

U.S. SECURITIES AND EXCHANGE COMMISSION

SMALL BUSINESS CAPITAL FORMATION  
ADVISORY COMMITTEE MEETING

Monday, November 9, 2020  
10:01 a.m.

Via Webex Teleconference  
100 F Street NE Washington, D.C.

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

2 MS. GARRETT: Good morning. I hereby call the  
3 November 9th meeting of the SEC Small Business Capital  
4 Formation Advisory Committee to order. It is nice to  
5 see everybody again during these unique times. I also  
6 want to welcome the members of the public who have tuned  
7 in to watch the meeting via webcast on sec.gov.

8 Before we start the meeting, I'd like to share  
9 some of our Webex reminders for the committee members  
10 for the virtual environments. Please unmute your  
11 microphone when you speak, and then go back on mute  
12 after you're finished speaking. If you would like to be  
13 recognized to speak, please use the chat function in  
14 Webex so we can recognize people in an orderly manner.  
15 And when you do speak, please first state your name so  
16 that everybody, including the court reporter and the  
17 members of the public, can know who is speaking.

18 Julie, do we have a quorum for the meeting?

19 MS. DAVIS: We do. And I want to quickly give  
20 a quick staff disclaimer for the SEC staff that are  
21 going to speak today. The views we express today are  
22 our own and do not necessarily reflect the views of the  
23 Commission, any of the commissioners or any of our  
24 colleagues on the staff. So with that, anyone can speak  
25 freely.

1 MS. GARRETT: Great. Thank you very much,  
2 Julie. First of all, welcome to the meeting. I  
3 appreciate everybody taking their time today to join the  
4 meeting. Before we get started with our agenda on  
5 finders and an update on the pandemic's effect on small  
6 businesses, I would like to note up front that since our  
7 last meeting in August, the SEC has taken a number of  
8 actions that are particular interest for small  
9 businesses and their investors.

10 On August 26th, the Commission finalized  
11 amendments to the accredited investor definition, which  
12 is an important topic which our committee has covered in  
13 detail on which we recommended changes. And on October  
14 7th, Commission put out a proposed conditional exemption  
15 on finders, which is another topic our committee has  
16 heard much about and encouraged the Commission to take  
17 action on. This proposed exemption is our topic of  
18 discussion this morning.

19 Additionally, last week, the Commission  
20 adopted amendments to harmonize and simplify the exempt  
21 offering framework. Our committee has been engaged on  
22 this harmonization effort since the initial concept  
23 release, providing three recommendations covering the  
24 exempt offering framework generally, the specific  
25 proposal and detailed recommendations on regulation

1 crowdfunding. We appreciate the Commission including  
2 many of our committee's recommendations in these final  
3 rules. For people interested in these changes, there is  
4 a summary chart on the Office of the Small Business  
5 Advocate's website that highlights changes to the exempt  
6 offering rules. The new changes will be most meaningful  
7 to the small and early-stage companies, many of which  
8 need funding to grow and scale their businesses.

9           And as all of this activity goes on, COVID-19  
10 continues to have a significant impact on our country  
11 and small businesses. Today marks the committee's  
12 fourth meeting since the onset of the pandemic. And as  
13 we have done previously, this afternoon, we will have  
14 committee members share their observations on how the  
15 pandemic is impacting their areas of the marketplace and  
16 how changes by the SEC could help small businesses  
17 address their ongoing capital needs.

18           This morning we have with us, I believe,  
19 Commissioners Peirce, Roisman and Lee, who we welcome to  
20 the meeting and who will each say a few words before we  
21 begin. Chairman Clayton will join us after lunch. And  
22 Commissioner Crenshaw had a pre-existing conflict for  
23 today but wanted us to know that she looks forward to  
24 joining us for future meetings.

25           Commissioner Peirce?

1                   COMMISSIONER PEIRCE: Thank you, Carla, and my  
2 continuing gratitude to all of the members of the  
3 committee for your work on this important committee.  
4 Today's agenda promises to further the dialogue on two  
5 important issues that are front of mind for me,  
6 developing a sensible framework for finders and  
7 identifying concrete actions the Commission can take to  
8 help small businesses address their ongoing capital  
9 needs in the face of economic stress resulting from  
10 COVID-19.

11                   I'm eager to hear your thoughts on these  
12 subjects, so I'm going to keep my remarks brief. Last  
13 month's proposed exemption put forth a framework for  
14 finders to engage in certain limited activities without  
15 registering as brokers. We've received a number of  
16 thoughtful comments to date that represent a variety of  
17 perspectives on the proposal.

