Of course.

21 MR. MCCORMICK: You know, having been at a
22 proxy advisor --

23 MR. GUMBS: I was going to say, Bob, I
24 wasn't going to call you out, but I'm glad you said
25 it.

1 MR. MCCORMICK: And as a user of price
2 advisory information at Fidelity, it's interesting
3 that influence is thrown around based on very limited
4 data, I would say. The biggest investors use multiple
5 proxy advisors. The voting results have been about 1
6 to 2 percent failure rate, and the recommendations
7 against have been 8 percent to 14 percent over the
8 last 10, 12 years. So it's a clear disconnect. I
9 think to the point of their policy, it's not the tail
10 wagging the dog, because both firms engage frequently
11 with their clients to find out what their clients
12 think about the various issues, right?

13 So, if their policy is to vote against the
14 board because they've repriced options, investors
15 aren't doing that because the proxy advisors told them
16 to, they're doing that because that's their policy.
17 And I know that because when I was at Fidelity that
18 was a policy before the proxy advisors even had that
19 policy. So I think there's obviously some influence,
20 and I think it is on the recommendations, but I think
21 it's more about when they make a recommendation
22 against investors, then use that as a means to look
23 more closely at the issue. If there was more of a
24 pure alliance, we would see a much higher vote
25 against.

1 And on the types of equity vehicles, I think
2 that comes down to a philosophy. That's also often
3 pointed out as an error -- you know, Glass Lewis,
4 ISS -- their reports have errors because they say
5 these grants are not performance based. It's really a
6 philosophical difference which is borne out by how
7 their clients view these issues. So I think that's
8 the way they've approached it. But in terms of, you
9 know, the interactions I've had when I was at Glass
10 Lewis have been always really constructive with
11 companies, but I always asked, you know, what are your
12 investors saying? And if our recommendation was
13 against, and the overwhelming vote was in favor, I
14 would kind of scratch my head and say, what are we
15 missing?

16 But I know there's at least one company here
17 that uses restricted shares, not performance based at
18 all. And Glass Lewis was engaged with them quite
19 constructively, and would support their program. So
20 that's a benefit engagement. And I think that's
21 something we haven't talked about yet, is the
22 engagement with shareholders. And we'll probably get
23 to that anyway. But I just want to clarify, the role
24 of proxy advisors is not to set comp, not to step into
25 the shoes of their clients, but really to provide

1 information and data to their clients, many of whom
2 have helped the proxy advisors set their own policy.

3 MR. GUMBS: Bob, I'm so grateful for that
4 comment. One, because you're always thoughtful, and I
5 appreciate your thoughtfulness, but also it's a great
6 segue to the next question. The next question was
7 going to be, what role do actual investors play in
8 this executive compensation setting process? And I'm
9 not going to double up on you, but maybe I'll come
10 back to you after that. But Michael, I love your
11 perspective. Like -- so we talked about proxy
12 advisory firms, one of many factors that are
13 considered in setting compensation. I know investors
14 are another huge stakeholder in that process. Can you
15 talk a little bit about what that engagement looks
16 like?

17 MR. LENNARTZ: Yeah. I mean, the annual
18 engagement cycle happens during the proxy season, and
19 then there's usually an off-season engagement as well.
20 During the proxy season, the engagement tends to
21 relate specifically to the proposals that are in the
22 proxy statement. Investors, of course, are at liberty
23 to ask whatever questions they want. I will say that,
24 in recent years, it's been my experience that there's
25 been pretty little interest in compensation in terms

1 of the questions that have come up during investor
2 engagement. I think that it tends to spike in years
3 following a difficult say on pay outcome. And that's
4 when you get most of the compensation-related
5 questions.

6 But in recent years, what I've seen is, a
7 lot of the questions that didn't relate to the
8 specific proposals in the proxy statement related to
9 broader governance concerns. It was things like board
10 refreshments, director selection, overboarding, things
11 like that. So comp has been pretty quiet, at least in
12 my experience, the past three years.

13 MR. GUMBS: Blair, I would imagine that you
14 have many clients that get you engaged before their
15 engagement, no pun intended, with investors. Tell us
16 a little bit about that.

17 MS. JONES: Yes, so I think that the
18 engagement, if you do have a reason to talk about your
19 compensation, is an opportunity to set the table about
20 how your programs are aligned with your strategic
21 priorities and your talent needs and your culture.
22 It's also an opportunity to share some of the decision
23 making process that you have. So a lot of the work
24 that we do as we work with our clients is to say, how
25 do we help the investor understand how and why we made

1 the decisions, and what the business context was, so
2 that that can be conveyed in the discussions, and
3 there can be a dialogue with the investor to
4 understand the -- you know, does the investor get the
5 storyline here? Do they see some holes in it? And
6 hopefully, you know, we come to a constructive place.

7 So the whole purpose of all of this is to
8 set up dialogue and to try to provide more
9 transparency into the process. Now, of course, there
10 are rules about how much you can disclose before it is
11 actually in your public disclosure. So there are also
12 some decisions to make about whether you actually file
13 the documents you're going to use, et cetera. And we
14 go through those decisions. But by and large, we're
15 trying to figure out the best storyline. And I think
16 all of this sets the stage -- you know, what Michael
17 was talking about, and I see Debra nodding -- for the
18 story you're going to tell in the proxy. And if we
19 come back to, you know, why we're here today, I think
20 investors want to know the rationale for why you made
21 the decisions you did, and what the inputs were. And
22 so both the engagement and the prep for your CDNA can
23 help with that.

24 MR. GUMBS: So I'm going to just -- I'm
25 going to take my moderator hat off for a moment, and

1 just share as a, you know, former corporate secretary.

2 And as I look at this audience particularly -- you
3 know, I look at Drew Hamley, who's going to be on
4 another panel, who, when I was at a prior company in
5 that corporate secretary role, we engaged quite
6 extensively. I'm looking at John Rose, same thing.
7 And as we had our conversations around executive
8 compensation and preparing for -- not just for the
9 proxy, but really thinking more broadly as an
10 organization, the feedback that we got from investors,
11 I found incredibly useful and valuable in informing
12 our management team around what our top investors
13 thought about best practices, et cetera.

14 And so just -- I want to say, we've talked
15 about proxy advisors. We've talked a little bit about
16 the role that investors themselves play. But that
17 one-to-one engagement opportunity, Borges, I mentioned
18 to you, Ola Peter, we engaged with your team.
19 Extremely, extremely valuable in the process. Do you
20 want to add to that?

21 MR. GJESSING: Yeah, happy to add to that.
22 And for us, the most interesting and relevant
23 engagement is the engagement that does not happen in
24 the last two weeks ahead of the shareholder meeting.
25 So we're very happy to -- and we spend a lot of time

1 on engaging with our key holdings. I must admit we're
2 not able to engage with all 1,800 US names we're
3 holding our portfolio, but the vast majority in terms
4 of value we engage with. And we're very happy to do
5 that throughout the year -- and with decision-makers
6 at the company, in addition to our regular, often
7 quarterly, updates with management on how the business
8 is going.

9 And we do that for several reasons when it
10 comes to compensation. One is that we want to get a
11 better understanding of the real incentives of
12 management. So what is actually happening in terms of
13 compensation? That might be a little bit more complex
14 than what's on paper, even though also on paper it's
15 complex enough -- 40 to 70 pages, often, in the proxy
16 statement. So that is quite important for us, to try
17 to really understand what's driving the management in
18 terms of monetary incentives. Second, we want to
19 discuss with decision-makers what good incentives look
20 like. So we want to try and understand what they are
21 doing to commit, especially the CEO, to the stock long
22 term, and to the degree they are using multi-year
23 performance conditions, which is not our preference,
24 we're still interested in discussing how they are
25 chosen, weighted, calibrated, and followed up on.

1 So that is very much in our interest to do.

2 But I must say we're also quite often hearing comp
3 committee members, board chairs, others, telling us,
4 when we have discussed the principled approach to
5 compensation that, wow, we would have liked to do it
6 as simple as you suggest. Even maybe open to making
7 the stock lock-in longer than one to three years, but
8 it's very difficult given the environment we're in,
9 and the risk of negative recommendations by the proxy
10 advisors.

11 MR. GUMBS: Thank you. Very helpful. So
12 I'm going to pivot. So we've talked a little bit
13 about the stakeholders in the decision-making process.
14 Now we're going to change our focus to the decision-
15 making process itself and the elements of compensation
16 that are decided on as part of that decision-making
17 process. And so, Blair and Michael, I'll start with
18 you. So, how do companies determine the breakdown
19 between cash compensation and equity compensation, as
20 well as guaranteed comp versus compensation that's at
21 risk? Do one of you want to kick that off?

22 MS. JONES: So, this gets back again -- I
23 feel a little bit like a broken record -- to the
24 strategy and culture that you're trying to drive. So
25 if you are a company who is a startup or high growth,

1 then you might decide to have a mix of pay that's
2 lower in cash and higher in equity. If you are a more
3 mature company, you might find that you want a more
4 balanced mix of elements that's more -- it's still
5 going to be heavily weighted towards equity, but it's
6 not going to have the high upside that perhaps a high
7 growth company might have. So that's one distinction
8 you might make. So understanding what type of company
9 you are, where you are in your life cycle, and what
10 your opportunities are for growth is an important
11 input.

12 We do look at competitive data, but that
13 would not be -- it's not a benchmarking exercise where
14 we say, if peers do this, then we need to do this.
15 But we do want to know how we compare, and if we're
16 going to be different, does it make sense that we're
17 different? Have we made that decision deliberately?
18 And is it helping us in the marketplace, both with
19 talent and with our results? So those are the kinds
20 of decisions that go into the cash versus equity mix.

21 Now, when we go and we think about the types
22 of equity vehicles we use, there's similar inputs.
23 Stock options happen to be very good for companies
24 that are on a growth trajectory. So you'll find those
25 stock options in industries that have higher growth or

1 are newer in the marketplace, and they can be a very
2 good vehicle for that. You find restricted stock can
3 be very good for stability. So companies going
4 through turnaround, or more mature companies, it just
5 provides a stable part of the equation. And then
6 performance shares, which -- they clearly have pros
7 and cons, as Ola Peter has pointed out, but they can
8 be particularly good at directing performance and
9 highlighting priorities for a business at a time of
10 change. So if you put a new strategy in place and it
11 has several priorities out there for the company, and
12 you align those "must-have" objectives in your PSU
13 program design, it can be very effective. Where it's
14 less effective is if you're just using sort of
15 standard measures.

16 So what you want to make sure, as a
17 committee, is that what the CEO is saying and what
18 you're trying to communicate in your investor days
19 about your priorities are directly captured in those
20 programs. And when done well, then they actually can
21 drive performance.

22 MR. LENNARTZ: Yes.

23 (Laughter.)

24 MR. LENNARTZ: The only thing I would add to
25 that is we -- and all of the companies I've worked

1 for -- I'm not necessarily speaking on behalf of my
2 current employer here -- we've always considered, sort
3 of, what peer practice is. It doesn't dictate the
4 outcome. We don't slavishly adhere to what our peer
5 companies are doing, but it's good to know. And then
6 the actual incentive structure, the pay mix is made
7 bespoke for the company in question to align incentive
8 effects with the strategy of the company. So there's
9 always this tension between balancing incentive
10 effects over multiple time horizons, which is why
11 you've got annual incentive plans and you've got long
12 term incentive plans. You want executives making
13 decisions that work in both the short term and the
14 long run.

15 The metrics that are used should also have
16 tension. Focusing on just revenue growth at the
17 exclusion of profit makes no sense. It has to be
18 profitable revenue growth. Focusing on profit at the
19 expense of revenue doesn't make sense either, because
20 you can maximize profit by ceasing to invest in the
21 business, which would also hurt your long term
22 prospects.

23 So it's balancing all of these things, and
24 it's also balancing the incentives with the need to
25 retain people in different markets, particularly

1 volatile markets, which is where the RSU versus stock
2 option versus performance share discussion comes in.
3 RSUs are inherently retentive because they're durable
4 even in down markets or flat markets. Options do
5 nothing to retain people in down markets or flat
6 markets. PSUs are kind of a mix.

7 And then the other thing I would say is that
8 the stock price itself creates sort of a long term
9 incentive. Anything that's denominated in stock is
10 going to fluctuate in value with the share price,
11 whether it's any of those vehicles that we've been
12 talking about, options, RSUs, or PSUs.

13 Ideally, the metrics should have some
14 combination of explicit stock price acknowledgment,
15 whether it's absolute share price or relative TSR.

16 But ultimately, the financial performance in
17 the PSUs and in the annual plan should be value
18 drivers that can sort of demonstrably show up in the
19 share price in the long run. So that's a lot. But
20 those are the things that I think committees and
21 companies grapple with when they're designing
22 programs.

23 MS. JONES: One other element I forgot is
24 the cultural element. So sometimes you want to be one
25 team, one dream, and that means you measure everything

1 at the corporate level.

2 But sometimes you need to drive
3 accountability through your business units, or your
4 business units operate pretty autonomously from each
5 other where they aren't sharing resources or talent.
6 So you want to drive the measurement down, at least in
7 part, to the business unit level.

8 And really, for most companies, you go back
9 and forth on that, because there are times where you
10 need to get everybody on the same boat, and then
11 you've optimized that piece of the culture, and then
12 you need to drive accountability back down, and you go
13 to the other direction.

14 But those conversations need to happen each
15 year with the committee to make sure that what you're
16 doing is having the effect you want, and that you
17 aren't getting misaligned, and having unintended
18 consequences from the compensation program.

19 MR. LENNARTZ: Yeah, and if I could just add
20 one thing to that -- I'm sorry, I don't mean to
21 dominate the conversation. But I think the point that
22 was made earlier about compensation committees taking
23 on a broader HR remit goes exactly to what Blair just
24 said. I think there's an acknowledgement on the part
25 of boards and management that culture is incredibly

1 important, the cultural health of an organization.

2 And those things I think increasingly are
3 getting embedded in incentive plans, either through an
4 individual component of an annual bonus plan, or
5 through other mechanisms, a corporate scorecard.

6 MS. CAFARO: One other point I'd like to
7 raise that is, I think, extremely important, and
8 hasn't been mentioned -- in both setting the mix, the
9 metrics, the structure, I do think the committee has a
10 significant responsibility to also discourage
11 excessive risk taking. And it's obviously important
12 at PNC because safety and soundness are a business
13 imperative. I would argue it applies really to every
14 type of corporation.

15 I remember hearing about Fidelity's
16 portfolio management compensation structure a long
17 time ago, and I thought it was brilliant, is, they
18 sort of stopped paying the portfolio managers more
19 when they got over 80 percent above the benchmark or
20 whatever it was, because they didn't want people
21 swinging for the fences.

22 And I do think a really important part of a
23 board member and a committee's role is to make sure
24 these structures are fair and balanced, they encourage
25 out performance, value creation, and also manage risk.

1 And that's just an important component that applies
2 to all companies, but certainly people in financial
3 services.

4 MR. GUMBS: So, we were going to talk a
5 little bit about the ways that you can set -- create
6 incentives around equity compensation.

7 And Debra, I love what you just shared,
8 because that risk taking, and trying to think about
9 that in the design of an equity award, is really --
10 earlier someone mentioned culture. So can we just
11 talk -- spend a moment on, how do you use different
12 elements of compensation to address cultural values
13 that you want to reinforce, or behaviors that you want
14 to discover?

15 And maybe -- I don't know Blair, I'm looking
16 at you and Michael as I ask this one, but I'm sure
17 that's part of what you have done.

18 MR. LENNARTZ: Yeah, exactly. We've made it
19 actually an explicit part of our annual incentive
20 program via the performance management process. So
21 everyone at MasterCard, their performance review
22 reflects their demonstration of behaviors. So it's
23 not just results.

24 This is something that was consciously done
25 a few years ago, because we wanted to make sure that

1 people not only accomplished their goals for the year,
2 but they did it in the right way. And it's not --
3 generally not acceptable to sort of achieve goals at
4 all costs. So that would show up in your performance
5 review.

6 So, individual salary increases, bonuses,
7 those things are impacted by the way you demonstrate
8 behaviors that represent the firm's values.

9 MR. GUMBS: How do you measure that? How
10 does one measure that as part of the process?

11 MR. LENNARTZ: Yeah, I mean, it's -- it's a
12 largely discretionary exercise, but there's a lot of
13 structure that supports those decisions on the part of
14 people managers. And this is -- I'm not just talking
15 about executives here, I'm talking about the entire
16 employee population.

17 So there's a lot of rigor on education
18 around what it means to demonstrate those behaviors at
19 different levels. And that gets reinforced every
20 year. It's not just something that sort of hangs up
21 on the electronic bulletin board. It's constantly
22 reinforced throughout the year in various
23 conversations that occur between people leaders and
24 their employees. So that's kind of how it works.

25 MS. JONES: Yeah, and I think you can see

1 that in proxy disclosure when companies have
2 individual measurement, and you see differentiation
3 among the group, then you see that a committee
4 actually has been rigorous.

5 Now, sometimes, again, a team has won
6 together and you'll see everybody getting the same
7 adjustment, and that's okay too. But those are
8 decisions that the committee is wrestling with, is,
9 what kind of year is it, and how have people
10 contributed in that way. The other cultural things
11 are the things I talked about in terms of, do you
12 measure at the corporate level or do you measure at
13 the business unit level, or the team level -- that
14 makes a huge difference.

15 And, in addition to doing merit increases
16 and changing the bonus, companies are increasingly
17 using modifications to the equity awards and taking
18 those up and down, because that's the biggest part of
19 compensation, and you can capture, who are the people
20 who are building your organization for the future in
21 the ways that you want.

22 MR. GUMBS: Ola Peter.

23 MR. GJESSING: Thank you. And, as we can
24 hear across the table here, I mean, it is clear, there
25 is a lot of thoughtful work going into this on the

1 corporate side, and on the board side. That said, I
2 mean, if you have -- with an eye to the academic
3 literature in this area, most people are well
4 intended, have good intentions, and -- but sometimes
5 you have a situation where incentives make decision
6 makers try to reach that goal post almost at any cost.

7 And I think we will know from our practical life with
8 corporates that this is a real issue. So I appreciate
9 all the work that goes into kind of trying to resolve
10 this.

11 I just wanted to put out there that another
12 core driver of attitudes and culture is that we know
13 that we're all in the same boat.

14 We're going to hold onto this stock for a
15 really long time. And I think it's very powerful when
16 we have a CEO and a management team that know that
17 we're in this stock for 5, 10 years, maybe even more.

18 So not only me, but also my children and my
19 grandchildren depend on how this is going long term,
20 and even after I've left the ship. So this very
21 simple alignment plays a big role, and it's very
22 intuitive to us. We are long term shareholders.

23 We're going to stay a key shareholder in
24 most of the companies around here for the next 50 or
25 100 years, at least.

1 MR. GUMBS: Ani, I want to come back to you,
2 if I may, thinking about this question around
3 performance metrics and targets, and -- how are those
4 determined from the vantage point of a management team
5 or a board?

6 MS. HUANG: So, here, again -- I think Blair
7 kind of mentioned this, but the objectives of the
8 company come first, right? So the strategy and
9 objectives come first, then we choose metrics that we
10 think are going to align with those objectives.

11 To me, I think one difficulty that companies
12 sometimes have is that what proxy advisors or
13 investors are expecting in terms of a three year plan
14 with a specific number of performance objectives that
15 are somehow supposed to align with long term
16 stockholder value for that company, it just isn't the
17 case for that company. And in that company's
18 situation, they do wind up, I think, in some cases,
19 almost being forced to go along with what the "one
20 size fits all" model says they should be doing, rather
21 than what they know would be best for their own
22 company.

23 And there's just no flexibility to do that
24 in the current circumstance. I think we're going to
25 talk about this a little bit later, but the way that

1 the summary compensation table is structured, I think,
2 can sometimes contribute to that as well.