18                   Some early themes are starting to emerge from  
19 those comments. For example, there is concern that the  
20 utility of the proposed framework could be limited if  
21 state securities laws are not amended or preempted or if  
22 only natural persons are permitted to qualify as finders  
23 under the exemption. Other commenters have raised  
24 questions about potential ambiguities in the scope of  
25 activities that a Tier II finder would be able to engage

1 in when discussing issuer information.

2 I hope that you, in addition to discussing  
3 these topics, will share your views on other questions  
4 that I've raised previously, including whether the scope  
5 of the proposed framework can be expanded to secondary  
6 offerings. This Commission guidance needed regarding  
7 discrete topics within the finders' umbrella, such as  
8 the activities of private fund advisors, M&A brokers,  
9 real estate brokers. For those watching online, please  
10 consider adding your thoughts to the comment file which  
11 remains open until November 12th.

12 The afternoon's conversation will be equally  
13 important. I'm curious to hear the latest sentiment of  
14 the small business community in light of the ongoing  
15 COVID-19 pandemic. Earlier this month, the Commission  
16 extended for an additional 18 months the temporary  
17 relief with respect to the financial statement view  
18 requirements and reg crowdfunding, an idea that was  
19 initially born here on this committee.

20 Please keep the recommendations coming if  
21 there are targeted changes that can be made to  
22 facilitate improved access to the capital markets for  
23 small businesses during this ongoing pandemic and the --  
24 and the much-hoped-for post-pandemic period. Thank you,  
25 and I look forward to today's discussions.

1 MS. GARRETT: Thank you, Commissioner Peirce.  
2 Commissioner Roisman, are you on the call?

3 COMMISSIONER ROISMAN: Yes. Good morning,  
4 Carla and --

5 MS. GARRETT: Good morning.

6 COMMISSIONER ROISMAN: -- thank you to the  
7 committee and to everyone who is joining us today. I'll  
8 try to be brief in my remarks because I'm very  
9 interested in getting into the substance of today's  
10 meeting. I'm really pleased that the committee will  
11 discuss the Commission's proposed exemption relating to  
12 finders, and I look forward to hearing your feedback.

13 This is something that I advocated for early  
14 on in my term. And I'm very grateful to Chairman  
15 Clayton for putting the matter on the Commission's  
16 agenda. Members of this committee know this issue well.  
17 I want to hear from you whether our proposed exemption  
18 for finders makes sense for those actually participating  
19 in these activities. In other words, did we get it  
20 right?

21 Keeping in mind that we aim to provide a  
22 narrowly-tailored exemption focused on individuals  
23 engaged in a particular set of activities, was there  
24 anything that we missed or some consequence that we  
25 didn't think of? Or does the exemption as proposed seem

1 reasonable given current practices? Your candid  
2 discussion will be much appreciated.

3 I am also glad that the committee will  
4 continue to discuss the impact of COVID-19 on small  
5 businesses. This is a priority for me and for other  
6 members of the Commission. We have focused much of our  
7 attention lately on small businesses, not only with a  
8 proposed finder's exemption but with temporary and  
9 permanent rulemaking, like the temporary regulation  
10 crowdfunding relief and the amendments to simplify,  
11 harmonize and improve the exempt offering framework that  
12 we adopted just last week. As Commissioner Peirce said,  
13 please keep the observations and the recommendations  
14 coming. I'm here to listen and help in any way that I  
15 can. Thank you again.

16 MS. GARRETT: Thank you, Commissioner Roisman.  
17 Commissioner Lee?

18 COMMISSIONER LEE: Yes. Good morning, Carla.  
19 Thank you, and thanks to the rest of the committee for  
20 your time today. I always appreciate the opportunity to  
21 learn from the thoughtful work of this committee. I  
22 will also be brief so that you can get to your work. I  
23 am glad to see that your agenda today focuses on the  
24 finders proposal that the Commission voted to put out  
25 for comment last month. The staff put a lot of careful

1 work into that proposal, and I'm grateful for that. But  
2 as I previously stated, I do have some concerns with the  
3 proposed approach.

4           Among other things, I'm concerned that the  
5 Commission has no mechanism for ensuring that finders  
6 comply with the terms of the proposed exemptions from  
7 registration. So there are no record-keeping  
8 requirements. There is no exam authority. And, you  
9 know, when we allow traditional brokerage activity,  
10 which is what this does, and a business model built  
11 around that activity but with no registration, we should  
12 be able, at a minimum, to ensure compliance.

13           I don't oppose a scaled registration model for  
14 finders, but I do think it should come, at a minimum,  
15 with some scaled, sensible, tailored investor  
16 protection. So I really hope that commenters and this  
17 committee will help us consider how to get the balance  
18 right there. Those concerns aside, I do want to  
19 highlight and commend the work of the Office of the  
20 Advocate for Small Business Capital Formation in putting  
21 out educational materials on this proposal, including an  
22 extremely helpful video and a chart.

23           When you're providing tools like that, make  
24 our rule proposals accessible and understandable to the  
25 public, it's very helpful in our efforts to get broad

1 public comment on our rule. So I really want to thank  
2 the staff for their innovation and their efforts in that  
3 regard.

4 I'm also looking forward to the discussion  
5 around how small businesses might be helped in the face  
6 of the pandemic. But with that, I will let you get to  
7 your important work. And thanks again to all of you for  
8 contributing your time and your talents today.

9 MS. GARRETT: Thank you, Commissioner Lee, for  
10 joining us today. And thank you for all the  
11 commissioners for your thoughts.

12 PROPOSED CONDITIONAL EXEMPTION FROM BROKER REGISTRATION  
13 REQUIREMENTS FOR CERTAIN ACTIVITIES OF FINDERS

14 MS. GARRETT: So now is time that we will move  
15 on to our morning agenda, which, as I mentioned, we will  
16 be discussing, as the commissioners mentioned, the  
17 recently-proposed limited conditional exemption from  
18 broker registration for finders who assist companies  
19 with raising capital in private markets from accredited  
20 investors.

21 The SEC staff who helped write the proposed  
22 order are here with us today to provide a summary  
23 overview of the proposal. Joanne Rutkowski and Geeta  
24 Dhingra are with the Division of Trading and Markets  
25 Office of General Counsel. Joanne and Geeta, thank you

1 for joining us today. Do you guys have a presentation?

2 MS. RUTKOWSKI: Sure. Geeta, would you like  
3 to do the honors? Geeta, I think you're still muted.  
4 Can you unmute her, please, because she's dialing in by  
5 phone?

6 I'll tell you what. I can start. We can just  
7 give you an overview, walk you through the finders  
8 proposal that on October 7th, the Commission voted to  
9 propose a new limited conditional exemption from broker  
10 registration requirements for, quote/unquote, finders  
11 who assist issuers in raising capital and private  
12 markets from accredited investors.

13 As you know, this proposal reflects many years  
14 of work, many years of careful consideration by the  
15 staff and others in response to decades of requests for  
16 clarity in this space, including through exemptive  
17 relief. The proposal seeks to assist small businesses  
18 to raise capital and to provide regulatory clarity to  
19 issuers, investors and the finders who assist them.

20 The proposed exemption would permit natural  
21 persons to engaged in certain limited activities on  
22 behalf of issuers and to receive transaction-based  
23 compensation without registering with the Commission's  
24 brokers. Basically, it's a two-tier system. The finder  
25 would create two -- the proposal would create two

1 classes of finders, Tier I finders and Tier II finders,  
2 both of whom would be subject to certain conditions  
3 tailored to the scope of their respective activities.

4           There are some general conditions that the  
5 proposed exemption would not -- would be available only  
6 if the issuer is not required to file certain reports  
7 under the Exchange Act and is seeking to conduct its  
8 securities offering in connection with an exemption from  
9 registration under the Securities Act. The potential  
10 investor must be an accredited investor or a person that  
11 the finder has reasonable belief that the potential  
12 investor is an accredited investor.

13           The finder must provide services pursuant to a  
14 written agreement with the issuer that includes a  
15 description of the services to be provided and the  
16 associated compensation. And the finder cannot engage  
17 in general solicitation or be an associated person of a  
18 broker-dealer or be subject to statutory  
19 disqualification at the time of his or her  
20 participation.

21           So those apply across the board. Then for  
22 Tier -- Tier I finders, a Tier I finder could provide  
23 contact information for potential investors in  
24 connection with a single capital-raising transaction by  
25 a single issuer in a 12-month period. As proposed, the

1 Tier I finder could not have any contact with the  
2 potential investor about the issuer. That's the Tier I  
3 finder, which is more or less analogous to the old --  
4 action letter.

5 We are also proposing or the Commission also  
6 is proposing an exemption for a Tier II finder that  
7 would be permitted where certain conditions are met to  
8 engage in additional limited solicitation-related  
9 activities beyond those permitted as the Tier I finders.