3 MR. GUMBS: That's a little bit of a segue.

4 I'm going to come back to that, because that's the
5 point of the whole panel. Before we get there,
6 though, we've talked a lot about equity. We've talked
7 about salary. Let's talk about some of the other
8 elements of compensation. So, one area that's gotten
9 a lot of attention of late is around security --
10 personal security for executives, but I know that's a
11 whole universe of perks -- with air quotes -- that
12 could be provided. So, can we talk a little bit about
13 how each of you, from your vantage points, whether it
14 be from a comp committee chair, an investor
15 perspective, et cetera -- think about the other
16 elements of compensation that you introduce into a
17 compensation award for an named executive officer.
18 And, Ani, since I'm looking at you, I'm going to go
19 with you first.

20 MS. HUANG: Sure. So, just one thing I
21 always point out when we're talking about this is that
22 the -- "all other" column in the summary comp table
23 is, like, 2 to 5 percent of total pay. So we are
24 talking about a small amount of money, comparably to
25 the rest, but it gets a lot of outsized amount of

1 scrutiny, of course, for a variety of reasons. But
2 the one that I really wanted to talk about today was
3 definitely the SEC's definition of executive security
4 as a perk. So I know we've all probably talked a lot
5 about this, but the fact is that you can have
6 practically the exact same security at your home that
7 you have at the office. The security that's required
8 for you to have at the office as the CEO is a business
9 expense. That same security at your home where you
10 really need it because you work from home once a week
11 is considered somehow to be a perk. So I think that
12 that is an area that has, to some extent, at some
13 companies, driven practice, in the sense that they may
14 not have all of the security that they need or would
15 like to have because they're concerned about it being
16 added to total pay in the summary comp table.

17 MR. GUMBS: Ani, I want to come back to
18 that. But before we do any other elements of
19 compensation, not salary or equity, that we haven't
20 talked about, that should be put on the table as we're
21 talking about other significant elements of comp --
22 because otherwise -- I do want to come back to this
23 perks question in a moment.

24 MS. JONES: Well, I mean, the other things
25 that are captured periodically -- so, severance

1 payments or relocation payments --

2 MR. GUMBS: Yup.

3 MS. JONES: And those can distort summary
4 compensation table pay. Because they're just in the
5 table, sometimes the nuance behind why and what
6 doesn't always get captured.

7 MR. GUMBS: All right, it's my time to be
8 provocative. So here's my provocative question. So,
9 let's assume that there are no changes to the SEC's
10 rules around perks. And so personal protection at an
11 executive's home continues to be viewed as a perk. So
12 what? That's my question. So what? So, why does that
13 matter if, at the end of the day, you're a firm and
14 you say, that's an expense I'm willing to take on,
15 it's just a disclosure item, move forward. What do
16 you think?

17 MS. HUANG: So, I actually think if it
18 wasn't added to the executive's pay in the summary
19 comp table, that would be a different story. So it's
20 one thing to say all you're doing is disclosing it.
21 Yes. But if it's added to the executive's pay in the
22 summary comp table, now the scrutiny of that
23 executive's pay has just increased on the basis of
24 something that shouldn't be a perk.

25 So everybody in the world that is using the

1 "total pay" column in the summary compensation table
2 is now using that number, possibly not realizing
3 there's a million and a half dollars in there of
4 private security that was needed because the guy's
5 daughter was threatened. Right? So I think that's
6 actually more of an issue than the -- just disclosure.
7 My thought.

8 MR. GUMBS: I'm going to stay with this one.
9 So the total compensation goes up. So what?

10 MS. HUANG: So now the proxy advisor uses
11 that total pay number when they're doing your pay for
12 performance analysis, and maybe they come up with a
13 red flag, and then investors start looking at it. And
14 then they say, well, I don't understand why this
15 executive's pay is higher than his peers in the
16 industry. But it turns out he's had a direct threat
17 assessment done. The other executive hadn't.

18 MR. GUMBS: All right, Debra, I'm turning to
19 you on this. I'm continuing the "so what" question.

20 MS. CAFARO: Oh, no.

21 MR. GUMBS: I'm continuing. All right, so
22 Debra, let's set aside your current board role, your
23 current CEO role. So just as a director on abstract
24 unknown company to be named, you've got a senior
25 executive where you think there was a credible threat

1 against her or his personal safety. And we're telling
2 you as your advisors, Debra, if you give that personal
3 security at their home, it may be disclosed -- it may
4 get a negative mark from proxy advisory firms, does
5 that change your advice with what you do for that
6 executive?

7 MS. CAFARO: Well, it is a sad reality now
8 that personal security of visible executives is a real
9 issue, and of their families. And I can tell the
10 audience that many executives don't even really want,
11 and sometimes even will fight against, having personal
12 security at their homes.

13 But it is really a business imperative in
14 some cases that there is security around the clock for
15 certain of the executives. And I think we would be
16 derelict in our duties as directors -- forget about
17 comp committees -- if we did not protect important
18 assets at the company. If you had a data center and
19 someone said, we're going to hurt the data center, you
20 would have security around it. Well, you would do the
21 same for your NEOs, your directors, other members of
22 the team. We would do that for a teller.

23 MR. GUMBS: Right.

24 MS. CAFARO: And so I do think that we would
25 have no question about -- to directly answer your

1 question, no question about providing that business
2 security, regardless of how it ends up being
3 disclosed. And I do agree it would be appropriate in
4 those cases, if it isn't in summary, comp table. But
5 even if it is, you have to do what's right for the
6 company.

7 MR. GUMBS: Yeah.

8 MS. CAFARO: And that's what it would be.

9 MR. GUMBS: Thank you. I was definitely
10 driving to that answer. I'm going to acknowledge
11 that. Ola Peter and Bob, you are both extremely
12 reasonable investors.

13 So let's use this generic anonymous company
14 that we were just describing. The company makes the
15 decision, we're going to protect our executive because
16 she or he has received credible threats. You see that
17 in a proxy. What's your reaction?

18 MR. MCCORMICK: It's a very quick answer.
19 It's not a perk. It's for protection. Full stop. A
20 perk is something that a CEO's getting that not every
21 other employee's getting. A free car, country club
22 membership. But when it comes to security, I think
23 we're belaboring this, because it's really that
24 person's security.

25 It's a matter of how it was disclosed. And

1 if proxy advisors should back it out, or investors
2 should back it out, like, the change in actual value
3 of pension programs, which I know Glass Lewis backs
4 out, then that's something they should factor in. But
5 if it's for security, it's not a perk. It's almost a
6 requirement. And it should be treated accordingly.

7 MR. GJESSING: Agree. No issue.

8 MR. GUMBS: Okay. All right. I like this
9 outcome. We're going to stay with this.

10 So that is one example where I think the
11 SEC's disclosure rules may influence -- may not
12 ultimately change, but influence the decision making
13 process around an element of compensation. I'm going
14 to pan back out. We've talked about cash versus
15 equity. We've talked about guaranteed versus at risk
16 compensation. We've talked about long-term versus
17 short-term, and perks.

18 And so, in the context of the current
19 disclosure regime, do the SEC rules limit or encourage
20 certain compensation decisions? And I see some head
21 nods. I think the answer is probably yes. But maybe,
22 Ani, I'll start with you, and I'd like the panel's
23 perspectives on that.

24 MS. HUANG: Sure. Yeah. I think it's a
25 tricky question, because at the end of the day -- I

1 mean, I guess everybody, especially the companies in
2 the panel have said today, the company truly tries to
3 do what's right, but I think it would be crazy to say
4 that it's not influencing.

5 So, just a couple of ideas that I had or
6 suggestions where I think that could be the case. I
7 mentioned the summary comp table -- and I know that
8 the next panels are going to get into this in detail.

9 But I think that -- the fact that the summary
10 compensation table includes multiple definitions of
11 pay -- so it kind of includes pay that you're giving
12 at target, but it also includes actual cash pay that
13 you receive.

14 Then it includes a pension, what if you
15 don't have a pension. It has this all other comp
16 table, what if you don't have security. I think that
17 that could be influencing the way that companies think
18 about pay.

19 So we talked to an employer who said, we
20 have kind of an unusual pay plan where we do use
21 performance shares, but we almost never pay out above
22 target. So that is sort of embedded in the way that
23 we grant the equity. We have basically a different
24 way of granting equity.

25 But when it gets put in the summary comp

1 table, we're at a disadvantage because of the fact
2 that it's done at target, and these other companies
3 that are actually winding up paying more in
4 performance shares, it's eventually disclosed, but
5 it's not in the same way in the summary comp table.
6 So that's an area where a company could actually be
7 influenced or feel forced to grant it in a certain way
8 because of how it comes out in the summary comp table.

9 I also think just this question of who's in
10 the summary comp table can sometimes influence
11 decision making. So I think I mentioned earlier that
12 executive compensation is a powerful form of
13 communication. You communicate quite a bit by who is
14 a named executive officer.

15 And sometimes it's not what you really
16 intended to communicate. Those three officers below
17 the CEO and the CFO are not comparable in the same way
18 that the CEO and the CFO are. And so sometimes I
19 think you have seen companies feel like, do we need to
20 make a pay decision that keeps somebody out of the
21 summary comp table, or make certain that they're in
22 the summary comp table, because if they're not, we may
23 be communicating something we don't intend to
24 communicate.

25 MR. GUMBS: So we have to protect the

1 innocent on this one, but I'd love others'
2 perspectives. Has anyone else experienced that kind
3 of decision making where an executive is seeing --
4 let's say it's a CEO -- is thinking about what
5 disclosure would be in the table for NEOs and making
6 decisions in compensation based on who they want to be
7 in that table and who they don't want to be in that
8 table. Maybe Blair, I'll ask you that question,
9 because it won't be attributed to an individual
10 company.

11 MS. JONES: (Laughs.) Yes. So -- yes, it
12 happens.

13 It's not all the time, it's not every
14 company, but you can imagine, particularly on that
15 fifth highest paid, people tend to come in and out of
16 it. So some of it is not even about signals you want
17 to send to the individual, but it complicates your
18 disclosure if you have a person come in for one year
19 and then they're out. So yeah, it will happen.

20 MR. GUMBS: Thank you. So we talked a
21 little bit about the role of perks influencing
22 decision making, or perk disclosures. We talked about
23 the existence of the summary comp table being limited
24 to NEOs, influencing decisions. We talked a little
25 bit about equity awards. Are there any other examples

1 of executive compensation disclosures that impact the
2 decision making that leads to those disclosures? Ola
3 Peter.

4 MR. GJESSING: Can I mention something that
5 isn't there that may be --

6 MR. GUMBS: Yes, please. Yes, please.

7 MR. GJESSING: So, one thing that is not
8 consistently disclosed is whether equity based pay
9 pays out in equity. And as an investor, we of course
10 would like equity based pay to as high extent as
11 possible to pay out as equity. But that's not
12 consistently even disclosed today. So that could be a
13 very simple thing to do, simply show how the company
14 sells equity based pay. And I think many investors go
15 around thinking that equity based pay results
16 necessarily in equity being handed over to the CEO.

17 MR. GUMBS: Very helpful. Okay, Michael,
18 you -- oh, sorry, Blair. You have something you want
19 to add to that?

20 MS. JONES: I have one more example.

21 MR. GUMBS: Please.

22 MS. JONES: So --

23 MR. GUMBS: I bet there are a lot, by the
24 way, but keep going.

25 MS. JONES: Yeah. Sometimes it makes sense

1 to do a multi-year award. And because the summary
2 comp table pay is oriented towards annual pay, you get
3 way out of sync if you put a -- so you have to really
4 think about that. And then you end up with
5 machinations of, how can we minimize that number when
6 it may make sense for a turnaround, for instance, when
7 you've brought in somebody new to really change the
8 game dramatically, and the summary comp table just
9 isn't set up to help that be understood.

10 MR. LENNARTZ: Yeah, I agree with everything
11 that's been said. I think there are risks of
12 distortion in practices because of the rules. The
13 perquisites are probably the most obvious. In my
14 experience, most companies decidedly avoid or
15 minimize perquisites. The NEO inclusion is another
16 area where I haven't actually seen a decision be
17 distorted by that consideration, but there's a lot of
18 nail biting that happens as you're going through that
19 process, when someone could end up in there that
20 doesn't make a lot of sense. And the mega grants
21 obviously is another thing where it might make sense
22 to grant that, but you're just highly discouraged from
23 doing it because of the disclosure rules.

24 But from my perspective, it's not so much
25 about distorting decisions. It's more about the

1 amount of effort that goes into the disclosure. It
2 just -- the juice that you get from it doesn't seem to
3 be worth the squeeze. Entire teams of people are
4 spending so many hours preparing this, and you sort of
5 look back on it and you ask yourself, why -- like,
6 what did we really accomplish by doing it?

7 MR. MCCORMICK: Yeah, and -- Keir, one of
8 the examples -- particularly financial firms, often
9 they grant bonuses after the close of the fiscal year.
10 And I've seen some actually add a second summary comp
11 table and make it very clear, this is not to satisfy
12 the SEC requirements, but it makes it more apples to
13 apples comparison over the performance of that year.
14 And it's helpful as a user of the information.

15 MR. GUMBS: So we're going to transition to
16 our last topic of the day with about 15 minutes left.

17 And Bob, I was going to stay with you. So we've
18 talked about a really complicated, involved process.
19 We talked about all of the people involved in the
20 setting of executive compensation, from outside
21 counsel, to advisors, to people doing calculations on
22 top of the management team. We talked about all of
23 the complex thoughts that go into the decision-making
24 process itself.

25 We've talked about the role of proxy

1 advisory firms and investor engagements in all of
2 those things. The benchmarking, the excellent advice
3 from firms like Semler Brossy. My question for you
4 is, how good are the SEC's rules at revealing the
5 material elements of all of that, in addition to the
6 compensation itself? And Ola, I'll come to you after
7 that.

8 MR. MCCORMICK: I'm going to use a really
9 bad analogy. In high school, I worked at an ice cream
10 store, and I used to make the ice cream. And I would
11 make these horrendously bad flavors like rum raisin or
12 maple walnut. And I said to my boss, why am I making
13 this? She's like, there's one woman who drives 30
14 minutes; this is the only place that has this
15 particular flavor.

16 So I liken that to some of the compensation
17 disclosure. For them, that's a very important aspect
18 of the disclosure. It could be the pay ratio, not on
19 an annual basis, but it could be something they
20 compare year over year. They could look at the pay
21 performance table and not look too closely at the
22 information necessarily, but say, geez, this gives me
23 five years of data. I want to think more longer term,
24 like Ola Peter alluded to --and the CII guidelines
25 prefer five years or more. So that could be an

1 important part of that.

2 So there's a lot of compensation disclosure
3 that is being used, not in a way that was initially
4 maybe intended, but is actually very valuable, maybe
5 to a small subset of investors. So when investors are
6 looking at the overall disclosure, they may be
7 gleaning different pieces from different parts of it.

8 They start with the summary comp table, but -- Ani,
9 to your point about two companies, one grants very
10 challenging performance metrics along with its awards,
11 one that's very easy.

12 That's probably the hardest thing for
13 investors to really understand, is, how often are
14 those grants being actually paid, versus, how much are
15 the ones always being paid.

16 So, I think that's probably the biggest
17 struggle for investors. I think the disclosure's
18 there, but you sort of have to dig. To your point,
19 the number's in the summary comp table, but you have
20 to find the disclosure elsewhere that it was either
21 not paid, or only paid at 80 percent, or something
22 like that.

23 So I think that's the challenge for
24 investors overall, but there's significant disclosure
25 in a way that investors can use it in a way to figure

1 out, are the grants being made in a way that is tied
2 to strategy? What are the selection of the
3 performance metrics? How do they tie to the strategy?
4 How is a peer group selected? How is that altered
5 over the years? What are the nature of the short-term
6 performance bonuses?

7 All those factors may seem, in the abstract,
8 maybe not all that helpful, but in totality, they can
9 provide a much fuller picture of how the compensation
10 works in practice.

11 And I'll harp on the timeframe. If you take
12 an AI company versus an oil and gas company, to think
13 of three or five years for each of those, one's way
14 too long, one's way too short, right? So it's
15 understanding, has the board thought through these,
16 have they developed a compensation program, and have
17 they made changes to that program?

18 And that's where there's some issues
19 sometimes, where a one-off award to an existing CEO to
20 retain that person -- does that mean the current
21 compensation program isn't working? So that -- those
22 are the sorts of additional narrative -- more
23 qualitative analysis can be really, really helpful.
24 Because otherwise, if you just look at the numbers, it
25 may raise a red flag.

1 I remember engaging with a company that --
2 they aspirationally compared themselves against
3 Berkshire Hathaway, which I thought was really nice.
4 But they said the only thing they look at is ROIC.
5 They don't grant any dividends, they don't do any
6 share buybacks.

7 But the Glass Lewis model didn't capture
8 that, ISS model, really no investors' model. So we
9 looked at it, and we determined that we're actually --
10 at Glass Lewis, not to use our model at all to
11 evaluate that company, but not having that additional
12 discussion. And they enhanced the disclosure, I would
13 say, in response to that.

14 And sometimes it's -- just the additional
15 disclosure can be extremely helpful beyond what is
16 required. And my boss used to say, don't let what's
17 required get in the way of what is actually really
18 helpful. Did I avoid the question completely?

19 MR. GUMBS: No, no, no. I'm going to come
20 back to that, because I was actually going in the
21 direction of "less disclosure is more". And I think
22 what you're asking for is more disclosure. So we'll
23 come back to that in a moment, but Ola Peter, you
24 first.

25 MR. GJESSING: Well, it's a complex issue

1 here, but let me just add on to a little bit what Bob
2 was saying. Even though we have all this disclosure
3 today, it is incredibly hard to follow one equity
4 grant through its life and really understand what's
5 happening there.

6 And this sounds like a trivial issue, but it
7 is super hard. And sometimes we sit down and try and
8 pin this down, and we almost get there. But we're not
9 able to do it completely without significant
10 guesswork. So I think that is a quite simple fix that
11 the SEC could make, to make it possible to follow each
12 grant through its life. That's one thing.

13 The other thing, which is inherently
14 difficult, is what also Bob talked about, which is --
15 and you talked about it as well, Ani -- understanding
16 what is a target.

17 So, total comp assumes achievement at
18 target, investing at target. But that's -- the only
19 thing you really know is the threshold, the maximum.
20 And the target is somewhere between there, and
21 companies have different philosophies on that. We
22 calculate all of this more and more, and I think, on
23 average, across our 1,800 US names, a grant tends
24 to -- the median vesting level is at something in the
25 area, 115 percent of target in any given year.

1 But getting to both the target really
2 means -- is that a stretch target, or is it something
3 that they're pretty sure will happen? And my last
4 point is maybe a question to you on the corporate
5 side, and maybe also the advisors. Would this be
6 easier if you were allowed to simply pay in restricted
7 shares and choose a time horizon for that lock-in that
8 works for your company?

9 What we are saying in our policy is that the
10 lock-in should reflect the length of the business
11 cycle for the company as the board sees it. And then
12 to illustrate, we say 5 to 10 years, to illustrate
13 what we're thinking of. But it's really down to the
14 company and the board's assessment. What is a
15 reasonable length of the business cycle? For how long
16 should we lock in the stock? So my question is, would
17 this be easier from the corporate side if you were
18 allowed to do it much, much simpler?

19 MR. GUMBS: I suspect the answer will vary,
20 but Ani, I'll look at you first, and then go down and
21 see what others think.

22 MS. HUANG: So, I think you used a very
23 important word, which is, if you were "allowed" -- you
24 didn't say if you were forced. So I think that if you
25 are allowed to do it, there's no question that for

1 many, many companies for whom a three year performance
2 grant just doesn't make sense, it doesn't align with
3 their business cycles, that what you're describing
4 would be easier.

5 But I think that if it somehow became the
6 case that now you're required to do it that way and
7 you're forbidden to use performance shares, we might
8 be back where we started, except in the reverse. But
9 I don't know, Blair, what, your --

10 MS. JONES: Yeah, I agree with that. I
11 mean, I think you have to allow for both and, because
12 there are times when performance shares can make a
13 difference -- again, when you've got a time of change,
14 it can be very helpful in the communications to the
15 populations about the priorities, and it can add
16 urgency to must-have objectives. But there are other
17 times where you're trying to manage the business and
18 you've got a lot of change underlying where actually a
19 longer-term restricted stock unit would make a lot of
20 sense. And I think having the flexibility to go
21 either way, and show why your business situation
22 suggests that, would be helpful.