10 Specifically, a Tier II finder could engage in four  
11 types of solicitation-related activities as identified  
12 in the proposal. These are identifying, screening and  
13 contacting potential investors, distributing issuer  
14 offering materials to investors, discussing issuer  
15 information included in any offering materials, provided  
16 the Tier II finder does not provide any advice as to the  
17 valuation or advisability of the investment and  
18 arranging or participating in meetings with the issuer  
19 and investor.

20 In order to engage in these activities, a Tier  
21 II finder would need to satisfy certain disclosure and  
22 other requirements that are intended to provide  
23 additional investor protections in connection with this  
24 sort of increased activity by the Tier II finder. So  
25 the Tier II finder would need to provide the potential

1 investor at or prior to the time of solicitation,  
2 disclosure of the finder's role in compensation. They'd  
3 also be required to obtain from the investor at or prior  
4 to the time of any investment in -- securities written  
5 acknowledgement of receipt of these disclosures.

6           So consistent with the narrow scope of  
7 activities contemplated, the proposed exemptions also  
8 identified activities in which the finders cannot  
9 engage. Finders could not be involved in structuring  
10 the transaction or negotiating the terms of the  
11 offering, handling customer funds or securities or  
12 binding the issuer or investor, participating in the  
13 preparation of any sales materials, performing any  
14 independent analysis of the sale, engaging in any,  
15 quote, due diligence activities, assisting or providing  
16 financing for the purchases or providing advice as to  
17 the valuation or financial advisability of the  
18 investment.

19           All this is without prejudice to the  
20 obligations of the finder to continue to comply with all  
21 other applicable laws. And that includes the anti-fraud  
22 provisions of the Exchange Act as well as any obligation  
23 under state laws. The exemption is not intended to  
24 affect the rights of the Commission or any other party  
25 to enforce compliance with any other applicable law or

1 available remedies for violations of the law.

2 So we have, you know, included in the proposal  
3 a request for comments on all aspects of the proposed  
4 exemptive order. And as the Commissioner said, the  
5 common period closes later this week, and we're very  
6 much looking forward to the comments and expect -- we do  
7 expect we're allowed to comment on the -- of this  
8 proposal. And with that, we'd be happy to answer any  
9 questions.

10 MS. GARRETT: Does anybody have any questions  
11 for Joanne or Geeta before the committee discusses this  
12 proposal on our own?

13 MS. RUTKOWSKI: I see Sara Hanks.

14 MS. GARRETT: Hi, Sara.

15 MS. HANKS: Hi, yeah. I -- I had one  
16 question. And I'm not sure if it's easily answered.  
17 But the emphasis on the one capital-raising transaction  
18 in a 12-month period, I think the challenge here is that  
19 all of the companies who are raising funds, all of the  
20 Reg A companies tend to do it. If they're not getting  
21 listed, they raise for an entire year, if not for the  
22 three years that are permitted.

23 Reg D companies are always out there. This, I  
24 think, is -- it's a challenge for 3a4-1. Is there an  
25 interpretation as to what one capital-raising

1 transaction is?

2 MS. RUTKOWSKI: I think Geeta -- Geeta, that's  
3 one of the things that we're asking comment on, aren't  
4 we?

5 You know what? Sara, it's a very big  
6 question. Let me take it back and look at it.

7 MS. HANKS: Okay.

8 MS. DHINGRA: Hi. Yes. This is Geeta. Yes,  
9 that's correct. We have a request for comment on that.

10 MS. HANKS: Yeah. I think the comment is  
11 going to be, yeah, the -- there will be one  
12 capital-raising transaction, which is the entirety of  
13 the 12-month period. Is -- I think that just reflects  
14 the way capital raising happens now. All right. Thank  
15 you.

16 MS. RUTKOWSKI: Okay. Thank you.

17 MS. GARRETT: Okay. If there are no other  
18 questions for Joanne and Geeta, then I'd like to say  
19 thank you very much for joining our meeting this  
20 morning. And thank you for all of your work on this  
21 proposal and have a great day.

22 Okay. So now we're going to be able to  
23 discuss the proposed exemption. As Commissioner Lee  
24 mentioned, the Office of the Advocate for Small Business  
25 Capital Formation has put together great overview

1 materials on this proposed exemption. There is an  
2 informative video and chart. And Julie, would you like  
3 to share the chart on the screen so that the committee  
4 members can see the overview of the proposal?

5 MS. DAVIS: I would love too. And Carla  
6 mentioned this earlier. And then Commissioner Lee did  
7 as well. I want to show off just a little bit our --  
8 the -- our office's -- our Office of the Small Business  
9 Advocate's website. We have videos here with the latest  
10 on, of course, the harmonization, adopting release and  
11 an overview chart there. And then here, finders, which  
12 is what we're talking about today, there is a video from  
13 our office that folks have told us is helpful in, you  
14 know, breaking down and just getting a high-level  
15 overview of the proposal.

16 And then here we have an overview chart, which  
17 I'll share on my screen, that shows the difference  
18 between Tier I finders, Tier II finders and registered  
19 brokers. And I think it does a -- I'm obviously very  
20 biased, but I think it does a good job of laying out  
21 some of the -- the differences in the -- what would be  
22 proposed under the new exemptive order. So happy to  
23 share this for as long as we want on the screen but also  
24 just wanted to make people aware of it.

25 MS. GARRETT: Thanks, Julie. I think, at this

1 point, let's keep the chart up because I think it's  
2 really good overview for people to be able to see the  
3 differences between Tier I and Tier II in registered  
4 brokers.

5 Now, as Commissioner Roisman mentioned -- you  
6 know what? -- I hope that we can discuss this morning is  
7 whether or not we believe if the SEC got this exemption  
8 correct. And following our discussion, if possible, it  
9 would be great if our committee was able to make a  
10 recommendation to the Commission on our thoughts on the  
11 exemption.

12 So now I'd like to open up for discussion for  
13 the Committee members to discuss this topic. If you'd  
14 like to mention something, please signal using the chat  
15 function in Webex, and we'll recognize you to speak.  
16 Does anybody want to start off? Hi, Jason. What's your  
17 question?

18 MR. SEATS: I'm always good to start off. So  
19 I -- I'm not super close to the use cases on this. And  
20 I -- at least in our portfolio, I mean, by the bulk of  
21 dollars fundraised, they're mostly coming through  
22 professional VCs. But I'd gotten the sense that there  
23 are others on -- in the committee that have a lot of  
24 firsthand experience. And so I -- what I would really  
25 find useful is to maybe have some sort of life breathed

1 into the example of the Tier I versus Tier II like what  
2 -- who -- like what that looks like, what it feels like.  
3 And just my perception of the Tier I by the description,  
4 I wonder about the effectiveness of it because I'm just  
5 picturing that this is an individual who has sort of a  
6 big Rolodex of people that they're sending opportunities  
7 to. I get these in my inbox. And I sort of automute  
8 them because it just becomes sort of a volume thing.  
9 And just -- and, you know, based on that -- by the  
10 framing that Tier I person is sort of disconnected from  
11 being really in the middle of the transaction. So I  
12 don't know. I'd just love to hear sort of maybe  
13 anecdotes that helps me picture, like, the actual use  
14 cases.

15 MR. YADLEY: I'm happy to try and answer part  
16 of that, Carla, if you'd like.

17 MS. GARRETT: Yes, hi. Is this Greg?

18 MR. YADLEY: Yes.

19 MS. GARRETT: Okay, great. Thanks. Thanks,  
20 Greg.

21 MR. YADLEY: Yeah, sure. And first let me  
22 just add my thanks to the commissioners for this  
23 proposal. I've certainly supported this effort and was  
24 part of the 2005 American Bar Association taskforce on  
25 private placement broker-dealers which kicked us off as

1 well as past co-chair of that task force and believe the  
2 action is very timely as the Commission focuses on  
3 capital formation opportunities, particularly smaller  
4 businesses. The proposal is also consistent with  
5 recommendations of the Commission's Small Business  
6 Capital Formation Advisory Committee, of which Stephen  
7 Graham, Sara Hanks, Catherine Mott and I were also  
8 members.

9           So I'm very confident that, through this  
10 discussion, this advisory committee will add its support  
11 as well. I guess part of the answer to Jason's question  
12 is in Tier I, I think what the Commission was looking at  
13 were really -- you're right -- people with Rolodexes,  
14 people who have a lot of contacts, generally have been  
15 successful in business, perhaps built companies, sold  
16 them and want to share their knowledge. They're like  
17 angel investors but some of them less likely to  
18 aggregate in groups that I'm sure Catherine can comment  
19 on further later.

20           But part of the issue and part of Sara's  
21 question earlier about only one transaction for one  
22 issuer. There is that issue of when does the offering  
23 start and when does it end. And as counsel, we're  
24 always trying to have a company set a dollar amount that  
25 they'd like to raise, start an offering and complete the

1 offering so that we, first of all, can comply with the  
2 exemption, keep good records and avoid integration with  
3 other offerings.