23 MR. GUMBS: So, we have, like, two minutes,
24 I think. So here's what I'd like to do. Because
25 we're not going to resolve this today. But you all

1 heard the introductions from each of the SEC
2 commissioners and the chair who spoke. If you can
3 make one suggestion for the staff to consider as
4 they're thinking about how to better align the
5 disclosure of executive compensation with the outcomes
6 that we want, what would those suggestions be? And
7 maybe Bob McCormick, I'll start with you.

8 MR. MCCORMICK: This is not one of the
9 original questions.

10 MR. GUMBS: I know, that's what I do. I'm
11 sorry, I'm here to mix it up.

12 MR. MCCORMICK: I think maybe some of the
13 points we've raised here is about considering
14 flexibility for companies who don't fit a more typical
15 framework, that is, in terms of time frame, type of
16 equity vehicle. I mean, we've sort of fallen into
17 this kind of three-legged stool of salary bonus and
18 long-term comp. Maybe some programs are better off
19 more medium-term, or complimented with a longer term.

20 So I think maybe being adaptive and open to different
21 approaches that companies may take that really makes
22 sense for them.

23 MR. GUMBS: Michael?

24 MR. LENNARTZ: Yeah, I think simplification
25 is probably the top priority from my perspective.

1 There's so much disclosure. You look at sort of the
2 volume of pages in a proxy statement with all the
3 tables. It's -- like I said earlier, it's very rare
4 that I get a question about compensation. No one has
5 ever asked me once about the CEO pay ratio on the
6 investor side, nor about the pay versus performance
7 table. Like I said, a lot of effort goes into this,
8 and I'm just not sure what the utility of a lot of the
9 information is. In my view, the CDNA should be
10 principles-based, and it's incumbent upon companies to
11 demonstrate how their compensation programs align with
12 the business strategy and ultimately shareholder
13 interest. And if they can do that with less, that's
14 better. A lot of the tables could be probably
15 eliminated, and some of them could be consolidated.

16 MS. JONES: I think simplifying the summary
17 comp table, so we're looking at like for like
18 compensation throughout the table.

19 MS. HUANG: I would say, back to
20 Commissioner Peirce's comment about, at this point, we
21 seem to be disclosing things just because people feel
22 like reading about it. That was -- I was really
23 impressed by that --

24 MR. GUMBS: That's the rum raisin
25 customer --

1 MS. HUANG: Yeah.

2 MR. GUMBS: -- who drives 30 miles, by the
3 way.

4 MS. HUANG: So I'm not saying we should have
5 like a Hunger Games style competition for what gets in
6 and what gets out, but I do think maybe really
7 rethinking the concept of materiality as it relates to
8 executive comp disclosure would be the most useful.

9 MR. GJESSING: I'll mention a few questions
10 that could be up here, but I will be very quick.
11 Disclosure of whether stock-based pay will settle in
12 stock, not.

13 Disclosure that makes it possible to follow
14 each grant through its life. Disclosure that makes it
15 possible to understand adjusted figures, which we
16 haven't talked about here. What's the policy ex-ante,
17 and what's the reconciliation exposed? Maybe breaking
18 down each grant in its tranche, if there are several
19 performance conditions, put it down maybe in a giant
20 chart style disclosure, so it's possible to have the
21 full picture. And maybe the last one, making it
22 possible for companies that do it super simple to also
23 have super simple disclosure.

24 MR. GUMBS: Debra, bring us home.

25 MS. CAFARO: Okay. Well, all of the

1 suggestions are interesting. I think you're adding
2 more. I do think following a single tranche of
3 stock -- and I'm trying to understand the use for
4 that. Because if you own a share of stock from 1990,
5 it's the same as the share of stock you got in 2025.
6 So you don't want to seem to look at it on a
7 consolidated basis for the executives, so I'm trying
8 to understand -- so that goes back to my suggestion,
9 which is, I do think each of these rules should be put
10 through the wringer again of a very rigorous process
11 of what the investor is getting out of the information
12 compared to the effort involved in producing the
13 information, and should be rank-ordered so that
14 there's a strong business case for what is included in
15 the proxy, and maybe some good results could flow out
16 of that.

17 MR. GUMBS: Great. Thank you. I'm not even
18 going to try to sum that up.

19 I'll just say thank you all very much for
20 your comments, your thoughtfulness. I appreciate it.

21 I think it's time for a break.

22 Thank you all.

23 MS. CAFARO: Keir, thank you.

24 (Applause.)

25 (Whereupon, a break was taken.)

1 PANEL TWO: EXECUTIVE COMPENSATION DISCLOSURE: HOW WE
2 GOT HERE AND WHERE WE SHOULD GO

3 MR. COTTON: Welcome to the second SEC
4 Roundtable panel on Executive Compensation Disclosure
5 Requirements. I am James Cotton. I want to start by
6 thanking the SEC on behalf of the entire panel for
7 providing us with a forum to discuss executive
8 compensation disclosure rules with you. As noted
9 during the first panel, I will now formally introduce
10 our panelists. We want to preserve as much time as
11 possible for the discussion today. But please, please
12 review their impressive bios on the SEC website.
13 During this panel, we will review two very hot
14 executive compensation disclosure topics: perks and
15 NEO rules. But before we review those topics, we're
16 going to tackle that million dollar question that
17 Chairman Atkins posed when this roundtable was
18 announced, and also underline his comments from
19 earlier today.

20 That question is, with the experience of
21 almost 20 years of implementing the 2006 rule
22 amendments, how can the SEC address the challenges
23 that issuers and shareholders have with the executive
24 compensation rules as they now stand today?

25 To properly set the stage for this

1 conversation, I want to ask Mike -- I mean, Mark,
2 sorry -- to level set for us by providing a brief
3 overview of how we got to the 2006 Amendments.

4 MR. BORGES: Thanks, James. I'm going to
5 just spend a couple minutes talking about how the
6 SEC's rules, which have been around for various forms
7 for 75 or 80 years, have been updated over time.

8 It seems like it's been a constant game of
9 cat and mouse between the SEC revising the rules, then
10 a few years later compensation practices and
11 strategies change, and all of a sudden, things don't
12 mesh very well. There are two sets of rules that are
13 worth noting, because the SEC has made some fairly
14 significant revisions to the disclosure rules in the
15 last 30 years, once in 1992, and then again more
16 recently in 2006. The '92 revisions are worth
17 understanding because they basically established the
18 framework upon which the current disclosure rules were
19 built. At the time the rules were changed in '92, the
20 change was pretty dramatic and pretty drastic from
21 what the rules had been for, which was primarily a
22 hodgepodge of narrative and tabular disclosure.

23 Instead, in '92, the SEC went to a heavily
24 tabular disclosure approach, but introduced two
25 concepts, which, as you'll see momentarily, are sort

1 of foundational to the 2006 rules. First of all, they
2 introduced the concept of the summary compensation
3 table, which was obviously spoken about a bit in the
4 past panel. An element-by-element breakdown of the
5 compensation packages of the company's senior
6 executives, the so-called named executive officers.

7 The other thing they did was, they
8 introduced the so-called board compensation committee
9 report, which was a narrative description of basically
10 two things: the company's executive compensation
11 policies, and then the decisions as to how the CEO's
12 pay was determined in the prior year. And, to
13 emphasize the importance of that disclosure, this
14 table had to be presented over the names of the
15 compensation committee members. Well, as you probably
16 know, with the passage of time, the SEC began to focus
17 on whether those rules needed to be updated. And in
18 2005, they undertook to consider revisions to the
19 rules for three reasons, basically.

20 One, they wanted to update the '92 rules to
21 reflect company and investor experiences with the
22 rules. Secondly, they wanted to address the
23 continuing evolution of pay strategies and techniques,
24 which had gotten to the point where they were
25 outpacing the disclosure of the '92 rules. And then,

1 third, they wanted to address concerns of shareholder
2 activism, which were looking for more transparency in
3 the compensation pay setting process.

4 The SEC went through its normal review,
5 proposal, and comment process, and then made the
6 changes to the 2006 rules. And I kind of put those
7 into three categories. First, they introduced the
8 compensation discussion and analysis, or CDNA,
9 essentially a narrative discussion analyzing the
10 company's comp program, explaining the pay decisions
11 for the prior year, and providing context for the
12 accompanying compensation tables.

13 The thing that's important to note about the
14 CDNA were the two fundamental tenets that undertook
15 that particular disclosure. The first is, the
16 disclosure was to be principles-based. And secondly,
17 that it was to be written in plain English. We're
18 going to talk a little bit more in this panel, and
19 we'll probably follow in the third panel, as to
20 whether or not somehow we've gotten away from this
21 principles-based focus that the CDNA was supposed to
22 provide.

23 The second important change in the 2006
24 rules were the retention of the summary compensation
25 table with two significant modifications. First, a

1 total compensation column was added to the table,
2 something that didn't exist under the '92 version.

3 Second, in order to accommodate this change,
4 the reporting treatment of equity awards was revised.

5 You may not remember, but in the '92 table,
6 compensation was reported in cash, except for equity
7 awards. Equity awards, you gave the number of shares
8 granted. The 2006 rules required that awards be
9 reported using a dollar amount calculated based on the
10 award's accounting fair value.

11 Now, I just want to go to a short sidebar
12 before I turn it back over to James. It's sort of
13 difficult to understate the significance of this
14 latter change, and how it foreshadowed the ongoing
15 debate about how to value equity awards for disclosure
16 purposes, which is something that's going to be a
17 constant theme in these remaining two panels.
18 Originally, the rule, as adopted in 2006, required the
19 reporting of the full grant date fair value in the
20 year that the award was granted.

21 That lasted about four months, and at the
22 end of 2006, the SEC issued immediately effective
23 interim rules, which changed the way that equity
24 awards were reported, so that they were reported
25 instead on the basis of the fair value that was being

1 recognized in each covered fiscal year for financial
2 reporting purposes.

3 So if you had a four-year award, and the
4 compensation expense was allocated over four years,
5 then that award was disclosed over four years with
6 respect to each of those different installments. This
7 change, as you would expect, led to significant
8 compliance issues, widespread investor confusion, and
9 an increasing chorus of complaints that caused the SEC
10 to return to the one-time disclosure of the full grant
11 date fair value method, which is what the rule
12 requires today.

13 Finally, the rule took all of the
14 supplemental compensation tables and sort of put them
15 into two buckets. The first one was a set of tables
16 almost exclusively focused on equity awards, which
17 somewhat imperfectly tracked the life cycle of such
18 awards from the time of grant through the time of
19 realization. And then secondly, a set of tables that
20 provided the accumulated retirement benefits that the
21 executives were eligible to receive, as well as the
22 amounts payable under the severance and change of
23 control arrangements. And I think we're going to be
24 talking a little bit more about those particular
25 provisions in this panel, and perhaps even in the next

1 panel, but that's basically how we got to where we are
2 today, and the challenges associated with that.

3 MR. COTTON: Thanks for that, and -- giving
4 us a better understanding of those 2006 amendments,
5 and, in particular, where the heart of the executive
6 compensation disclosure rules or proxy disclosure
7 comes -- is with the introduction of the CDNA's
8 section. But Dave, can you now go into some of the
9 major rules that were added after the 2006 amendments
10 were implemented?

11 MR. LYNN: Certainly. And I think, based
12 off of the commentary we heard from the Chairman and
13 the Commissioners and the prior panel, these are the
14 rules that everybody loves to hate here, that I'm
15 going to talk about.

16 But I'm going to start off with -- and these
17 rules were really emanated from principally the Dodd-
18 Frank Act of 2010. And there were a couple themes, I
19 think, that go through these rules, that are important
20 to keep in mind.

21 The first one, I think, when we look at
22 these rules, as how they've been implemented, is that
23 so much time passed between when Congress enacted the
24 statutory directives and the Commission acted in the
25 case of many of these rules, that basically the world

1 kind of moved on.

2 And you can see that in the context of the
3 clawback rule that we'll talk about in a second. You
4 can see that in the context of pay versus performance,
5 where through private ordering companies had already
6 made disclosures about realizable pay, realized pay
7 approaches, and the CEO pay ratio, I'm not sure the
8 world ever moved on from that, but that really wasn't
9 a thing, I guess.

10 And so the one thing that I think is
11 important from the Dodd-Frank era that is surprisingly
12 maybe the least hated of all the rules is say on pay,
13 which one would have expected people would more have
14 enduring problems with.

15 But I think what's interesting about say on
16 pay is, it's not really a disclosure role, but it
17 really changed disclosure significantly. If you go
18 back and look at proxy statements before say on pay
19 and after say on pay, there's a market difference in
20 the approach that people took, and I think that is
21 important because it was -- what say on pay ushered in
22 was this sort of era of more engagement and more
23 discussion, and sort of more higher and articulated
24 expectations from institutional investors and proxy
25 advisors about the type of transparency and the type

1 of information that they expected.

2 And I think a point that Bob made on the
3 last panel was a really good one, that sometimes that
4 means a lot more additional disclosure, such that you
5 ask yourself, even if the SEC were undertaking an
6 effort to pair back disclosure requirements across the
7 board, and companies would be obligated under SEC
8 rules to disclose less, would companies still have to
9 disclose just as much, or maybe more, because they're
10 continuing to have to meet expectations of investors
11 through a say on pay process.

12 So I think, from my sort of ranking, that
13 one had kind of the most outsized impact on how we
14 write our disclosure, how we present our disclosure,
15 and why we provide our disclosure about executive
16 compensation in so much detail.

17 You know, I think others have already
18 mentioned, basically, the two principal concerns I
19 think people have with these post-2006 rules, and that
20 would be pay versus performance, where I think that
21 the statutory directive was reflecting a concern that
22 had emerged, and had been a persistent concern for
23 many years on the topic that Mark just talked about.

24 When you have a summary compensation table
25 that's based off of either grant date fair value or

1 the amount expensed for compensation, it isn't really
2 showing what someone actually earned or received, or
3 was paid in a particular period, an annual period.

4 And so there was a thought that it was very
5 difficult to align the performance over time with the
6 compensation that people actually were receiving, and
7 that's why in the private ordering world people were
8 coming up with alternatives, including the proxy
9 advisory firms creating their own alternatives to that
10 sort of total compensation summary compensation
11 approach.

12 Now, I think, on the way to adoption over
13 the course of a very long period of time, that
14 calculation of compensation actually paid, that ended
15 up being an ultimate rule, everyone seems to agree
16 that that is a very complex calculation that makes it
17 hard not only to produce the disclosure, but actually
18 interpret the disclosure and compare the disclosure
19 across companies, and I sometimes say that it's sort
20 of disclosure written by economists for economists,
21 and I think that's a concern, when you write a
22 disclosure requirement that is so prescriptive and so
23 complex, and using sort of valuation methods that are
24 subject to some determination on the part of
25 companies, it's not as an effective a disclosure as if

1 you had perhaps given people just some direction and
2 allowed them to come up with their own measures.

3 And then I think the other major rule was
4 CEO pay ratio, which -- I don't know that there's a
5 whole lot to say about that one that hasn't already
6 been said, but obviously it was -- it, to me,
7 demonstrates sort of the difficulty of having
8 disclosure rules written by the legislature, as
9 opposed to by the agency, because when the legislature
10 was writing it, it wasn't subject to notice and
11 comment and consideration.

12 Now, the SEC did have a lot of the benefit
13 of that when they adopted the rule, but, again, we
14 came up with a -- because of the difficulty in sort of
15 boiling down the median employee pay relative to the
16 CEO annual total compensation, complexities were
17 inevitable. And I think that's been one of the
18 limitations of that rule, certainly -- is just, again,
19 is it something that you can easily interpret and
20 compare from company to company, and I don't think
21 it's met that objective.

22 And finally, I think the other Dodd-Frank
23 era rule that isn't really a disclosure rule, but,
24 again, has been raised as part of this -- the
25 Chairman's statement about this process, is the

1 clawback recovery provision, and that's clearly one I
2 think falls into that category of, the world moved on,
3 companies in the aftermath of the financial crisis --
4 many companies adopted as a good governance practice
5 clawback policies that were sort of tailored to their
6 particular circumstances, and instead, because of the
7 statute, and because of what the SEC decided to
8 ultimately do, we now have to live in a world of a
9 "one size fits all" policy that I think creates a lot
10 of difficulties for companies, and ultimately applying
11 those in the event of a restatement.

12 MR. COTTON: Thanks. Roland, I'm going to
13 go to you, all the way on the other side of the table.
14 Let's bring you into the conversation.

15 What do you think about this evolution of
16 the executive compensation rules? In particular, when
17 looking at how companies tell their executive
18 compensation story -- which is, for all those Star
19 Trek fans here, our prime directive telling a clear
20 executive compensation story -- what are the
21 requirements in the CDA (sic) section or elsewhere
22 that make that storytelling harder to do?

23 MR. SCHUSTEREDER: I appreciate the question
24 James, thank you. I'd be remiss -- and I know my
25 colleagues have done the same -- to thank the SEC and

1 the Chairman and the Commissioners for providing the
2 platform for this conversation. I think it's a really
3 important one to have, and I appreciate it. It's a
4 good opportunity to step back, to reflect, are the
5 disclosures meeting the objectives, and it's an
6 important opportunity for us to consider that.

7 The thing that I'm reflecting on, listening
8 to this panel and the panel before -- it's really
9 encouraging to see that we've got some common ground
10 in terms of understanding that we've got clear,
11 transparent disclosures that provide investors with
12 meaningful information, that supports well-informed
13 decision-making. And Mark and David did a really nice
14 job providing a description of what that evolution has
15 looked like.

16 And as we've seen the rules evolve, there
17 has generally been an additive approach. We heard on
18 the prior panel, more is better, perhaps, and I think
19 it might be useful -- to answer some of your question,
20 James, I wanted to add a little bit of a flavor, a
21 little bit of a color around, what does that evolution
22 look like in terms of the actual disclosures that
23 people are seeing.

24 So, prior to 2000, our CDNA has averaged
25 about five pages in length. Five pages. With the

1 introduction of new, more complex, and often unclear
2 disclosures, our CDNA sits at about 35 pages today, in
3 part because we spend much time providing
4 clarification to the required disclosures.

5 Now, what's particularly interesting about
6 that is not necessarily the 5 to 35, but, though our
7 CDNA has increased seven times now over the last two
8 decades, our executive compensation program remains
9 unchanged, our narrative remains unchanged, and our
10 strong linkage between pay and performance remains
11 unchanged.

12 So we regularly engage with our investors,
13 and the vast majority of those discussions focuses --
14 and I would say appropriately focuses -- on the core
15 principles, and that's been discussed before as well.

16 Core principles of our program are performance and
17 the resulting pay decisions.

18 So we ask, James -- you know, you asked me,
19 so, has the expanded length and detail of the CDNA
20 effectively advanced the policy objective? Has it
21 provided investors with a clearer, more comprehensive
22 understanding of executive comp? I would say, based
23 on the conversations that I've been able to have with
24 our investors, I don't really have evidence of that.
25 So you asked me what I'm thinking. I'm thinking

1 shorter, simpler disclosures.

2 I think it's clear that a framework is
3 necessary, I think it's clear that rules are required,
4 but we've made it way more complicated than it needs
5 to be. We've created an industry in developing,
6 explaining, and then evaluating disclosures. So what
7 I'd say, articulating performance and pay should not
8 take 35 pages.

9 MR. COTTON: I was going to try to keep
10 myself from providing too much commentary, but I'll
11 say a little story. So, at United, we revamped our
12 proxy statement a couple of years ago, and I sent the
13 final draft to someone who helps us with our proxy,
14 and they responded back, can you tell me what I need
15 to focus on, because all of this is pretty
16 boilerplate.

17 And I got offended, like, oh my gosh, all
18 this work that I did, and you're telling me it's
19 boilerplate? But when I took a step back, I
20 understood where she was coming from. Anyways, I'll
21 stay on the other side of the table and bring Brandon
22 into the conversation, and ask you that same question
23 from the investor perspective.

24 When viewing a company's executive
25 compensation disclosure, are there requirements that

1 companies need to satisfy that may be a little
2 boilerplate that are hindering your ability to easily
3 assess companies' executive compensation programs?