4           But the fact of the matter is that smaller  
5 companies are always out looking for cash. The ability  
6 of the finder to add value to this early-stage company  
7 is that the finder knows people who are willing to take  
8 some risk and are knowledgeable and able to make an  
9 evaluation about whether they want to invest in a  
10 particular company. But not every person on the  
11 finder's Rolodex list is going to be interested in  
12 Company A. They may not be interested because they  
13 don't know anything about that space, which is a good  
14 thing. People invest in what they know about.

15           So it may be that the finder goes to this  
16 particular investor for Company A, Company B, Company C.  
17 And Company C is the one the investor wants to look at.  
18 The other thing is that if the finder does a good job or  
19 the issuer, the issuer is going to tell her colleagues  
20 who are also out looking for money that so-and-so was  
21 able to help. So I think it is restricting the finder's  
22 space unnecessarily to require that finder only to be  
23 able to work with one issuer on one offering. That's  
24 just not how the real world works.

25           And I guess the other thing I would -- I would

1 say at the outset, I have a number of comments that I  
2 intend to be constructive and supportive of the rule but  
3 simply that finders under the rule are individuals. And  
4 while this is very much a personal kind of activity,  
5 most lawyers advise most people when they do business  
6 not to do so as sole proprietors for tax reasons and  
7 liability reasons.

8           So right off the bat, I think the Commission  
9 can further enhance its objectives by having finders who  
10 want to comply with the law comply by not having a  
11 barrier that says, "Wow. If you're doing this through a  
12 company, you can't do this." And more importantly, the  
13 rules ought to apply to all finders whether they're  
14 acting in an individual capacity or as -- as the  
15 principal of an entity. So I think that addresses  
16 Jason's question a little and adds a couple of other  
17 things. And I can add some more later after others have  
18 had a chance to comment. Thanks, Carla.

19           MS. GARRETT: Thank you, Greg. Let's see who  
20 had the next point on here. Sorry. I understand I'm a  
21 big crackly.

22           Sara, did you have something to talk about?

23           MS. HANKS: Yeah. I just wanted to -- because  
24 Jason had raised the question of, you know, the use  
25 case. I've sent in the chat an extract from an actual

1 email that a, quote -- so quote finder sent to one of my  
2 clients just a couple of days ago like in the middle of  
3 the night. And I had to just -- I -- I sent an email  
4 back to the client with one word, "illegal," and the  
5 client dropped this immediately.

6           But this is exactly the sort of thing that  
7 we're seeing all the time. Company is -- has done some  
8 capital raising. The so-called finder goes very  
9 interesting. I wonder if I can sort of connect them  
10 with some people I know and absolute -- you know, the --  
11 as you can see with some of the things that the finder  
12 is offering to do -- you know, emphasize the business  
13 case. And, you know, this person who I looked up on  
14 LinkedIn has absolutely no qualifications in this area.  
15 This person was a real estate agent who got lucky in  
16 something and is now sort of soliciting people.

17           If our client had taken it up, they would, of  
18 course, have been, based on the activities that this  
19 person was offering to do, they would have been using an  
20 illegal broker-dealer. And the offering would, of  
21 course, have been -- would have been subject to  
22 rescission. So that's an example of, you know, real  
23 life, what small companies are dealing with all the  
24 time, fighting these people off in some cases. And they  
25 don't know what the rules are. And so my point here,

1 apart from the one-year thing, which I think is  
2 something that needs to be answered both here and in the  
3 context of 3a4-1 is the -- the people who are enforcing  
4 the rules right now are the lawyers of the issuers. If  
5 there was a way to reach out not just to us but to the  
6 people who are making these solicitations and saying,  
7 "Hey, guys. You know, you are -- what you're doing is  
8 potentially illegal. Please get yourself properly, you  
9 know, registered or get yourself right regulatorily,"  
10 that would be a tremendous service that the SEC would do  
11 because these people are everywhere.

12 MS. GARRETT: Thank you very much, Sara.  
13 Catherine?

14 MR. SOLOMON: Sara, wait. Are you saying that  
15 you think that the SEC is -- provide more rails around  
16 this? Otherwise you're just going to open up floodgates  
17 for --

18 MS. HANKS: Oh, no. No, no, no, no. Just  
19 telling people that there are rules here. I mean, I am  
20 absolutely thrilled that this is being proposed. I  
21 think it's a really good set of -- a set of guidelines.  
22 I would just like a greater outreach to the so-called  
23 finders who are doing this so that they know that they  
24 are subject to these rules. Otherwise, the only people  
25 who are going to enforce this is the small companies and

1 their own counsel.