4 MR. REES: Thank you, James, for the
5 question, and thank you for the SEC for allowing me to
6 join as an investor on this panel. And I especially
7 appreciate the water in today's heat wave. I know
8 with the DOGE era cutbacks that it cannot be depended
9 on, but -- I apologize to those in the audience who
10 may be thirsty, but there is a vending machine in the
11 hallway.

12 So, the problem with executive compensation
13 disclosure is not that investors are receiving too
14 much information. It's that the executive
15 compensation plans are too elaborate. Frankly, if I
16 was an alien from another planet trying to learn about
17 human society, and I read a corporate proxy statement,
18 I would probably come to the conclusion that senior
19 executives are the laziest people on earth because
20 they need so much incentive in order to wake up and do
21 their jobs in the morning.

22 Now, I don't actually believe that to be the
23 case. I believe that executives are dedicated and
24 hardworking people, but it is astounding just how many
25 different compensation opportunities are being given

1 to senior executives.

2 Regarding the level of disclosure, though,
3 investors, we are perfectly capable of focusing on the
4 aspects of executive compensation that is most
5 important for our analysis.

6 No investor is asking the SEC to reduce the
7 amount of disclosure. And I would note that reducing
8 the level of disclosure for compensation related
9 information is likely to have unintended consequences
10 for corporate issuers. The average say on pay vote
11 this year is over 90 percent, and 99 percent of say on
12 pay votes pass. Reducing transparency will likely
13 result in higher no votes on executive compensation.

14 Changes to the summary compensation table
15 presentation are particularly problematic. We've been
16 relying on this table presentation since 2006.
17 Despite my youthful appearance, I actually did read
18 proxy statements before the changes, and I can tell
19 you that it has been invaluable, particularly for say
20 on pay voting by institutional investors, as well as
21 voting on director elections for compensation
22 committee members. The summary compensation table
23 methodology reflects the fair value of compensation
24 awards that were made in the year in question, and
25 that is precisely what investors are voting on when

1 voting on say on pay.

2 Other methodologies, currently required
3 compensation actually received or alternative
4 methodologies, like realized compensation disclosures,
5 those are helpful supplements, but investors need to
6 be able to evaluate the board's decision making in the
7 year in question, and that is the grant date fair
8 value of equity awards, and the other compensation
9 contained in the summary compensation table.

10 Now, there's one issue that I will highlight
11 as my recommendation for the SEC to consider, where
12 there is a major problem in executive compensation
13 data presentation and proxy statements, and that is
14 that this problem makes us as investors, particularly
15 smaller institutional investors, more reliant on proxy
16 advisors.

17 And that's that the summary compensation table data
18 and other quantitative disclosures in the proxy
19 statement are not machine readable using XBRL or other
20 alternatives. I can download the financial
21 information statement in real time from the annual
22 report, from the 10k, but for the proxy statement that
23 is simply not available.

24 That -- for this reason, we as institutional
25 investors are dependent on the proxy advisory services

1 to aggregate that data and to help analyze it. If
2 issuers want to reduce our dependence on proxy
3 advisors, they need to support requiring that the SEC
4 mandate that this be disclosed on a uniform basis
5 across issuers in a machine readable format so that we
6 can conduct our own economic analysis when making say
7 on pay votes.

8 With that, I'll turn it back to you, James,
9 and look forward to the conversation.

10 MR. COTTON: Thank you for your remarks. I
11 can't argue with you on the complexity of executive
12 comp programs. I remember when I was a first year at
13 Sherman, I called my wife, who was at another major
14 law firm, and I was like, well, I feel pretty lucky
15 I'm on a matter where I get to draft proxy disclosure,
16 but I just read the CDNA and I don't understand it.

17 (Laughter.)

18 MR. REES: It's an acquired skill.

19 MR. COTTON: Yes, it has been. It has been.
20 Let me bring Mike into the conversation, and I would
21 be interested to get your thoughts on that same
22 question from an investor perspective, but also how
23 the rules can better highlight aspects of companies'
24 executive compensation programs that you think that it
25 would be helpful for investors like you to understand.

1 MR. MCCAULEY: Okay. Thanks, James. And I
2 would also like to thank the SEC staff, Chair Atkins
3 for conducting today's roundtable. I think -- I mean,
4 I agree with much of what Brandon has said, especially
5 the XBRL kind of machine readable -- I think that's
6 something that is -- I hope is going to happen sooner
7 rather than later. I think that would make everyone's
8 lives quite easier in terms of analyzing data.

9 But I think, from an investor's perspective,
10 to -- from my perspective as well, to the central
11 challenges for investors, and within the current
12 executive disclosure framework, it's twofold. It's
13 navigability, finding the information, and its
14 comparability.

15 It's kind of the standardized data where we
16 can consistently apply -- kind of to Brandon's point
17 as well. And while the CDNA section provides
18 substantial narrative content -- it's grown over
19 time -- volume is not the problem. Quality is the
20 deficiency in many investors' minds. The format can
21 be inconsistent across different companies, many firms
22 focus more on just justifying their practices than
23 really enabling investors to use the information to
24 make proper analytical decisions, ultimately proxy
25 voting decisions, and, as Chair Atkins pointed out at

1 the outset, investors really benefit from plain
2 English disclosures. You know, kind of the generic
3 boilerplate legalese is really not helping anybody.

4 That's been a long-standing I think
5 criticism from the investor community, CII, et cetera.

6 But that's really -- if you could do one thing
7 without getting into the weeds of some of the specific
8 disclosures, if that can be improved, and the quality
9 can be amped, up I think that would be a huge gain

10 So, a couple of ideas, James, in terms of --
11 and I tried to keep them high level without getting
12 too specific -- but a couple of areas that were --
13 where I believe the disclosures could be enhanced and
14 improved -- one is really anything having to do with
15 a clear connection between pay and performance.

16 There's a lot of standardized tables,
17 summary comp, et cetera, but in terms of standardized
18 information where you can reconcile, specifically, in
19 my mind, awarded versus realized pay, with long-term
20 performance benchmarks -- as an investor, we're
21 obviously biased towards total shareholder return, so
22 TSR is kind of central. But other capital measures --
23 return on invested capital, economic profit, other non
24 TSR metrics, I think, can be beneficial as well.

25 One could propose a graph where you would

1 display the -- kind of the relative pay for relative
2 performance. I think that's how a lot of investors,
3 when they're -- especially if they're indexed, or they
4 own -- highly diversified investors, they own a lot of
5 different companies, a lot of industries; they like
6 that comparability. That would go a long way in
7 helping them -- enabling them to make better decisions
8 from a voting perspective when they evaluate that that
9 pay versus performance relationship at the companies,
10 and specifically over longer time frames we talked
11 about. Like, panel one covered that at length in
12 terms of, like, the five-year and/or longer time
13 frames.

14 Two would be granular performance objectives
15 or goal disclosure -- that's something that we really
16 dig into when we're making voting decisions, including
17 the specific targets set for annual and long-term
18 incentives, along with the actual award thresholds,
19 which is kind of a pet peeve. It's very hard to
20 understand how the pay plans work if we don't know at
21 what point the actual earnings are being made -- the
22 award is being made. Along those long-term lines,
23 complete definitions of the performance objectives,
24 that can be something that investors struggle with
25 that could be improved. And then the rationale,

1 essentially, for the metrics and how they're
2 calibrated, kind of, I think, moving away from that
3 pure relative percentile score to much more explicit
4 definitions in terms of how they're structured.

5 Annual incentive plans are kind of
6 notoriously opaque, and -- in our view, in terms of
7 defining the performance objectives, you essentially
8 have a laundry list of potential metrics, and then how
9 that attribution within the -- specifically on the
10 annual plan side -- the annual incentive plan side is
11 actually conducted, along with discretion. Scenario-
12 based disclosures that show how different performance
13 outcomes can change the total realizable pay, I think,
14 would be beneficial, especially for any equity awards.

15 And then kind of last but not least, kind of improved
16 disclosures around the discretion applied by the
17 compensation committees, I think that would be very
18 beneficial, along with justification and the impact on
19 total pay outcomes -- you know, like, not only how is
20 that discretion applied, but what were the -- what was
21 the impact to total pay.

22 Especially important -- and many companies
23 do not do this -- it might be a little maybe naive or
24 idealistic to kind of think this, but it would be very
25 helpful -- is an explanation by companies when the pay

1 versus performance relationship deteriorates, the pay
2 plans don't work very well -- explain that. Explain
3 why -- what was driving that? Was it an industry
4 effect -- which I think investors in many cases would
5 assume -- but you just -- you simply don't get that
6 type of, kind of, either a narrative, or tabular
7 explanation. I think that would be very helpful.
8 Thank you.

9 MR. COTTON: Thanks. I'm going to go to
10 Zach, my other issuer friend on the panel. Issuer
11 friend -- Zach, what aspect of the rules give you
12 annual heartburn to comply with? I know I've been
13 taking some Tums recently --

14 MR. LEVINE: Yeah. Thank you for that. Just
15 quickly echo everyone's sentiment. Thank you to the
16 staff for organizing this, and for the Commissioners
17 and the Chairman for taking the time to give their
18 views and listening to our input here today. And I
19 thought there was a little bit too much agreement on
20 the first panel, so I'm glad that kind of the outset
21 here on the second one, we've really got investors --

22 MR. COTTON: I can't say that was my goal.
23 (Laughs.)

24 MR. LEVINE: Yeah. We're going to get after
25 it here. So I appreciate that as well. No, it's

1 great to have the opportunity to get all this stuff
2 out in the open and work through it. So we heard an
3 ice cream example, Commissioner Peirce used the forest
4 for the trees kind of analogy. I like to think about
5 the rules as sort of like a Venn diagram, and when the
6 SEC says, we want a principles based approach to
7 executive compensation disclosure, I think it's really
8 about the overlap in the diagram among, what is the
9 board and the comp committee really talking about and
10 doing in the context of setting the program, and
11 making decisions regarding pay outcomes? On the other
12 hand, it's what our investor -- what's really material
13 for investors to make investment decisions, evaluate
14 the effectiveness of the board in overseeing
15 management. And third is really, what are the
16 internal resources, the in-house members of
17 management, spending their time on to translate those
18 two pieces into the disclosure?

19 Forget the lawyers, and forget the comp
20 consultants and the outside advisors. I don't think
21 the SEC intends to proliferate that industry, and they
22 really want to be focused on how companies are using
23 the capital that issuer -- that investors give them to
24 turn around and make decision useful information, and
25 describe what's going on. And that overlap, I think,

1 is where the principles-based approach really sits,
2 and I encourage, kind of, the Commission, as they're
3 thinking about this stuff, to try to get at the heart
4 of that. And the other stuff, the rum raisin ice
5 cream, kind of -- we should really try to streamline
6 that or excise that as much as possible.

7 And to directly answer your question, I
8 think there's kind of two areas. There's a lot, but I
9 want to focus on two areas where the present rules
10 really impact the program, the process, and the actual
11 process of putting out the disclosure. The first
12 is -- and I know the Commission is very focused on
13 this, and the investor community as well -- is
14 boilerplate. The fact of the matter is that -- one of
15 the interesting things that didn't come up on the
16 first panel about the process of compensation is the
17 idea of the time of year that it's happening, and the
18 insane time crunch that goes into closing the books so
19 you get the actual results on the performance
20 measures, getting the meeting set up, having the
21 decisions of the comp committee translated into the
22 performance program, and communicate it out, and
23 actually the administration of the bonuses and paying
24 that all out. And it's in no one's best interest to
25 have a comp process drag out past the first quarter,

1 so you're really trying to get everything done, and
2 you're on the clock to file, print, and mail your
3 proxy.

4 So all this stuff has to happen in a very
5 quick and tight window, and so from the in-house
6 perspective, we spend a lot of time on trying to
7 translate the actual conversation in the boardroom and
8 how that played out, and what the decisions were, and
9 we -- anything that hasn't changed or is not relevant
10 to that conversation for the particular year based on
11 the performance of the company, we really just --
12 we'll go through what ISS wants and try to check as
13 many boxes as we can. We'll crip (sic) from peers.
14 So I think that's, in practice, not helpful. But it's
15 important to meeting the compliance of the disclosure
16 requirements.

17 And the second piece of it is really from
18 smaller companies -- most of the public companies are
19 smaller companies. There's just a sheer -- an immense
20 administrative burden that is particularly
21 challenging, and so a lot of this stuff, especially
22 the prescriptive tabular disclosure, that's just a
23 sheer get data, crunch numbers, put it in the proxy --
24 that gets farmed out to outside advisors, and there's,
25 in a lot of cases, limited benefit to the company from

1 doing that. It's not like we're really examining the
2 tables to learn anything about our program, or how we
3 stack up in different areas that the prescriptive
4 requirements are asking us to disclose against.
5 There's a real -- at a bigger company, like an Exxon,
6 maybe they don't focus as much on silly things like
7 printer costs, but there's a real cost to pumping out
8 those tables, making changes if the data has to
9 change.

10 If you're not sure who the NEO's are, that's
11 really impactful from a cost perspective on actually
12 getting the proxy ready and printing it, and I don't
13 think that's an efficient use of investor capital.
14 And there's really only, kind of, like, one or two
15 people in HR or finance that are both closing the
16 books, getting the annual report together, actually
17 administering payroll, and contributing to the
18 disclosure. So we really try to focus on the meat of
19 the disclosure. And that that's kind of how I think
20 about principles-based, and the impact, for better or
21 for worse, of the disclosure rules on the disclosure
22 process.

23 MR. COTTON: So, I saw Roland perk up when
24 he heard Exxon. So, Roland, do you have anything
25 to --

1 MR. SCHUSTEREDER: No -- I appreciate that,
2 and I appreciate the opportunity to key off of some of
3 Zach's comments. And I'll just clear something up
4 right off the bat here. Every dollar matters. Right?

5 So, whether we're Exxon Mobil or we're another
6 company, every dollar matters, and it's a dollar back
7 in the investor's bank. Right? And I think that's
8 really important to think about. And so, to build on
9 the previous comments, I would say, when the SEC
10 introduces new rules or regulations, it's really
11 essential to balance -- and keying off of Zach a
12 little bit, what you talked about, this Venn
13 diagram -- but it's about the "what," you know,
14 considering the time to produce, with the "why" --
15 really understanding the value provided to the
16 investors.

17 And because I liked the example the first
18 time, I'll give you another example just to kind of
19 illustrate this trade-off that has to be made. So,
20 when the pay for performance disclosure requirement
21 was put in place, the SEC estimated that it would take
22 15 hours to prepare. 15 hours to prepare. So, some
23 of you might be surprised to hear that it took nearly
24 20 times that to develop, review, and ultimately
25 publish the disclosure. Our investors, our

1 shareholders are yet to ask me a question about it.
2 So, in the spirit of "every dollar matters", the ROI
3 on those 300 hours isn't looking really good. And
4 that doesn't even consider the effort and the
5 subsequent years to continue to prepare and review it.
6 Ultimately it's a confusing disclosure that requires
7 more effort to explain it than the disclosure itself.

8 So if I think about the "think big"
9 question, where the SEC has the discretion in the
10 rulemaking, there's an opportunity to provide greater
11 flexibility to tailor the disclosures in a way that is
12 both fit for purpose while also being clear and
13 simple -- for me it's clear. We should endeavor not
14 to prescribe a disclosure that requires an
15 explanation. If the disclosure can't stand on its
16 own, it, by definition, isn't clear. And I think
17 that's something that we should really think about.
18 And I recognize too, we can't be all things to all
19 people. No one disclosure is going to fit all
20 purposes. But we had a lot of conversation about
21 principle, and I think this is, where the discretion
22 is provided, anchor on the principle, identify the
23 objective, and then stop. Leave the rest to the
24 issuer to disclose in the context of their industry,
25 their business, and their pay program. So I

1 appreciate the opportunity to add a few comments to
2 Zach's perspective.

3 MR. COTTON: So, if we're going to get to
4 the other two topics, we're going to have to do a hard
5 pivot here, but I hope that everyone felt that we did
6 a good job of tackling that million dollar question
7 better than my Chicago Bears did this past season of
8 tackling the defenders from other teams. So, let's
9 move to perks. Mark, can you once again come and
10 level set for us, and provide an overview of the perk
11 rule?

12 MR. BORGES: Sure. I already mentioned the
13 three key things that came out of the 2006 rules. The
14 fourth key thing was not a rule, but it was
15 essentially the SEC wading into the question of
16 "what's a perk" for the first time in almost 30 years.
17 To the surprise of many, the SEC provided guidance on
18 the factors that should be considered in determining
19 whether an item was a perk. They didn't define perks.
20 It wasn't a bright line test. It was simply a way to
21 approach the analysis that companies were going to
22 need to make, and had historically always been
23 required to make, on a facts and circumstances basis,
24 as to whether an item was a perk and then potentially
25 reportable.

1 But this framework first examined an item's
2 connection to the performance of an executive's
3 duties, and whether it was integrally and directly
4 related to the performance of those duties. If the
5 answer is yes, then the item wasn't a potentially
6 reportable perk. On the other hand, if the answer was
7 no, then you had the second step: you had to evaluate
8 whether the item conferred a direct or indirect
9 benefit that has a personal aspect to the individual.

10 And, unless the item was available on a generally
11 non-discriminatory basis to all employees, if the
12 answer to that question was yes, then it was a perk.
13 And I know many of you -- and I'm sure virtually all
14 of you at one time or another, in one capacity or
15 another, has had to go through the process of
16 analyzing items to determine whether or not they --
17 where they fall under this particular framework.

18 I think what is made it particularly
19 difficult in the past several years are the unusual
20 circumstances that we've faced where this analysis had
21 to be made. I know during COVID, the whole issue of
22 working from home, executive travel, introduced new
23 facts and circumstances we'd never dealt with before,
24 which indicated the analysis of whether or not, under
25 this two-step framework, an item was going to be, or

1 should be, considered a perk. And as we saw on the
2 first panel -- and we're going to be talking here in
3 greater detail -- the whole area of executive safety
4 has now come into the spotlight, because in the
5 original 2006 release, when the SEC gave illustrations
6 of the kinds of things that, under this analysis,
7 would typically be a perk, they indicated that
8 security provided at a personal residence or during
9 personal travel would typically be a perk. And then
10 they went on to say that a company's decision to
11 provide an item of personal benefit for security
12 purposes does not affect its characterization as a
13 perk. And so those are -- is the guidance that we've
14 had to struggle with, both during the COVID period and
15 now, in trying to reconcile what I think many people
16 believe justifiably is a business expense under this
17 particular standard, because on the basis of the 2006
18 release it's sort of presumptively is a perk unless
19 you can convince yourself otherwise.

20 MR. COTTON: Right. So, Zach, can you dive
21 into what companies need to do to provide perk
22 disclosure from a resource expertise oversight
23 perspective?

24 MR. LEVINE: Certainly. And this -- I get
25 really perky about this topic.

1 (Laughter.)

2 MR. LEVINE: I think it's really -- sorry --
3 sorry for that. Just kidding. So, perk disclosure is
4 a particularly challenging area of compliance. I was
5 actually surprised to hear, on the first panel, you
6 said that it was 2 to 5 percent, on average, of what
7 the exact comp is, is what perks are. I was surprised
8 it was that high.

9 FEMALE AUDIENCE MEMBER: The whole cone --
10 whole other cone.

11 MR. LEVINE: Right, right, right. Right.
12 I'm surprised it's even that high. Like, we spend so
13 much time on this, and it's really challenging, and it
14 really doesn't have a -- you know, it doesn't drive a
15 lot of the total -- the overall mix. The first thing
16 that I kind of think about when it comes to perks is,
17 because of the ambiguity, and because it really
18 touches on such a broad constituency within an
19 organization, is education and awareness. You really
20 have to make sure that you're -- if you take travel
21 and logistics for example, that the business
22 development and the travel departments which large
23 organizations might have are educated on the nature
24 and scope of perks, who the rules apply to, that
25 someone with SEC compliance experience has a lens on

1 the process and policies of those departments to make
2 sure that the decisions are appropriate and that the
3 information that needs to be raised to the disclosure
4 level are brought forward.