2 MR. SOLOMON: Right. So, Greg, maybe -- can  
3 you give us a little bit of perspective, a little bit  
4 more perspective, maybe, on the groups that you're  
5 trying to encompass with this? So if the goal is to  
6 open up, you know, the opportunity for more individuals  
7 to be helping companies to raise -- small companies to  
8 raise money, that's the general idea here.

9 Can you give us a sense for -- are we talking  
10 about this being, like, an adjunct to sort of the legal  
11 profession or other professions, like, you know, hey, I  
12 happen to know a bunch of people, and I can introduce  
13 you. And that -- we trying to give some clarity around  
14 that permissibility, or are we really trying to open up  
15 a whole new class of people here that are, you know,  
16 being exempt from registration? I mean, I just want to  
17 get the -- I know what the -- what it says but just try  
18 to get a little bit more background from you on what the  
19 intent was, you know, from the previous discussions.

20 MR. YADLEY: Yeah. I think it is not an  
21 extension of, for example, what -- what -- what lawyers  
22 or accountants do. For the most part, I'll simply speak  
23 for myself. As a lawyer, I'm trying to help my client.  
24 And I'm doing that through the provision of legal  
25 advice, which includes applying what the law is to the

1 clients' particular circumstances. In this case,  
2 they're trying to raise money. So anything I can do to  
3 help them raise money, I'd like to do.

4           As Sara suggests, I'd like to be able to say  
5 there are -- first of all, there are broker-dealers that  
6 I can introduce you to if it's right kind of deal. But  
7 for small company, raising \$50,000 or \$250,000 and the  
8 company is run out of the person's garage and doesn't  
9 have a lot of the controls in place yet that  
10 professional investors are going to invest in, they need  
11 to be introduced. I would be happy to say there are  
12 people who are finders. And you need to be careful that  
13 you work with the right person.

14           But these people are regulated to a certain  
15 extent or have legal requirements to a certain extent.  
16 And the value that they bring is that they know people.  
17 This is all about matching. The advisory committee at a  
18 prior meeting, you just have to spend a lot of time  
19 talking about the mismatch between companies that have  
20 very promising ideas or business plans. And they don't  
21 know people. And they may not know people because  
22 they're not in a money center. They're in the middle of  
23 the country somewhere, or they're in an underrepresented  
24 group, a minority or women who just don't have a network  
25 yet. The finder has a network through his or her other

1 business. And so one of the -- so it's a new class of  
2 people who simply are able to provide these  
3 introductions and some basic assistance. So one of the  
4 things that I think will be reflected in the comment  
5 letters that the staff and the Commission receive has to  
6 do with contact with potential investors. It's really  
7 pretty tough to have a no-contact zone here. And in  
8 part, if you think about it, the potential investor gets  
9 a call out of the blue from a company. And what if the  
10 investor says, "Well, how did you get my name?" Is the  
11 issuers supposed to say, "Well, I can't tell you."

12           And if the issuer tells that person and then  
13 the finder gets a call and says, "Hey, you gave my name  
14 to A, B, C," is now the exemption blown? What can the  
15 finder say? So I think we should consider revising the  
16 conditions for exemption to permit the finder to state  
17 or confirm to investors that, yes, I gave your name to  
18 A, B, C and some basic information. I know A, B, C  
19 through long relationship or I only met A, B, C. I'm  
20 not vouching for them in any respect, but I am being  
21 paid because I think that's important for the investor  
22 to know where the call came from and that the referrer  
23 is being paid.

24           MR. SOLOMON: So maybe the framework here that  
25 might -- and Youngro, I want to get to you in just a

1 second. But maybe a framework for us to sort of lay out  
2 the conversation is really, again, to generally have a  
3 conversation around whether or not this -- this  
4 addresses a critical unmet need. And, you know, sort of  
5 Greg has made the case that it has. And I think we  
6 should either, you know, as a group, come around this  
7 idea that we need to -- that this proposal addresses an  
8 unmet need that essentially allows people to figure out  
9 how to connect companies with investors in a more light  
10 regulation environment. Like that's sort of what I  
11 would see a threshold question. We should probably  
12 focus at least initially on that.