5 And -- because it's not always intuitive.
6 You really have to educate the executives themselves.

7 I think executives think of business expenses
8 differently than how the SEC kind of thinks about the
9 perk rules, and there might be a dissonance there that
10 you have to work through, which, for a smaller company
11 can be challenging just because the executives might
12 have more hands-on approach to logistics or there just
13 might not be a large department or a robust compliance
14 infrastructure that's reviewing the travel of the CEO
15 or other executives. So I think that education piece,
16 before you even get to monitoring and tracking, is
17 really important.

18 And then there's just a sheer kind of
19 resource and manpower issue that goes into tracking
20 and monitoring perks once you've identified -- a
21 particular perk or program is established, HR,
22 finance, legal, compliance other internal corporate
23 teams -- security et cetera, they really need to be
24 involved. And again, that goes back to just
25 amplifying the complexity of this for small cap

1 companies where you might not have a lot of resources,
2 or there might not be as robust of an infrastructure
3 around these types of things to be able to get a
4 handle of it and keep an eye on it is really important
5 and challenging. And because of that, you get a lot
6 of -- you need to get a lot of input from your key
7 advisors, because it's a highly scrutinized and
8 ambiguous sort of area.

9 And then, the actual act of making the
10 calculations and running it through the disclosure is
11 itself a complicated process. The calculation of
12 incremental cost is technical and complicated. Small
13 companies might not have dedicated tax professionals
14 or accounting professionals on hand to be able to kind
15 of monitor that in real time. You might have to get
16 an actual driver involved in their spreadsheets a lot
17 of the times. It's a manual process that raises other
18 kind of governance concerns from an oversight and
19 control and manual process audit and compliance
20 monitoring perspective. So it's definitely an area
21 that takes a lot of time and a lot of resource, and I
22 think it would be helpful to get a little more
23 guidance, or broaden the threshold for disclosure, as
24 an example, just to make sure that there's a little
25 bit of more sensitivity to the amount of -- the

1 administrative burden that the perk rules kind of
2 import on companies.

3 MR. COTTON: Thanks for that. Mike, given
4 that we heard a little bit about the amount of work
5 that it takes to produce this disclosure -- I could
6 say more but I'm not -- and we also heard on the -- as
7 Zach said on the earlier panel, that this is a very
8 low percentage of executives' pay. It'll be good to
9 hear the other side of the role that perks play in
10 investors' say on pay voting decisions.

11 MR. MCCAULEY: Yeah, sure. I mean, I would
12 largely agree with that. It's -- from our
13 perspective -- and I think this is true of many
14 institutional investors, but I can't obviously speak
15 for all of them -- but from the Florida SBA's
16 perspective, it's not a huge driver of our say on pay
17 voting, or just the analysis that goes into the say on
18 pay decision, but it can be a red flag, and often is a
19 red flag when they're excessive -- there's kind of
20 poor alignment -- if there's some kind of outlier
21 activity with respect to the perk item, it can kind of
22 help us to, or kind of indicate that we need to dig a
23 little deeper. We'll look a little closer at the comp
24 committee operations. We may dig into, more broadly
25 speaking, the compensation practices at the company,

1 if there's no individual equity plan, let's say, on
2 the ballot.

3 And particularly red flags when -- like I
4 said, when they're excessive or unaligned, but it can
5 be the nature of the perks when they appear
6 disproportionate relative to performance or even peer
7 group activity -- if they're a true outlier practice,
8 that can indicate some -- some issues where we need to
9 do a little bit more research. Where the rationale is
10 unclear -- and panel one, I think, talked about this a
11 little bit -- and that can affect -- like I said, it
12 can affect our confidence in the board, particularly
13 the comp committee, and force us to kind of have an
14 elevated interest in that compensation and pay design
15 at that company. And I think that's probably -- in my
16 view, probably one of the biggest criticisms by
17 investors, just the rationale and the justification
18 for it. It's either nearly wholly absent, or it's
19 very, very poor in terms of its quality.

20 And then another one would be where perks
21 are part of retirement, or severance agreements where
22 there's no performance element. Again a lot of these
23 things are rare; they're kind of exceptional. But
24 these are items where we would -- we would dig a
25 little further. And I think, just to kind of

1 summarize, we want to improve clarity and the
2 usefulness, so the SEC could require a -- like, a
3 summary comp table version of perks, a summary level
4 table that would categorize all the perks by type and
5 cost, with -- again, with the accompanying rationale
6 for any high cost, outsized, or unusual items. And,
7 really, I think -- and perhaps most importantly, we
8 kind of have the perspective that perks shouldn't be
9 disclosed in isolation as just, okay, we've awarded X,
10 and it's worth Y -- but really wrap that into the
11 compensation structure at the company, so they are
12 part of compensation, albeit perhaps a de minimis
13 amount or a relatively small proportion, but they do
14 represent compensation, and that should be factored in
15 terms of the compensation design and philosophy.

16 MR. COTTON: So, we're going to shift and
17 expand on the conversation from the first panel on the
18 SEC's position that executive security services
19 constitute a perk. David, let me bring you back into
20 the conversation. Why is this so --

21 (Laughter.)

22 MR. LYNN: Well, Mark explained the guidance
23 that was in the adopting release, and there was some
24 background to that, I think, of why that guidance was
25 in there about these particular security issues. And

1 the basic issue -- and this was also very much clear
2 from the adopting release in 2006 -- is, the SEC was
3 trying to say, we don't care about the tax treatment;
4 all we're focused on is our own test of integrally and
5 directly related, and does it have a personal benefit.

6 And in the times before the 2006 release, this issue
7 had come up in enforcement actions and in various
8 circumstances where companies with high-profile CEOs
9 would get a security study done, and put in place a
10 security program, and from a tax perspective that
11 would allow them to avoid having to impute income to
12 the executive for a significant amount of that cost.

13 And I think people in the times before the
14 SEC made these announcements about perquisite
15 framework, basically, would take the position that,
16 well, we don't have to disclose the use of the company
17 aircraft, because that executive is directed to be on
18 the company aircraft for security purposes. And so I
19 think the SEC was really trying to draw the line in
20 the sand there to say, the tax piece doesn't matter,
21 and what we're really focused on is, you have to apply
22 that integrally and directly related test, and when
23 you apply it to the use of aircraft to go on a
24 vacation, or the implementation of security measures
25 at a company -- at a CEO's home, that that wouldn't

1 necessarily be integrally and directly related to the
2 duties of the executive. So I think that was kind of
3 the theory.

4 But it also, I think, highlights this issue
5 of -- with perks -- and sort of the elephant in the
6 room is always use of corporate aircraft, right? But
7 you have to have parallel tracks. You have to be
8 looking at it from the tax perspective, and how much
9 income is resulting from that trip, as well as the
10 perks perspective, and they're completely separate
11 approaches, and very different in the approach, where,
12 in the tax context, you have sort of the SIFL rates,
13 and things that are more objective. Whereas, in the
14 SEC context, you have to look at the incremental costs
15 and do a very deep dive into how much a particular
16 trip costs in an aircraft. So I think that tax SEC
17 dichotomy is sort of one of the primary reasons why
18 this issue came up. But -- it's come up now in the
19 spotlight again, but it's been an issue, I think, for
20 many, many years around this question of to what
21 extent security is a perquisite.

22 MR. COTTON: On that first panel, someone
23 brought up that the point of the tension between a lot
24 of executives not wanting security services, but
25 needing it, and then we as companies need to disclose

1 it. So, Roland, I'm going to go back to you, all the
2 way on the other side of the table, and ask you, do
3 you think that security perk disclosure negatively
4 impacts the way companies provide security for their
5 executives?

6 MR. SCHUSTEREDER: Yeah. It's a great
7 question, James. And I reflect on panel one as you
8 did, when Debra talked about the fact that it was an
9 unfortunate reality. And then, Ani, you talked about
10 the fact that the value versus the total reported
11 pay -- and, are we emphasizing too much, if you will,
12 in this particular area. But I go back to -- and I'm
13 stealing words here a little bit, but I go back to
14 what Bob McCormick said in the first panel as well,
15 and I think he said it really well. Security is not a
16 luxury, it's not a benefit, and it's not a perk. It's
17 an necessity. And we talked about the fact that it's
18 a cost of doing business. It's not a form of
19 compensation. It doesn't belong in this part of the
20 total reported pay. It may get reported somewhere
21 else, and that's perfectly fine, and that's a
22 discussion for perhaps a different panel, but it's not
23 part of total reported pay. And so, to answer your
24 direct question, I think the answer to your question
25 is, I sure hope it doesn't prevent companies from

1 doing the right thing.

2 MR. COTTON: So, Brandon, how interested are
3 you in seeing perk disclosure, particularly on -- with
4 respect to security services?

5 MR. REES: So, I hate to be the investor fly
6 in the ointment for the corporate issuer love fest
7 that we're having over on this discussion, but --

8 (Laughter.)

9 MR. REES: And in the spirit of trying to
10 reach agreement, I actually want to agree with the
11 statement that Ronald made, that every dollar matters.
12 And for perk disclosure, as an investor, I believe
13 every dollar matters. First of all, the disclosure of
14 perks is important to inform investors, because we as
15 shareholders are the ones who ultimately bear the cost
16 of providing those perks. Last year, the S&P 500
17 average -- the average CEO of an S&P 500 company
18 received, on average, over \$800,000 in "all other"
19 compensation, which is primarily in the form of
20 prerequisites. That's more than 4 percent of total
21 compensation as measured by the summary compensation
22 table, and according to data from Glass Lewis, the
23 value of CEO perks has grown 30 percent between 2019
24 and 2023, and based on our analysis of 2024 CEO pay
25 data, "all other" compensation grew another 18 percent

1 last year. So the use of perks -- prerequisites is
2 growing, and I believe therefore should be disclosed.

3 And the reason for that is because investors
4 look at perks because it can be an indicator of a
5 power imbalance between CEOs and boards of directors
6 when negotiating executive compensation. On occasion,
7 there have been cases where companies have lost their
8 say on pay vote because of excessive prerequisites.
9 Needless to say, it's a cost to the company that's
10 also being borne by shareholders, and that the
11 provision of prerequisites is not linked to company
12 performance. I've yet to read a proxy statement, for
13 example, where the company disclosed that the
14 company's personal access to the corporate jet was
15 dependent upon meeting some sort of performance
16 threshold, for example.

17 The value of security perks certainly is
18 growing, and it's not always clear that these expenses
19 should be the responsibility of the corporation.
20 Should home security, for example, cover the CEO's
21 principal residence or a multitude of vacation
22 properties? And, again, it's the outliers that --
23 where this becomes a material factor. And I'll give
24 you an example. Mark Zuckerberg at Meta, in 2024,
25 received \$24 million in security perks from the

1 company. \$24 million is more than the average CEO of
2 an S&P 500 company receives in total compensation.
3 Now, what did investors do with that information?
4 Well, Meta actually got a 90 percent vote on its say
5 on pay vote, and it's probably because -- I suspect
6 because Mark Zuckerberg is also willing to work for \$1
7 in compensation. So, if he wants to receive his
8 compensation in security prerequisites, then I think
9 investors are perfectly fine with that, especially
10 given the fact that he has over \$200 billion in Meta
11 stock, and so clearly has a direct alignment with the
12 interest of other shareholders.

13 But the disclosure perks helps boards of
14 directors and compensation committees push back on
15 excessive requests for perks. We all remember the
16 controversy with Jack Welch at GE's prerequisites, or
17 at Tyco. And the disclosure has a sanitizing effect,
18 by giving boards and compensation committees the
19 opportunity to say no to excessive prerequisite
20 requests. And, look, I get it -- look, security is
21 important. More important today after the United
22 Health tragedy, but there are limits, right? And so,
23 for example, I don't buy the argument that requiring
24 your CEO to fly on corporate jets for personal travel
25 is a security risk -- is a security consideration.

1 Commercial travel is safer than general aviation, and
2 frankly I believe it's more a question of status and
3 convenience to the executive than it is about their
4 personal security.

5 But if you want to make the disclosure
6 simpler, I'd get rid of the incremental cost
7 disclosure -- the SEC's incremental cost disclosure
8 for the personal use of corporate jets understates --
9 dramatically understates the true market value of
10 those -- of that prerequisite. And you could simply
11 insert the market value of that, or -- if not the true
12 actual cost to the company. Look it up on NetJets,
13 get a comparable quote for that travel. I just find
14 that we as the investors, we're paying for these
15 prerequisites, and therefore we have a right to know
16 their cost, and issuers need to trust their investors
17 to be able to decide whether or not the perk is
18 excessive. And we do that in analyzing CEO pay, as
19 represented by Meta's own say on pay vote this year.
20 Thank you.

21 MR. LEVINE: I just want to add -- sorry,
22 one thing --

23 MR. COTTON: Go ahead.

24 MR. LEVINE: And I'm going a bit off our
25 script here, so I'm sorry, I'll be quick. I don't

1 know what the answer to this is, but one thing that I
2 think is interesting about the security as a perk
3 question, and if the SEC is going to look at this and
4 make guidance or try to clarify this -- I encourage
5 them to also think about not just physical security
6 but cyber security as well. I think a lot of -- in a
7 lot of instances, it would be a good business decision
8 for companies' security personnel to make sure that
9 there's appropriate firewalls and cyber protections,
10 and that there's -- that they're taking a look at the
11 personal networks and personal devices of executives.
12 And today that's a perk -- I don't even really know
13 how the internal people that are supposed to be
14 monitoring this would even find out about that, if
15 that was a discussion that was happening from an IT
16 perspective and a policy of the company, but I think
17 that's an area of security that would be valuable to
18 get some guidance on, in addition to physical
19 security.

20 MR. COTTON: All right. So, we have eight
21 minutes to go, and to shift now, to speak about the
22 NEO rules. So, Dave, I'm going to come back to you.
23 The SEC rules require certain disclosure for a
24 company's named executive officers, or NEOs. So, who,
25 what is the NEO?

1 MR. LYNN: Yeah, so if you look back through
2 time, the disclosure about executive compensation and
3 director compensation used to be sort of a mix of
4 aggregated disclosure, and then individual disclosure
5 about the most highly compensated executives. And it
6 was in the 1992 rulemaking when they really abandoned
7 that sort of aggregate disclosure, and went to
8 basically a framework where you're looking at the CEO
9 and the highest paid executive officers. And that
10 approach, really, is carried through, since that '92
11 rulemaking. The only real significant change that
12 they made in the 2006 rules was to make the principal
13 financial officer also sort of a fixed named executive
14 officer, and then reduce the number of other executive
15 officers, based on most highly paid, to three. So we
16 kept five total, and you have the CEO, the CFO, and
17 the other three most highly compensated.

18 There's also the provision in the rule that
19 talks about named executive officers who would have
20 been among the most highly compensated, but weren't
21 because they were no longer executive officers at the
22 end of the year, and that -- you have to show two of
23 those, which, I think, always causes some confusion
24 and difficulty when you have that circumstance, and I
25 always wonder just how much utility that disclosure

1 provides. But the other piece of it, I would just
2 mention quickly, is -- the threshold question is, who
3 is an executive officer, and that's not even covered
4 in the compensation rules. That's covered in Exchange
5 Act rule 3B7.

6 And there, I think, companies struggle
7 sometimes, because there are specified executive
8 officers in that rule, but also the notion of people
9 who perform significant policy making functions within
10 an organization, and there it gets a little bit more
11 murky and a little bit more subjective as to who
12 actually gets into the threshold of being an executive
13 officer, and thus has to be evaluated as a named
14 executive officer.

15 MR. COTTON: So, Mike, is the NEO group
16 right from your perspective, or would you like to see
17 the compensation of more C suite executives?

18 MR. MCCAULEY: Probably the latter. I think
19 I'm sympathetic to arguments where it should be
20 enlarged beyond the five, especially at larger
21 companies that are more complex organizations, where
22 they may have decision making outside of that top five
23 executive suite. You could have any number of -- I
24 won't go into individual company names, but you can
25 think of a tech company that has a unique management

1 structure, where they have multiple units, divisions,
2 product units that are clearly outside of the scope of
3 the top five. So I think that would make sense.

4 You could also enhance disclosure in a
5 number of ways, or kind of tweak things in terms of
6 the requirements. Also sympathetic to kind of scaling
7 this based on size. I think that generally would work
8 well in this instance. That's obviously applied in
9 other regulatory reporting requirements for
10 accelerated filers, et cetera. So I think that would
11 apply pretty well in this instance. Like I said, kind
12 of unit leaders, or business unit leaders that follow
13 the top five, I think, would -- in my view, from an
14 investor perspective, we would benefit from having
15 that disclosed, especially when they have significant
16 operational influence.

17 And then -- this is probably a lesser ask,
18 or lower materiality, but in terms of more insight
19 into members of management outside of the top five
20 that are not explicitly required succession
21 candidates -- other members of management that are
22 coming up the ranks that are clearly highly paid, but
23 they just happen to fall out of the reporting
24 requirement, I think investors would benefit from
25 having more information on those individuals, where

1 there's major incentive awards that are obviously
2 included in equity plans and the like, even if they're
3 not technically an NEO.

4 MR. COTTON: Brandon, do you have a one
5 minute --

6 MR. REES: I'll keep this very brief. So,
7 yeah, the reason why NEO pay disclosure is
8 important -- yes, it's true that investors by and
9 large mostly focus on CEO pay. However, we also look
10 at how -- whether CEO pay is in alignment with how the
11 rest of the C suite is being compensated. And that
12 relative compensation is important for us to be able
13 to consider. If the CEO is making many multiples
14 times the other NEOs, that that can have a negative
15 impact in employee morale and productivity. It's the
16 exact same reason why we as investors consider pay
17 ratio disclosure -- how much the CEO makes relative to
18 the median employee -- to be also a material factor
19 when voting on say on pay votes.

20 I'm trying to think what else I want to make the
21 point about -- but I do think that the current balance
22 of looking at NEOs is right, versus all employees of
23 the firm, because the purpose of the disclosure is to
24 address agency costs, right, and the fact that there's
25 a potential for self-dealing when you have senior

1 executives involved in setting their own compensation,
2 whereas for non-executives who are highly compensated
3 employees, you don't have that same risk. And so
4 that's why we have NEO disclosure.

5 And I guess my last recommendation was that
6 we do need uniformity. Smaller issue is only
7 disclosing three NEOs versus five for larger issues
8 makes no sense. It doesn't, in my view, reduce the
9 cost to those smaller issuers, because they still have
10 to calculate the total compensation to determine which
11 of the top three versus the top five, and I think it
12 would be beneficial for us to have a uniform
13 definition that applies to all issuers for the benefit
14 of investors in evaluating this information.

15 MR. COTTON: Thanks. To wrap things up,
16 Mark, I'm going to go to you -- ask you to lead a few
17 of our discussion topics, and here I'm going to ask
18 you to end the panel. If you have any thoughts about
19 the NEO rules, can you please provide that? Or -- and
20 forgive me for going into the third panel a little
21 bit, but can you give maybe a one-minute response on
22 your brief thoughts as -- on the impact of some of the
23 rules that Dave mentioned earlier, regarding some of
24 the requirements that were added after the 2006 rule
25 amendments?

1 MR. BORGES: Yeah. Let me focus on the
2 latter. Dave mentioned say on pay. To me, there were
3 four major rules that came out of Dodd-Frank. Of
4 those four, the one that I think has proven to be
5 useful is say on pay, because it has served as a
6 catalyst for ongoing shareholder engagement, and I
7 think that was at least one, if not the primary,
8 purpose of that requirement. Today you see not only
9 companies that are engaging when they have a poor say
10 on pay vote, but engaging year round, and the
11 disclosure is showing that. Now, whether we still
12 need say on pay now that that fire's been ignited, I
13 think, remains to be seen, but that rule to me did
14 accomplish something positive that was part of its
15 intent.

16 With respect to the other major rules like
17 pay ratio and pay versus performance, they've been in
18 place long enough that I think we kind of have an idea
19 that the relationship between investor information and
20 the compliance burden is out of balance, and that it
21 may make sense to reevaluate those rules, given the
22 fact that they were statutorily imposed, that probably
23 suggests that maybe taking another look at how we can
24 do something that may be a bit more consistent with
25 the statutory language makes sense. Clawbacks, I kind

1 of -- my mom understands clawbacks. If you get paid
2 too much money and you didn't earn it, you've got to
3 give it back. I don't think we can kind of make a
4 determination on clawbacks yet, because the story
5 hasn't been written there. I think everybody
6 understands -- and it was easy to put a comp policy
7 into place.

8 The hard part we haven't seen yet, which is
9 the enforcement -- the enforcement has only been in
10 place for about a year and a half. Only compensation
11 earned after October 2, 2023 is subject to recovery.
12 We've still got another 18 months to go before the
13 full three-year look back kicks in. And I think
14 trying to make major changes to the clawback rule
15 until we know exactly what the scope and the potential
16 problems may be, may be a little bit premature. I
17 mean, I think we're all -- practitioners are scared of
18 the thought that a company may want to recover a large
19 amount of money under its clawback provision, and the
20 executive may not be cooperative. We've been lucky to
21 date that the amounts recovered are small, or, for the
22 most part, are amounts that had yet to be paid, so the
23 whole recovery concept hasn't come into play. So
24 there, I'm not suggesting that that rule doesn't need
25 to be tweaked, I'm just thinking we may -- the kind of

1 thing where, if we do something today, we may be back
2 doing it again in two years, when we've really seen
3 the full impact of what that provides.

4 MR. COTTON: I just want to thank everyone
5 on the panel for making me look good.

6 (Laughter.)

7 (Whereupon, a break was taken.)

8 MS. CHIU: First of all, for those of you
9 still in the room, thank you so much for staying with
10 us. And what is actually the time of day when I know
11 that you would normally be having your second cup of
12 coffee, not only do you not have that, you also, as
13 Brandon mentioned, have no water. So I really
14 appreciate your continued support in this room.

15 PANEL THREE: EXECUTIVE COMPENSATION DISCLOSURE: HOW WE
16 GOT HERE AND WHERE WE SHOULD GO

17 MS. CHIU: So, I'm so excited to be here. I
18 am so excited that the SEC is doing this. I am so
19 thrilled to be a moderator for this amazing group of
20 people who you're going to hear from.

21 The only real thing that I asked my
22 panelists to do, obviously, besides being prepared,
23 which I knew that they were going to be, is that we
24 are not all going to agree. That's what I just told
25 them, because that is a reflection of how people feel

1 about this disclosure and, how they view this
2 disclosure. So that is a perspective that we're all
3 going to bring to the table.

4 So, just to level set, we're going to do
5 three things on this panel. First of all, because
6 we're at the end of the day, we get the benefit --
7 we've had the benefit of hearing from the first two
8 panels. So we're each going to get to say something
9 about what the other two panels spoke about. The
10 second thing we're going to do is dive into some of
11 the tables, the summary comp table and the other
12 table. And the third thing we're going to do is talk
13 about the Dodd-Frank rulemaking. So that's sort of
14 our mandate for today. I am actually going to start
15 with the other side, at the end, and start with Mark
16 on, what is the one topic -- one topic or discussion
17 from a prior panel that you'd like to add your views
18 on, and then go down the row.

19 MR. TREVINO: I guess I am going to take it
20 from the other direction, which is, what have I not
21 heard so far? And I'm sure I'm wrong. I'm sure I may
22 have missed one, but I thought I was paying pretty
23 close attention. I have not heard anyone talk about
24 valuing, buying, or selling a security based on what
25 we talked about today so far, for over four hours, I

1 think, give or take. And I don't think many people
2 noticed that. And there's a reason for that. And
3 that is, compensation is distracting. It is
4 interesting. It's accessible and it's salacious.
5 Right? Like, we talk about Andy Reed's compensation,
6 not because we think it affects whether the team's
7 going to win or not. We talk about Tom Cruise's
8 compensation, not because we're like, hey, that must
9 be a great movie because he got paid so much. Or he
10 got paid too much, the movie was bad. We're just
11 interested in his pay. And so you have this thing
12 that is interesting.

13 And then we heard that it is complicated.
14 Right? We heard from Debra this morning. She's like,
15 look, the board's responsible for compensation, but
16 it's so complicated, the board doesn't do it. The
17 committee does it. It's so complicated, the committee
18 doesn't do it once. It does it more than, like, every
19 other month. Right? It probably meets close to every
20 month. And it's so complicated that that's not even
21 enough. We have a person in management responsible
22 for helping us. We have advisors responsible for
23 helping us. Lawyers got short thrift. But it is
24 super complicated.

25 And so you take this thing that is

1 captivating. And then you take it, and it's
2 complicated. And you're like, huh, complicated isn't
3 exactly what -- complicated business decisions is not
4 what shareholders are supposed to be involved in.
5 Like, we have a separation. We have management that
6 works day to day, we have boards that work part time,
7 and we have investors who do their day jobs, and let
8 boards take care of it. And they have important
9 decisions to make. And so, like, what -- including
10 buying and selling, or directors, like, those are
11 important decisions, we can all agree on that. So,
12 what brings this sort of toxic couple together, of
13 captivating but complicated -- or Selena and Justin,
14 so to speak?

15 (Laughter.)

16 MR. TREVINO: And that is say on pay. Say
17 on pay brought it together. And, from that
18 perspective, like, what is -- it has had tangible
19 results. It's our import. Right? Like, we didn't
20 invent it here in America. We brought it over from
21 the UK because we were mad. We were mad at the
22 financial crisis. Mad at people getting paid and
23 leading failing institutions. We were mad. And so we
24 brought it over. And its first purpose was to reduce
25 excessive pay. I don't believe anyone thinks it did

1 that.

2 It has had other impacts. We have lots of
3 disclosure in the system now. Right? We have more
4 disclosure in proxies about pay than about directors.

5 That's -- they tested that. We have separate teams
6 at investors to think about compensation. Like, not
7 even -- like, we have a whole new set of people to
8 think about this. That's additional cost. We have
9 advisors on all sides, including proxy advisors.
10 That's another set of costs. And so I think when I
11 approach what we're going to be talking about, which
12 is the disclosure, it needs to be in the context of
13 something -- it's mandated. And I hope that Congress
14 is thinking about this when they think about proxy
15 advisors, because part of the reason that they're so
16 influential is because we're talking about this thing
17 that is so captivating and complicated. And if we
18 didn't have that, their influence would be less. And
19 there would be fewer choices to make.

20 But disclosure, if we're going to do it in
21 this context, it needs to be as simple as possible.
22 It needs to be as limited as possible, and as
23 uninteresting as possible, so that it does not
24 overtake everything else. And I was looking the other
25 day -- and this is from an article by Professor

1 Gordon. I don't even know when exactly it was
2 written. But I found it so prescient I had to bring
3 it into us. And it was right before we imported say
4 on pay from the UK. And he's like, hey, you know, the
5 UK experience hasn't been so great. And he said, but
6 that's not reducing pay -- but he's like, but that's
7 not really the most serious concern. And this isn't a
8 summary, because that's all I read.

9 The most serious concern is the likely
10 evolution of a best compensation practices regime,
11 which would embed normatively opinionated practices
12 that would ill suit many firms. There is some
13 evidence of an UK evolution in that direction. This
14 problem might be more pronounced in the US because US
15 shareholders are even more likely than their UK
16 counterparts to delegate judgment over compensation
17 practices to a small number of proxy advisors who
18 themselves will be economizing on analysis.

19 MS. CHIU: So, I just want to -- as
20 moderator, I get to jump in and comment on what
21 everybody else says. So it's sort of a moderator
22 slash commenter, just in case you aren't aware. But I
23 want to emphasize two things that Mark said. One is,
24 the fact that the proxy has more disclosure about comp
25 than directors than the board, that suggests that we

1 may need a reset there. And the second is, every time
2 people talk about say on pay, the benefits of say on
3 pay, it's about engagement. So, John, I am actually
4 going to ask you how many companies you actually
5 engage with, before you answer the other question?
6 Because it is not possible for you to engage with
7 every company. And by the way, if the purpose of say
8 on pay is engagement, I am sure we can figure out some
9 other way to do that.

10 MR. TREVINO: Yeah. So, on an annual basis,
11 globally, we have about 3,300 engagements with
12 companies. And for us, an engagement is a one to one
13 meeting with directors or senior company executives
14 where we're exchanging information. It's not sending
15 an email, it's not a letter writing campaign. But
16 3,300 companies. Those engagements cover about 75
17 percent of our clients' assets under management. But
18 it only covers about a quarter of the companies in
19 which our clients are invested.

20 MS. CHIU: And you have a whole team of
21 people for that purpose. So --

22 MR. TREVINO: Correct.

23 MS. CHIU: Going back to John, what is the
24 one point you would like to make?

25 MR. ROE: There was a comment made in the

1 first panel about the forest and the trees. And that
2 really struck home to me, especially as we were
3 launching into a conversation around the tables and
4 what the tables convey. As an investor, the questions
5 that we're trying to answer when we're looking at the
6 efficacy of compensation committee directors or the
7 appropriateness of a say on pay vote, they're simple
8 questions. It starts with a question of, knowing that
9 compensation is a tool that the board employees, has
10 the board -- has the compensation committee structured
11 compensation so that it supports the execution of
12 company strategy so that it reinforces the culture of
13 the business? And is it doing that in an efficient
14 way? Efficient in terms of complexity, efficient in
15 terms of quantum, all of those things.

16 And when you break that question down,
17 there's a couple sub-questions that go below it. The
18 first is quite an easy one. It's a mechanical one.
19 How is the compensation program structured? How much
20 is long-term? How much is short-term? How much is
21 cash? How much is equity? How much is performance-
22 based versus how much is time-based? There's no table
23 in the proxy that tells you that. There's no standard
24 disclosure that helps you understand that. You have
25 to flip back and forth between tables and put that

1 answer together yourself. And that's a fundamental
2 question of disclosure that we look at when we're
3 trying to understand a compensation program.

4 Second, we're trying to look at how much
5 risk is there in a compensation program, and risk is
6 defined in a lot of ways. But again, there's no
7 single table that tells you that. There's a plan-
8 based awards table that tells you how much leverage is
9 in a program. There's the summary compensation table
10 which tells you how much is delivered in guaranteed
11 cash versus other forms. But all of those are
12 incomplete disclosures. And trying to get to
13 something that is more helpful in answering that
14 fundamental question would be helpful.

15 But then, third, and maybe most important
16 over time is, how effective are these compensation
17 programs? How do they turn out over time? That turns
18 out to be a very, very difficult thing to answer. So
19 trying to answer that question to the disclosure, we
20 focus on a lot of trees, but the forest for us at the
21 end of the day is, do these things actually work? Do
22 they turn out like we want them to? And I think we're
23 going to be talking a lot more about that over the
24 next hour or so.

25 MS. CHIU: Ron?

1 MR. MUELLER: Sure. I may focus a little
2 bit on trees for a second. So I think the thing that
3 was -- that I was taking away from both of the panels
4 before is really just how complex some of the issues
5 we're dealing with are. And you can really make them
6 more complex by drilling down into them. And I think
7 by doing that, you, again, might be focusing too much
8 on the trees and not the forest. And so the goal here
9 is to say, how can we step back and make this
10 disclosure regime better and more effective for all
11 the users?

12 My tree focus on that is going to be perks.

13 Perks is the most salacious of the salacious pieces.

14 Are they getting to fly around in the private jet?

15 What kind of jet is it? You know, you can now have

16 people follow the corporate jets on Instagram and

17 everything. I think that this is an area where the

18 SEC, when they are looking at the treatment of perks,

19 actually have a lot of flexibility. And that's

20 because -- Marc mentioned this earlier -- that the

21 rules don't actually define what a perk is. It's all

22 just in this 2006 release that was kind of narrative

23 by the Commission, and the Commission, I think, could

24 quickly revisit that.

25 Again, it's going to be a complicated

1 revision because it really should be, and was
2 described as, a facts and circumstance determination.

3 But then there were other parts of that 2006 release
4 that said -- you know, kind of went against that, and
5 said, no, these are areas where certain benefits are
6 perquisites and almost drew a bright line. And I
7 think as we're talking about executive compensation,
8 there's really not bright lines. It's the area where
9 principles do matter, principles could work, and the
10 more we kind of build a system that lets companies
11 appropriately disclose what is working for them and
12 what they have designed, the better it's going to be
13 for both the companies and the investors.

14 MS. CHIU: So, I spoke with each panelist
15 before. We all got together as a group. And I had a
16 really interesting conversation with how Drew has
17 looked at proxies for years and years. I won't say
18 how many. So Drew, what's your view on what you've
19 heard so far?

20 MR. HAMBLBY: Great. And can I start
21 disagreeing right off the bat?

22 MS. CHIU: Absolutely. I would count on it.

23 MR. HAMBLBY: Yes. Well, I'm going to start
24 out with something I heard earlier. And I would -- in
25 full agreement with everybody, the complexity and the

1 pagination has gotten out of control. So, on my way
2 down today, I took a typical 40 page CDNA; I read it
3 front to cover. I don't usually do that anymore,
4 because I know the elements I'm looking for. In this
5 particular one I saw the same graphic twice in the 40
6 pages. I saw the same paragraph three times in the 40
7 pages. And in one of the paragraphs, it was only four
8 sentences long, the company used the word "robust"
9 three times.

10 (Laughter.)

11 MR. HAMBLBY: So I'm going to offend some
12 lawyers and some comp consultants today. We need more
13 copy editors and less consultants, because I think
14 most of your proxies I could cut 25 percent off with a
15 good copy editor. So, I wanted to touch on something
16 Ola Peter said earlier. There is nothing in the rules
17 and regulations that says we have to set up
18 compensation programs that require a slide rule and an
19 abacus to figure out somebody is going to get paid.
20 And that's what we have done. We have gotten to this
21 place where the plans are so complex, the instruments
22 we are using are complex and opaque and not disclosed
23 as well, and there's nothing in the regulations that
24 said we had to do this. So we need to get off the
25 treadmill, and investors in the companies we own need

1 to talk to each other and come up with more sensible,
2 similar plans.

3 Now, in terms of where I'm going to
4 disagree, I'm going to disagree with Mark a little
5 bit. Not so much disagree -- yes, we do not use
6 executive comp to make buy sell decisions. But let's
7 talk about how some of our portfolios are constructed.

8 If you're a large asset owner, like the one I
9 represent, we use a lot of indexing. And, in essence,
10 we're going to own some of these companies for a very,
11 very long period of time. And I know some other asset
12 owners in the room do that similarly. We do so
13 because it's cost-effective, we're trying to get
14 market exposure, and so, yes, we're not making buy
15 sell decisions on any of ours, but we own the market,
16 and we should have a voice on how those people that
17 we've entrusted with that capital, both directors and
18 CEOs, pay themselves and oversee that. And that's
19 just a market reality of how people invest.

20 We own over 6,000 companies in our
21 portfolio, and I see some others in the room -- and
22 John talked about how many they own, and the index
23 products that they are selling -- this is how the
24 market has invested a great portion. We don't just go
25 out and buy our three or five favorite companies.

1 Most people, both retail and investors, have some sort
2 of indexing in their portfolios. So, yes, it's not a
3 buy sell decision, but it's an important decision for
4 long-term holders who will hold this equity through
5 the cycle that we have a voice on this.

6 MS. CHIU: So, Drew, I will tell you, I
7 completely agree with you that we should cut out
8 repetition. I can tell you where some of that
9 started, and where some of it started is because we
10 heard from investors that they don't read the whole
11 thing. So they started asking for summaries. And
12 when they started asking for summaries, we started
13 taking certain things that were in the CDNA, putting
14 it in the summaries. Then they told us they don't
15 always read CDNA. They might read footnotes to
16 certain tables, so then we had to put certain things
17 there. So some of the repetition -- if I could get
18 all the investors, not just in this room, but
19 otherwise, to say, just put it anywhere once, we will
20 figure it out; we don't expect it to be in multiple
21 places; we will read it -- we will cut the repetition.
22 I will work on the issuers, if you work on the
23 investors.

24 (Laughter.)

25 MS. CHIU: That's a deal.

1 MR. HAMBLBY: Agreed.

2 MS. CHIU: So, Sarah, you're not the only
3 issuer in the table -- not just because I advise
4 issuers, but back when I actually did this comp
5 disclosure as an in-house lawyer in 2006, back when it
6 started -- I was only 12 years old then, but --

7 (Laughter.)

8 MS. CHIU: So I can emphasize with this, but
9 as in-house lawyer, what is the one topic or
10 discussion that you heard that you'd like to comment
11 on so far today?

12 MS. FORTT: Well, Ning, I'm going to be a
13 little naughty. I've got two. I'm going to break
14 with precedent, but I promise to be brief. So, the
15 first -- one for each panel. So, in the first panel,
16 I really thought that the way in which they framed
17 decision-making around executive compensation was
18 really useful. Because I think sometimes we forget
19 that executive compensation disclosure does not exist
20 in a closed ecosystem. It exists in the context of
21 corporate governance regulation that already imposes
22 requirements around how companies function at the
23 board level, and to a degree at the management level,
24 around key decisions, including with respect to
25 compensation. And so I felt the way that that panel

1 outlined how decision-making is undertaken was really
2 useful. I think, to a degree, the amount of
3 complexity we now have goes counter, I would say, in
4 some regards to the dependence on independent
5 directors and how they function in that governance
6 regime.

7 And then, two, from the second panel, I
8 really loved Zach's Venn diagram. I thought it was
9 simple and elegant. The idea that this lies kind of
10 at the nexus of board considerations, investor needs,
11 and internal resources and capabilities -- I think the
12 issue we have now is that the regime we have now
13 results in kind of bad results on all three -- from
14 all three circles. When we look at board
15 considerations, I think the current regime can distort
16 decision-making. I think when we look at investor
17 needs -- I understand we have very sophisticated
18 investors in the room. Not all investors are at the
19 same level, and the results can be confusing. The
20 questions that issuers receive make it clear that it
21 can be confusing. And then, when we look at internal
22 resources and capabilities, I think we have a futility
23 of effort sometimes to produce disclosures that either
24 don't get read or do confuse investors.

25 MS. CHIU: Terry?

1 MR. ADAMSON: I'm going to use my voice
2 today to talk a little bit about the pay versus
3 performance rules. And that's one of those rules
4 that's really been under attack over the last couple
5 of years. And I'll start with -- and I'll say they're
6 flawed, and they're flawed because they're
7 misunderstood. They're flawed because investors don't
8 use them. They're flawed because it doesn't exactly
9 get us the number, ultimately, that we need to get at.

10 And I'm going to back up from that preface of saying
11 they're flawed, and say that, theoretically, it's a
12 very fundamentally pure number. There's fundamentally
13 a very pure number that's better than anything that
14 you can find out there, better than any of the proxy
15 advisor calculations.

16 Maybe I'll quickly get into the granularity
17 of why that is a fundamentally pure number, but it's
18 based off of audited financials. There are a few
19 decisions made in that calculation that the SEC made
20 years ago. The first decision is, when is the
21 measurement date for this compensation actually
22 paid -- this realizable paid calculation? And what
23 that decision -- that answer was made then, was the
24 vesting date.

25 The vesting date is when it transfers from a

1 compensation decision to an investment decision. The
2 second decision that needs to be made in that
3 calculation is, do we calculate this on the vesting
4 date as an intrinsic value?

5 That's the difference between the stock
6 price and the strike price, on a fair value. And the
7 decision that was made is to do it under a fair value
8 basis, like the accounting standards. And I -- again,
9 I agree with that decision because I think it has to
10 be on a fair value basis.

11 So ultimately, that calculation, I think, is
12 very fundamentally pure. It's audited, it's pure, and
13 then, lastly, the last big decision is, now we've just
14 calculated a multi-year instrument, a three-year, a
15 four-year instrument, and what that value is on this
16 vesting date, but it has to be annualized to compare
17 to annual performance measures. And what the SEC has
18 chosen to do in that decision, again, I think is a
19 positive.

20 Just take the end of year minus the
21 beginning of year. So they made these decisions, and
22 I think they come up with a very fundamentally pure
23 calculation.

24 But then there was another flaw.
25 Unfortunately, they put this five years of disclosures

1 that need to be done on this calculation, but there's
2 a dependency year over year over year.

3 The prior year, the next year is dependent
4 on where the last year ended, because it's an
5 incremental growth. So any single year is meaningless
6 by itself. The only way to really analyze this is
7 through a summation of all the years. The sum of the
8 compensation actually paid, versus the sum of the
9 summary comp table number.

10 So that was a flaw. So there's fundamental
11 flaws in this disclosure that has hurt it, and I think
12 that is why investors aren't paying attention to it,
13 because I think it's a great number.

14 It's very easy, especially with the XBRL
15 tagging, to take those numbers, the sum of the summary
16 comp table. What does the sum of the summary comp
17 table represent?

18 It's the market rate of pay. It's how much
19 a company was trying to pay an individual over that
20 five-year period. What should an investor expect,
21 Drew? What should an investor expect for the market
22 rate of pay?

23 Market returns. What do market returns
24 represent?

25 Well, luckily, right there in this table are

1 market returns, because you're forced to pick a peer
2 group TSR, and it's disclosed right there. If your
3 peer group TSR is greater than your own TSR, if your
4 own TSR is greater than the peers, you should get paid
5 more than the market rate of pay. If your TSR is less
6 than the peer group TSR, you should get paid less.

7 It's really quick and easy to do alignment,
8 especially with XBRL tagging. It can be done very
9 quickly. 25 percent of companies are misaligned that
10 way.

11 It's a fundamentally pure calculation, but
12 no investors are paying attention to it. It is a tree
13 that has fallen and nobody heard.

14 MS. CHIU: So, we're going to come back to
15 the pay versus performance table at the end, as I told
16 everyone that we're going to talk about the Dodd-Frank
17 rulemaking. Before we leave this component of our
18 discussion, I will just add my two cents, that exact
19 comp disclosure poses a bit of an existential crisis
20 for a securities lawyer, because there is nothing I
21 have ever learned about security law that actually
22 fits this framework in which we're supposed to tell
23 investors about every single piece, and every single
24 dollar, and every single component. We don't do that
25 with major businesses.

1 We don't do that with massive capital
2 decisions. We don't do that in the 10k, which drives
3 investment decision. But for some reason, this is the
4 area where we are supposed to somehow get to the
5 pennies and cents. And it's a little bit of a really
6 unusual work for a securities lawyer to kind of mind
7 meld with that.

8 And, then when we get to being a governance
9 lawyer, and we talk about our board, it is not
10 measured on dollars and cents. It is measured on
11 multiple qualitative aspects that we expect investors
12 to understand. And I think most of them do, or
13 they'll ask.

14 So it is a little bit of a really -- how do
15 we get here, where we're spending all this time on the
16 little dollars and cents that Ani pointed out that
17 we're spending on executive security as an overall.
18 And so with that, I'm going to turn to the summary
19 comp table where this will tie in.

20 So, the summary comp table, if you look at
21 the various components, like salary, bonus, stock
22 awards, option awards, non-equity, exact comp, change
23 in pension value, non-qualified, deferred comp, all
24 other, you don't -- somebody said, well, if you were
25 an alien, you came and read proxy -- you don't need to

1 be an alien to realize that you're just jumbling up a
2 bunch of stuff and putting it together and expecting
3 the total to mean something.

4 And so I'll fundamentally turn to you,
5 Sarah, to talk about what maybe we should really start
6 with. Is this material?

7 MS. FORTT: Thanks for the easy softball
8 questioning.

9 (Laughter.)

10 MS. FORTT: So, Marc actually set me up
11 really well for this. So, thank you for that. Thank
12 you for that, Marc. I mean, I think the question of
13 materiality, it's a question that has to be asked in
14 the context of a specific voting or investment
15 decision. And I think there's such a diversity of not
16 only disclosure out there, but companies making that
17 disclosure.

18 I think there is a fair argument, however,
19 that in many situations, the majority of information
20 contained in the summary compensation table is
21 unlikely to be material information. That being said,
22 I am willing to concede that portions of the summary
23 compensation table may provide useful information to
24 investors in how they're thinking about their voting
25 decisions.

1 And portions likely provide less useful, or
2 even potentially misleading, information, which I
3 think is some of what you are getting to, Ning.

4 And I know we'll flush a lot of that out in
5 the other questions in the panel, but I do think
6 perhaps bigger questions we could ask is whether or
7 not the summary compensation table provides useful
8 information to investors that isn't otherwise
9 provided, or that couldn't be provided in a more
10 useful and accessible manner.

11 MS. CHIU: And Ron, tell us what the total
12 means.

13 MR. MUELLER: Yeah, well, I agree with you
14 that the total is a mixture of different elements.
15 And if you think about it in the context of what we've
16 heard today, I mean, on the one hand Brandon said,
17 well, we rely on this information, but that's because
18 there's not another total out there. And the other
19 information that investors -- that we're hearing some
20 of these investors say they want, and that I hear from
21 investors, is not readily available.

22 So, again, I think the opportunity here is
23 to step back and say, how can we improve this. But
24 the total definitely needs to be focused on. It's
25 obtained outsized importance. It's what media starts

1 with. You heard earlier that the reason companies are
2 hesitant to provide security that's needed is not
3 because they want to avoid the disclosure, but because
4 it's going into that total column.

5 And when you think about how this whole set
6 of rules is kind of built around that total column,
7 even the executives that appear in the executive
8 compensation tables is driven by that total column.
9 And once you kind of step back and say, wait a second,
10 does that really accommodate different types of
11 arrangements, or is it part of the problem -- I think
12 it's part of the problem.

13 And I'll give one quick example, is that, if
14 you're granting compensation that -- equity awards
15 that vest over a long term period, like we've heard
16 some people talk about, and you're comparing that with
17 an equity award that vests over three years, you're
18 going to have a larger amount there in that total
19 column, even though the actual compensation that
20 person is receiving may not vary from what the person
21 that had the three year award received.

22 The -- I think, kind of, amazingly, even
23 Congress recognized this. They, in pay versus
24 performance, came up with this concept of compensation
25 actually paid. And, as David said earlier, that's

1 reflecting the fact that the total amount is not what
2 is paid.

3 It's not what we heard on the first panel,
4 that the committees are looking at. And if you look
5 at the CDNAs, where people are really trying to
6 explain their programs to the investors, there's no
7 explanation of the total column. What you see is a
8 discussion of total target direct compensation, total
9 realizable compensation, and sometimes you see
10 discussions of total realized compensation. But even
11 that, you don't get a whole lot, because the tables
12 don't flesh that information out.

13 MS. CHIU: And we're going to get to
14 realizable comp and realized comp at the end of this
15 component discussion. But first, I'm going to turn to
16 Marc to talk a little bit more about the different
17 elements of the summary comp table. We heard from
18 panel one, and I think it was very important that
19 panel one led with -- well, how are decisions made?
20 Because that is the starting point. So, in an ideal
21 world, the disclosure should somehow -- and this is
22 what we're all here for, is to try to figure out
23 how -- reflect how those decisions are made. Does the
24 summary comp table do that?

25 I'm trying to ask that sincerely. Is it

1 inconsistent with how the companies think about
2 decision making, either in the elements, or we get
3 another shot at talking about the people in the
4 summary comp table.

5 And I would also throw in the time frame. So it's
6 really three things, the various components, the
7 peoples, and then the time frame, the three years.

8 MR. TREVINO: So -- and I'm not going to
9 take a disproportionate amount of time. We did have a
10 comment on this about 10 years ago. And there's a
11 link to it in the announcement of the roundtable and
12 the panels.

13 And the premise is that the summary
14 compensation table was a new invention. It was -- so
15 it's new. Everything was dollarized for the first
16 time. Also, the instruments that you were talking
17 about were different instruments. We had PSUs, which
18 everyone agrees is very complicated. But that was a
19 small piece of compensation. At the time the table
20 was invented, options was the largest piece, actually,
21 which you don't really see anymore.

22 And so what you end up, from my perspective
23 in that summary compensation table, it's not even just
24 apples and oranges. It's -- I guess it's like a fruit
25 salad.

1 It's like a fruit salad. And the reason is
2 on two dimensions. You include compensation at
3 target, and compensation as it's been determined. So,
4 bonuses, cash bonuses, are what's the actual outcome.

5 And so that's the actual outcome. Equity is --
6 what's the target? And so you're comparing actual
7 outcomes and targets, and you're adding them together,
8 and you're getting sort of an odd number, particularly
9 when the thing that is at target is the biggest thing
10 in the table. Right now it is now the biggest thing.

11 The second is, you're mixing and matching
12 timelines. At the time of the Commission was very
13 concerned that issuers might manipulate the table
14 around equity. And so they were very, very
15 prescriptive on what year you show equity. And so
16 equity is when you grant it, period, non-stop. Cash
17 is, for what period did you earn it for? And if you
18 think about it, those of us who get bonuses, we get
19 them after the year is over.

20 But that's still -- so my bonus for '24 got
21 paid in '25. That's still on the '24 line. If I got
22 equity, which I didn't -- would be great if I had --
23 that would be actually in the '25 line item. You
24 wouldn't see it yet. You'd see it next year. And so
25 you have different times and different things.

1 And I think, could you fix it? That's sort
2 of what the comment is about. And I love what you
3 said about, what do people actually use? So when you
4 look at board materials, every comp committee has a
5 target table.

6 This is what the salary was supposed to be.
7 This was our target bonus. This is what we plan to
8 grant. Everyone has a target. And almost everyone
9 has an outcome table.

10 Right?

11 This is what you got. Those are things that
12 boards use. And similarly, we now have more than a
13 decade of experience with say on pay, and PSUs, and
14 these tables. And you're like, well, what do people
15 put in their CDA all the time? Because it's not in
16 the summary comp table, not the required table.

17 And the answer is, well, everyone has a
18 target table. You always see it. Right? And
19 everyone has an outcome table. They even have a
20 separate table of, by the way, this is what happened
21 on my PSUs from way back when, you forgot about.

22 And so I think that if we didn't ask the
23 summary compensation table to do so much, and instead
24 used the pieces that management and boards use when
25 they think -- so a target table, an outcome table, you

1 might not need a whole lot more. And for me, to
2 answer your question on people, fewer is better. I
3 think everyone agrees on CEO.

4 She's stuck with it. I think we could
5 coalesce around CFO, given the original purpose of it,
6 of making sure that position was sufficiently robust
7 and had sufficient stature to support the
8 certification requirements. Everything else is just
9 super interesting. It's just super fun to read. I
10 just don't think the SEC should be in that business.
11 That's what I would suggest.

12 MS. CHIU: One of the things that -- turning
13 to Drew for this -- one of the things that we heard
14 today multiple times is the interest in equity, is the
15 interest in how equity is disclosed. And by the way,
16 at least in panel one, there was a conversation around
17 less versus more.

18 I think we need to reframe it a bit, like
19 Marc suggested, and like Ron suggested, it's not
20 really less versus more. It's perhaps different.
21 Maybe if we could put our mindset around, just what's
22 the reason we're all having these discussions, and no
23 one has said -- and I don't think anybody here is
24 going to say that the current system works.

25 So perhaps we should focus on different,

1 instead of less versus more. And that would be a
2 really big push on the equity comp side, because
3 equity is complicated. Not only are there different
4 types of awards, there's sort of life cycles of those
5 awards. Grant or awarded, invested or earned, then
6 paid -- maybe vested is paid, maybe it isn't.

7 And then maybe eventually, it actually turns
8 into something that could actually buy you something.

9 Right?

10 But that's a decision maybe the executive
11 makes. So, going to Drew, who's spent a lot of
12 time -- I keep mentioning how much time you've spent,
13 Drew.

14 Maybe you should tell people what you told
15 me about the number of hours you've spent on reading
16 people's proxies. What do we do with this equity comp
17 disclosure.

18 MR. HAMBLBY: Yeah, thanks. So, one of the
19 things I do -- and I liked what Marc said, and I think
20 it built on something Terry said -- one of the things
21 as an investor I'm trying to understand is, what is
22 the value transfer opportunity the board is making for
23 this individual? And so, Marc, I think you talked
24 about it in that -- what the board is using. And so
25 for me to triangulate on that number, I use the

1 summary comp table, I use the form for disclosures to
2 try to say, okay, what was the stuff we just paid,
3 what is the opportunity that we know at T zero concept
4 investors use today?

5 I know it's a little murky, it's not
6 perfect. It might be a Black-Scholes or a Monte Carlo
7 simulation to get at that number, but it's a starting
8 point.

9 And then I think Ola talked about it in the
10 earlier panel, and I know John has addressed this, how
11 do we track some of this over time? And so my biggest
12 gripe today is, to get at that value transfer number,
13 especially with the overuse of PSUs, that number
14 doesn't have to be disclosed for about 14 months,
15 right? You don't have to do a Form 4.

16 Very few people do a press release about
17 that one. And it's not in the proxy statement I'm
18 reading of the most recent grant; that'll come next
19 year's proxy statement. So what I do is, I adjust
20 down, and I look at a five year, and I bring the
21 equity piece down, I try to suss through the Form 4s.

22 So I spend a lot of time trying to put this
23 whole thing together. It's not, as -- you said less
24 or more, but is it -- could we get at the answer we're
25 looking for, which I think both Marc and Terry talked

1 about -- is, the board made a decision of value
2 transfer; how do we communicate that to shareholders
3 in the most effective way?

4 MS. CHIU: And John, you and I spoke about
5 how you all look at comp disclosure to make that
6 useful to you, which was not, I start with the CDNA
7 and just go down.

8 And whether or not the supplemental tables
9 that companies are providing, realized pay, realizable
10 pay -- realized pay being the value vested and paid,
11 and realizable being the opportunity, potential
12 comp -- is that useful? Why are companies doing that?

13 And when they do that, is that useful to you? And
14 how are you looking at it?

15 MR. HAMBLBY: Sure. I'll answer those in
16 reverse order. First, the supplemental disclosures
17 are often really, really helpful. Helping us look
18 through compensation through the eyes of the board,
19 and not through the eyes of the required disclosure
20 often helps give us a different view into what they're
21 thinking about pay.

22 And we'll use those -- we look at those --
23 that is a fantastic disclosure. In fact, if we're
24 looking at a CDNA, and one of those is provided,
25 that's probably, if not the first, very close to one

1 of the first things we look at. When -- back to your
2 first question, which is, how do we actually look at a
3 CDNA -- I'm going to disappoint all of the issuers in
4 the room that spend so much time putting 40 pages of
5 text together. We don't start with the text, and I'm
6 sorry to tell all of you that.

7 The current system of disclosure is flawed,
8 but it's what we have, and we've learned to operate
9 within it, and it's difficult, and it's cumbersome,
10 but we've learned to do it, much like Drew going
11 through the Form 4S and through all the disclosures to
12 piece together things, that's kind of what we do.
13 When we look at a CDNA, the first thing we do is, we
14 look at that summary compensation table to try to get
15 a feel for how are things changing over time, but we
16 know that's not enough by itself.

17 You have to read that, of course, in concert
18 with its footnotes, but immediately go to the grants
19 of plan-based awards table, generally the table right
20 after that, and try to understand, okay, the summary
21 compensation table for the short-term incentive Marc
22 was talking about before, it tells you how much was
23 paid, but it doesn't tell you what was the target.
24 You have to go to a second table to see what was the
25 target. And then sometimes the company's granted long-

1 term cash awards. Long-term equity awards go into the
2 summary compensation table when they're granted, but
3 long-term cash awards don't. There's a disconnect
4 there, so you have to go look at that second table for
5 information there.

6 So, you piece together the tables to get a
7 good idea of that first target table, as Marc called
8 it, what did they intend to pay? And then you have to
9 go through and piece together the output table. And
10 that's actually what we're doing also. And some of
11 that's easy to do.

12 The short-term incentive, usually that's
13 reported in the grants of plan-based awards table.
14 Others aren't easy to do -- it takes an awful lot of
15 work to go through. And that's what we try to do
16 also, trying to compare the target and the output to
17 see, how did the program operate during the year, and
18 is it reasonable, given how the company performed on
19 behalf of our clients, the actual end beneficiaries of
20 that investment.

21 After we've done all of that work, then we
22 go look to see if there's a chair letter, then we go
23 read the summary of the compensation table, and then
24 we go to other sources to try to pull out information
25 that we think is material. So, we've learned how to

1 use the regime we have, but it's a very cumbersome and
2 inefficient regime to use.

3 MS. CHIU: I think I would say that insurers
4 have also learned to work within the regime that we
5 have, which is one of the reasons we provide the
6 supplemental tables, and one of the reasons that I
7 think issuers continue to say that we pay to recruit,
8 retain, motivate, incentivize, even though maybe we
9 could just have a template, and everybody says check,
10 and we could maybe spare everybody at least 10 pages
11 of that. But we have also done the same. Before we
12 leave the topic of the summary comp table, if anybody
13 has any other --

14 MR. ADAMSON: Can I --

15 MS. CHIU: Yes, absolutely.

16 MR. ADAMSON: So, what's moved me --
17 earlier, Ola Peter, you said that you wanted a life
18 cycle of those equity outstanding equity awards, and I
19 100 percent agree.

20 I think the three tables that we have
21 currently, we have the outstanding equity table, the
22 grants of plan-based awards table, and the stock
23 vested options exercise table, they're all
24 duplicative, and I personally struggle, is this option
25 that was exercised, what award does that go back to

1 here?

2 And, oh, let me see if I can find the Form
3 4, and I'm navigating through a haystack, and it's
4 hard, but it would be really easy with a life cycle
5 that reconciles, this is what was outstanding at the
6 beginning of the year, this is anything new that was
7 granted in the fair value then, this is what vested
8 during the year, and this is what's outstanding at the
9 end of the year, grant by grant by grant, all the way
10 through. And it would solve that maze that you're
11 going through, number one. And then number two, I
12 think leveraging technology could make it a lot easier
13 too, because you could hyperlink to every Form 4 or 8-
14 K to really kind of document that life cycle
15 throughout there.

16 MS. CHIU: With that, we could segue into
17 the other compensation tables, all the grants based --
18 the grant of plan-based awards table, outstanding
19 equity awards table, the option exercise and stock
20 vest table, the pension table, the non-qualified
21 deferred comp table, the potential payments upon
22 change and control, which isn't a table required, but
23 often is, so that -- we're already exhausted, right?

24 And I didn't even write anything, that's
25 just a long list of tables, so we're just going to

1 lump them together and start with, we've heard that
2 investors don't want repetitious information. What do
3 these tables do, Ron and Marc, that -- what is the
4 value? Are they repetitious of other things, and what
5 can we do to avoid that?

6 MR. MUELLER: So, the problem is, they're
7 repetitious but incomplete, right? And so -- because
8 they're reporting -- you have the outstanding equity
9 awards table that has options on a grant-by-grant
10 basis, but RSUs are not required to be on a grant-by-
11 grant basis, and then, as Terry was saying, in the
12 option exercise table, it doesn't necessarily tie that
13 back to which options got exercised. There's
14 different reporting on performance-based awards. We
15 have performance-based awards that are settled at --
16 are vested -- earned at the end of the year, but none
17 of them actually pay out until once you -- several
18 months later, once you've actually calculated what
19 performance is.

20 And so, I think the -- these other tables,
21 once you kind of figure out the basic way to disclose
22 compensation -- and I'm a huge fan of Marc's approach
23 of, you know, what's the total target, and then what's
24 the earned, and then let's fill in the gaps. You're
25 really kind of doing away with a lot of these other

1 tables. I don't -- you know, on the outstanding
2 equity awards table, it may be helpful in showing kind
3 of how -- what an executive's overall stake is in the
4 company, but the table itself requires a lot more
5 information and calculations than just conveying that
6 information. And then the -- change of control and
7 severance table, as you said, not required to be a
8 table, typically is, just has a lot of hypothetical
9 information that -- again, I think it's what was
10 referred to earlier of generating a lot of information
11 that solely goes into the table. The company doesn't
12 really use that for any other information. I think
13 investors are rarely looking at it, or if they're
14 looking at it, they're really only looking at, what is
15 the CEO getting, or what did someone actually get,
16 when they did separate?

17 MS. CHIU: So we heard from panel two, and I
18 think --

19 MR. TREVINO: Can I just add to that?

20 MS. CHIU: Absolutely.

21 MR. TREVINO: Which -- I 100 percent agree
22 with you, Ron. I guess I would have -- I have two
23 caveats. Caveat number one is, in my universe, I
24 would not be giving every investor everything that
25 they want, right? My world of disclosure will leave

1 you unsatisfied, because I don't think you need that.

2 MR. MUELLER: No raisin ice cream?

3 MR. TREVINO: Yeah, right. I'm sorry. You
4 have to make -- bring your own rum. And the second
5 is, on the termination table, if we decide to keep it,
6 you know, it does -- it suffers from that normative
7 opinionated disclosure in the sense that what it
8 discloses is only what you get in certain
9 circumstances. It doesn't disclose what you lose. So
10 if you're sort of looking -- if you actually are
11 interested in, how does this program keep people in
12 place, and how is it fair -- you're just looking at
13 one side of -- you know, you could imagine fair
14 programs where you don't get much when you leave, and
15 you don't lose much, and you could also imagine fair
16 programs where, yeah, if you leave, you get a lot --
17 if you get fired, you get a lot, but if you just
18 leave, you lose a lot. Like, those are like -- you
19 could imagine those -- you just don't see that at all
20 in that table, which is something that I always think
21 about.

22 MS. CHIU: And the lead up to the next
23 question, I just want to focus on something Marc said,
24 that we're not -- I don't think the securities laws
25 intend us to give every investor everything that

1 investor wants. And that is -- we don't do that in
2 any other disclosure that I'm aware of; we're not
3 required to do that. So I think fundamentally, we
4 still have to tie it back to the reasonable investor
5 and the concept of materiality that I asked Sarah
6 about. And again, giving you the softball questions,
7 Sarah. There's a cost to everything. Every dollar
8 counts. I think that was used two different ways on
9 the other panel. Every dollar counts from the
10 company's perspective, as well as the investor's
11 perspective. They're actually different dollars.
12 From the company's perspective, Sarah, what can we do
13 to make this both meaningful to the reasonable
14 investor, and focus on materiality? And not as
15 resource intensive, costly -- I heard the words
16 "unwieldy", "expensive", "scary" -- I think Zach did a
17 great job outlining all of that for especially the
18 vast majority of companies, which are small and mid-
19 cap. What can we do to streamline this?

20 MS. FORTT: Yeah, I think if we're thinking
21 specifically about the supplemental table -- so the
22 laundry list that you just walked us through. I'm
23 brought back to something that John said earlier,
24 which was that the supplemental disclosures, where
25 companies describe how they look at compensation

1 through the eyes of the board, is very useful. That
2 says a lot.

3 (Laughs.)

4 MS. FORTT: If what we're saying is that
5 it's the voluntary disclosures that are the most
6 useful -- listen, I know that change can be scary.
7 And I recognize that everyone in this room has likely
8 become an expert with dealing with the complexity that
9 we currently have. But that doesn't make it good.

10 And I think we all are acknowledging that in
11 one way or another. I think for -- on the company
12 side, to come back to something that you said really
13 at the beginning, Ning, it is bizarre to me, as a
14 securities lawyer, that our team spends more than half
15 their time putting a proxy statement together that
16 is -- I became a disclosure lawyer because I fell in
17 love with disclosure. I fell in love with the
18 corporate story. More than half of that is
19 compensation related and more than half -- clearly
20 more than half of the effort, I would say, for most
21 issuers, goes into compiling supplemental tables and
22 information about individuals other than the CEO and
23 the CFO.

24 I'm confused a little bit myself sometimes
25 about how we've sort of gotten to the disclosure

1 lasagna that we now have with respect to executive
2 compensation. So I think reducing the repetition and
3 removing some of the unnecessary complexity that
4 really doesn't go to material decision making, I
5 think, is key.

6 MS. CHIU: And does anyone else want to make
7 any comments about the other tables before we move off
8 that?

9 MR. HAMBLBY: Yeah, just real quick. And I
10 just want to remind folks that we do -- I want to get
11 to some simplicity here -- but the reason we focus so
12 much on this issue is, how soon we forget the
13 bankruptcies of 2001, 2002, the great financial
14 crisis. For those of us that managed money or were in
15 charge of overseeing that, our pensioners were furious
16 with us. If you were on the asset management side,
17 your clients were furious with you for not paying
18 attention to the people that were entrusted, right --
19 were the principals, or the agents -- that the agents
20 did such a poor job, and the amount of drawdown in the
21 financial crisis for those pension funds. So are
22 these \$20, \$30 million paychecks material to a company
23 that's doing \$200 billion in sales? Probably not. But
24 it is material when those things fail.

25 And, as I said earlier, much of what we

1 invest in is index or index adjacent. And that's why
2 these disclosures are here. Can we do a better job
3 with them? Can we make them more streamlined and more
4 usable? Absolutely. I don't think anybody has
5 disagreed with this. But if we forget the lessons
6 that we learned in the last 25 years about this, when
7 we see failures and drawdowns, they're really hurtful
8 to people, and they're hurtful to the people I oversee
9 for our pension fund. And so, be careful here,
10 whatever we do, that this makes sense, and we don't
11 lose the tools we need to hold people accountable --
12 these events will happen again.

13 MS. CHIU: And actually, that's an amazing
14 segue, because those events led to the next set of
15 rules we're going to talk about, which is the Dodd-
16 Frank rulemaking. And we'll start with the cost of
17 them as well, going back to you, Sarah, because, yes,
18 they're required by statute, so they cannot
19 completely, at this time, be eliminated or removed.
20 But there was discretion -- I think it was mentioned
21 that the Commission had discretion in how they were
22 executed, how they were -- what the rulemaking looked
23 like. And none of the rules that we ended up with are
24 exactly what the statute required.

25 There is more in every element, and that

1 more has translated into what some people call
2 compliance costs -- what I would just call, frankly,
3 just costs. Because compliance costs -- to me, a lot
4 of compliance costs are necessary. They're important.
5 They're fundamental to being a good corporate
6 citizen, because they have benefits. But when there
7 are costs associated with compliance with rules that
8 bring -- like, what is the behavior that it's trying
9 to accomplish? What is the compliance element, other
10 than, here's a rule, and we just need to do it?

11 MS. FORTT: Yeah, just briefly, because I
12 know we're probably coming to less time with our panel
13 -- but I think how most boards -- most boards that
14 I've worked with, at least, over the course of my
15 career, how they think about executive compensation is
16 really as a tool of corporate strategy, and a
17 strategic implementation. And I think if what
18 investors are after is to understand compensation
19 through the eyes of the board, I think a more
20 principles-based approach provides companies with the
21 ability to be more direct, to be less repetitive, to
22 be less responsive to every single request for every
23 piece of information to be in every single part,
24 right? I think a more principles-based approach,
25 where possible, understanding that the underlying

1 congressional mandates are themselves prescriptive in
2 certain areas -- but to focus on board decision-making
3 and how boards are thinking about how to move the
4 company forward strategically and how compensation
5 works to make that happen. And then, also, something
6 that is interesting to me, that it isn't always --
7 it's now often included, but we haven't focused on it
8 a lot on these panels, which is a discussion of how
9 investors' views are reflected -- are solicited and
10 reflected in the compensation program as well.

11 MS. CHIU: And, to that point, some of the
12 complexity we've seen, I think a lot of issuers would
13 say it's been responsive to specific things investors
14 ask for. That is a whole other topic, frankly, but
15 that -- going to what, Drew, you mentioned about how
16 pay design has become complicated -- there are other
17 investors -- not you, I know -- who have asked for
18 some of those things. So -- and, staying with you,
19 Drew, let's first talk about pay ratio. How do you
20 use it? What's the value to you?

21 MR. HAMBLBY: Yeah. So, I'm going to be rum
22 raisin here. So, in the beginning -- and we know why
23 the disclosure was put in place -- more recently, my
24 team and I have started looking at the original 2018
25 disclosures of the median dollar amount that the

1 company disclosed. We adjust it for inflation and
2 look at the most recent disclosures, and we see how
3 that number has changed. Now, I know it's a very
4 blunt instrument, but we've done this a couple of
5 times, especially with companies with, I'll say, high
6 low wage workforces, and try to do some comparisons.
7 We try to get real like to like.

8 And one thing we've noticed is, companies
9 that are having more worker unrest are the ones that
10 have seen either a flat, or in one case we saw a
11 negative, a decrease, in the median amount, quite a
12 significant one. And so, are we making say on pay
13 decisions on that?

14 No, but it is driving some really
15 interesting engagements for us. And, now, we're not
16 doing it at every company or every industry. Some
17 industries that median numbers, you know, quite high.
18 But I do want our boards to think about that bottom
19 50 percent of the people that work for them, because
20 in my 40 pages that I read on the plane down, there
21 was a half a page talking about the lowest paid
22 workers.

23 And I think we could spend a little more
24 time, because when I go into a business, I'm probably
25 interacting with a lower wage worker, and if we're

1 going to drive value over time, those -- that's the
2 face of your companies. And so that's how we're using
3 it. And I know that's not the way people intended it
4 to be used, but we're finding some utility in it.

5 MR. ADAMSON: Drew, I'd 100 percent agree
6 with you. I have no love lost for the CEO pay ratio,
7 but it certainly can't be used to compare company A to
8 company B. Where it can be of utility, I think, is to
9 see how it's changed over time, last year to this
10 year. Unfortunately the disclosure only shows, this is
11 this year's number. It doesn't show last year, or the
12 year before, or the year before. It would be much
13 more compelling, I think, to investors, to show
14 multiple years, how it's changed over time, to the
15 extent that the median employee has changed more or
16 less than the CEO, and that would tell more of the
17 human capital narrative.

18 MR. HAMBLY: And this is my point. I have
19 to go back six years of proxies, and I'll build a
20 little table. And I think if companies did this
21 themselves, they might -- some of them might be
22 actually surprised with what they find. We were.

23 MS. CHIU: I think the -- of all the Dodd-
24 Frank rulemaking, the one that has probably inspired
25 the most passion is the pay versus performance table,

1 which I would argue is a little bit of a misnomer --
2 misnamed -- Ani and I have spent many times talking
3 about, why did they name it that? So I'll start with
4 Terry, but I also want others to weigh in on the pay
5 versus performance table -- maybe some of you could
6 actually speak to what the statute actually require
7 versus where we ended up today, and whether John and
8 Drew actually use it, and how you use it, and what
9 some of the issuers and their outside counsel grapple
10 with when putting this together.

11 MR. ADAMSON: So I got on my soapbox a
12 little bit earlier. I think people probably heard my
13 bias that I really like the theoretical calculation.
14 Unfortunately, the table as a whole became really long
15 and really hard for people to analyze. So, where do I
16 think there's utility, where do you think -- my
17 personal opinion is, I would love it with only four
18 columns. Here's the summary comp table numbers,
19 here's the compensation actually paid -- which is that
20 number I really like -- here's the TSR, and here's the
21 peer TSR, and end it there.

22 And I don't feel a utility in the average of
23 the other named executive officers, I think that is
24 skewing, and it's noise. The other named executive
25 officers come in and out, and there's terminations and

1 new hires, so I feel like that's noise. I don't feel
2 a utility to have net income in there, gap net
3 income -- I don't feel a utility in the company
4 selected measure. I don't feel a utility in these
5 charts -- there's all these charts that just -- all
6 are standard and templated and don't tell a story,
7 so --

8 MR. ROE: So, I'll go back to Marc, his
9 comments earlier about the output table -- the output
10 table on compensation. In theory, the pay versus
11 performance disclosure held and holds a lot of
12 promise, but the execution, I think, is where we have
13 issues. The question we're trying to answer when
14 we're looking at compensation programs, and where we
15 hoped this pay versus performance table would help us,
16 is to understand, how did prior year performance
17 actually affect pay -- or, what was the outcome of a
18 program? In 2022, you disclosed that your target pay
19 for the CEO was \$10 million.

20 After all was said and done, after the short
21 term incentive paid out, after the performance share
22 units reached the end of their performance cycle and
23 we determined what the outcome was going to be in
24 terms of the number of shares paid, when the share
25 price increased or decreased at the end of that

1 program, when all the awards vested, what was that
2 program actually worth? And how did that compare to
3 how shareholders fared over that period?

4 If the \$10 million that was granted in 2022
5 was worth \$15 million, when all was said and done, and
6 the share price was up 10 percent, 15 percent, 20
7 percent, maybe that's good. But knowing that
8 connection from input to output, from target to
9 outcome, I think, is where we thought there was a lot
10 of promise, but in the execution of that table, where
11 tranches from multiple years are all molded together,
12 and you can actually end up, in some cases, with
13 negative compensation actually paid, when I don't know
14 any CEOs that actually paid to work at their company
15 over a year, that disclosure just doesn't work in its
16 current format for the purposes that we really need it
17 to, although there's a lot of promise in the concept.

18 MR. ADAMSON: Yeah. And the negative
19 compensation actually paid is -- obviously is
20 something you get a million questions on. Like, what
21 does that mean, how?

22 And -- it's math, number one. Number two,
23 there's probably ways to avoid it -- like, if we
24 wanted to spread change over a requisite service
25 period, use accounting things -- but it's really just

1 math, and maybe it goes to maybe just a tragic name
2 that we had up front called compensation actually
3 paid, and maybe if we had a better name, like change
4 in realizable pay or something, that would alleviate
5 some of the problems and the emotional arguments.

6 MR. ROE: Yeah.

7 MR. MUELLER: The only problem with that is
8 that compensation actually paid is what the statute
9 said it's supposed to be reporting.

10 MR. ADAMSON: Yeah, I hear you.

11 MR. ROE: Yeah. I mean, it would be great
12 if we could have that table, and it showed in 2023, we
13 told you the CEO was paid \$10 million. At the end of
14 2023, it was actually worth 12 -- the share price was
15 up. And at the end of 2024, it was only worth \$9
16 million -- by the way, the share price was down. And
17 at the end of 2025, when all was said and done -- most
18 programs -- three years in nature, it was worth
19 whatever it's worth, but being able to track those
20 changes every time, super helpful.

21 MR. ADAMSON: Well, what I think would be
22 beautiful, to that life cycle table that you showed,
23 that reconciles the beginning of the year to the end
24 of the year, you could put the beginning of year fair
25 value at the beginning, end of year fair value, and

1 see that delta record by record by record.

2 MS. CHIU: So, John, to your point about, no
3 executive thinks they're working for negative pay,
4 I'll just tell one story before we pivot to our last
5 topic, which is clawback. So, in 2006, when I put
6 this disclosure together for the very first time for a
7 very large US public company, as an in-house lawyer,
8 we were going to be one of the very first S&P 500
9 proxy to be disclosed. We were actually in the Wall
10 Street Journal, the very first company to be reported
11 in the Wall Street Journal, so you can imagine the
12 pressure that was on. But the most daunting thing was,
13 after putting the disclosure together, I then had to
14 go to each executive and explain their pay to them.

15 (Laughter.)

16 MS. CHIU: And I can tell you that the
17 numbers that I showed them did not represent in the
18 slightest what they thought they were getting paid.
19 So, at that point in time, that was -- I thought,
20 well, this is why I became a disclosure lawyer. But
21 going to your point about, well, the pay should
22 either -- or, should both, ideally, represent not only
23 the board and committee's decision, but also what the
24 executive actually thinks they're getting paid. So to
25 the point about clawbacks, which we'll end with, there

1 was a comment in panel two that, even my mother
2 understands clawback, because you shouldn't be paid
3 for what you didn't get. Well, that is a great notion
4 if that's how the clawback rule actually works.

5 The issue that we can talk about is, the
6 statutes -- that's essentially perhaps what the
7 statute said, but the actual rule goes beyond that and
8 covers off a lot of errors or different types of
9 things that might have led to a different pay outcome
10 that then we are now dealing with in terms of actually
11 clawing back. So if Marc and Ron, to the extent that
12 you have experience with actually trying to implement
13 the clawback rule as it currently stands, we could
14 talk a little bit about that as we wrap up.

15 MR. TREVINO: Well, unfortunately, for
16 better or worse, I've probably clawed back more money
17 than anyone in America. But I've never implemented
18 this particular rule, which is just an absolute
19 travesty. And I'm really sorry to say that. I've
20 worked with lots and lots of executives, and like
21 someone's grandmother, they're totally okay with the
22 concept.

23 Right?

24 Like, I have not talked to an executive who
25 was like, well, if I got paid and we restated, and it

1 turns out that I didn't hit my metric, I shouldn't get
2 that. Like, actually -- this is -- business people
3 understand that.

4 The rule, which redefines restatement to be
5 something that's not a restatement, so that you have
6 to call it little r, like the fact that there's
7 actually such a thing -- the fact that there's a whole
8 calculus to figure out what you got extra is -- this
9 could have been so easy -- all of these -- people
10 would have agreed on it, and in real restatements --
11 which I guess I have to say -- in real restatements,
12 it would have provided actual recovery, could have
13 been great.

14 This -- and we have lots of experience, and
15 other companies have different clawbacks -- nobody --
16 I guess that's my litmus test -- nobody -- not --
17 anyone who went and tried to do their own clawback
18 because they feel like it's appropriate for their
19 company to go beyond this rule, no one ever did this.

20 This is not something anybody did.

21 MR. MUELLER: I'll just join in on that. I
22 mean, this is one that really differs from every other
23 rule we've talked about today, because it's not simply
24 a disclosure rule. It is a -- it's a rule that has
25 consequences when it is invoked, and has consequences

1 even when it's not invoked.

2 The chilling effect on executives, and on
3 the design of executive compensation programs from the
4 threat that something may three years down the road be
5 taken back from someone who had no involvement at all
6 with the financial statements is real.

7 And I think it's an area where -- again, no
8 offense to the SEC, but they really went way past what
9 the legislation called for. The legislation actually
10 says that each company should develop and implement a
11 policy, but what the SEC adopted was, each company
12 shall implement this specific policy.

13 And so there's no accommodation to, how does
14 this work for the compensation program? How does it
15 work for the industry? And because it has real
16 consequences, I agree with the earlier panel that we
17 haven't seen the full effects yet, but I don't think
18 it's appropriate to wait for that train wreck to
19 happen before we try to get the rule in better shape.

20 MS. CHIU: And to wrap up on that point, I
21 mean, we've been talking a lot about how the comp
22 we're disclosing doesn't match the decision making.
23 And if we were to execute the clawback as currently
24 written, it probably doesn't even match the intent of
25 the rule, which is to make sure that the people who

1 made meaningful mistakes don't get paid. We'll
2 probably end up harming a lot of people -- that
3 probably wasn't even in the intent.

4 So one reason that it's probably not as high
5 up on people's radar is because it is very early, but
6 the train wreck that Ron mentioned is inevitable based
7 on the way the rule is written. We just haven't seen
8 it yet because people haven't had the experience yet,
9 but it is definitely coming, and it's going to hurt
10 some people that I don't think anybody in this room
11 wants to hurt.

12 MR. MUELLER: Well -- and hurt companies,
13 and their investors, if executives are leaving, if
14 they are retiring early, because they're not going to
15 pay back the comp, and they're going to fight it.
16 And, frankly, there's aspects of the rule that will
17 hurt both the company and the investors, because many
18 companies will end up having to advance their
19 executives the legal fees to defend the attempt for
20 the clawback, and may even be required to indemnify
21 them. I know the SEC adopting release said no
22 indemnification, but this is a company policy.

23 This is not a law that is requiring the
24 clawback, it's a company policy, and state law
25 indemnification, we'll have to see, it will be another

1 big fight, but could prevail over that. And so it's
2 not going to get money back into the pockets of the
3 shareholders, and as you said, it's not going to drive
4 the type of conduct that really should be driven.

5 MS. CHIU: So, on that cheery note, I will
6 say that I hope that no one thinks that the massively
7 wonderful security that we've all been subject to is a
8 perk to any of us, and I do want to wrap up and thank
9 this amazing panel, and all the other panels, and all
10 the audience sitting in this room who stayed with us.
11 Really appreciate that support.

12 And thank you very much, especially to the
13 SEC for hosting this roundtable.

14 DEPUTY DIRECTOR GOMEZ: Thank you everyone
15 for joining. If you have not submitted a comment,
16 please do so.

17 If you have submitted a comment and the
18 insightful conversation today made you think about
19 something else, please send another one. We look
20 forward to engaging with all of you. Thank you.

21 (Applause.)

22 (Whereupon, at 5:35 p.m., the meeting was
23 adjourned.)

24 * * * * *
25

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