13           And then if we can have a coalescence around  
14 whether or not we at least agree or there is a consensus  
15 around that, then I think it makes sense for us to look  
16 at, you know, the Tier I and Tier II. Is that the right  
17 framework, or is it too complicated, and should we be  
18 thinking about making recommendations that maybe  
19 streamline that into a single, you know, recommendation  
20 that addresses maybe people's concerns.

21           So on that -- again, I just think trying to  
22 organize ourselves, you know, around the conversation,  
23 put some rails around it, I'd like to at least propose  
24 that we at least have a -- try to build some consensus  
25 or hear opposing views around this idea that this is, A,

1 necessary and, B, that we should -- that we agree with  
2 it in concept or maybe we don't. And so maybe that's a  
3 good way to start.

4 So with that, Youngro, can -- I know you had  
5 some comments. So why don't you go ahead?

6 MR. LEE: Yeah, no. Thank you so much and  
7 really appreciate, again, everyone what the SEC has  
8 done, obviously, with harmonization, accredited investor  
9 and now the finders topic. So, Jeff, to address kind of  
10 your comments, I do think that some structure around  
11 this topic is necessary. But I also agree with, I  
12 think, what you were getting at, which is we definitely  
13 need to be very careful because there is so many noise  
14 and, frankly, trucks in this industry.

15 So I just wanted to give a perspective, again,  
16 from the small business context. I know, you know,  
17 there is definitely companies that are raising, you  
18 know, tens of millions of dollars. And those guys  
19 obviously would benefit from these rules. But I think  
20 the original intent or at least one of the big intent  
21 was, again, how do we help small businesses who are  
22 raising where we need, you know, \$50,000 or 100,000.  
23 And it's -- a lot of it is the similar dynamics as we  
24 dealt with in the previous discussion, harmonization,  
25 which is every business has a very different

1 perspective. And it's not one-size-fits-all.

2           And so coming from that vantage point, I agree  
3 with the framework, at least the idea between there is  
4 probably two different types of finders. And I'm  
5 intentionally generalizing for everybody's just kind of  
6 simplicity. But I think there is really two types. One  
7 is really the good-intentioned people -- right? -- or  
8 organization. And this is, like, the nonprofits, like  
9 local lawyers, you know, accountants, like, professors,  
10 universities, like, you know, general, like, you know,  
11 mentors and leaders of a community.

12           And again, I'm not talking about the Silicon  
13 Valley/New York community. I'm really talking about in  
14 your Main Street America context. They're not really  
15 trying to make a living off this; right? Like -- but  
16 they really do want to help. And even when they help --  
17 I mean, even if somebody is really well-intentioned,  
18 obviously, like, you know, it takes time and it takes  
19 effort.

20           So rather than making it a pure, like, hundred  
21 percent goodness of your will and volunteer your time,  
22 which some people do anyway, you know, having some rule  
23 that allows reasonable compensation, I think, could  
24 definitely benefit that really good-intentioned people  
25 who really wants to help their local, you know, small

1 business. The second type of potential finders are  
2 those who frankly want to make a living doing this, and  
3 they don't want to be a broker-dealer, either because  
4 they can't for, you know, bad reasons or they don't want  
5 to because, you know, they're probably -- they'll think  
6 that making, you know, \$20,000 a year on this is worth  
7 the regulatory, you know, burdens of a full  
8 broker-dealer license.

9           So using those two examples or at least two  
10 people as an example, in the first case, I think Tier I  
11 definitely fits. And again, they don't want to do work.  
12 They just want to -- hey, I know Person A. Here is  
13 Company B. You know, please go at it. I think that's  
14 probably the more likely situation for the  
15 good-intentioned people with small businesses. And so  
16 for that -- again, this -- I'm generally supportive of  
17 the SEC rules.

18           But making the 12-month or once-in-a-12-month  
19 issue clear because I think, as a practical matter,  
20 having -- you know, to be able to do this once every two  
21 -- 12 months is probably not practical. I mean, maybe  
22 it can be once per issuer per 12 months. But, you know,  
23 we're really -- I mean, just imagine. I'm sure  
24 everybody knows it's, like, some really respected guy or  
25 woman or some organization in local media. Like they

1 just know everyone basically and so on.

2           The second category is the -- obviously Tier  
3 II, which it looks like it's trying to basically, again  
4 -- we're definitely trying to discourage the bad actors.  
5 So anything fraud, anything, you know, unscrupulously,  
6 we should definitely make sure that they cannot take  
7 advantage of this whatsoever or there will be very  
8 serious consequences if they do.

9           And I think perhaps to kind of avoid those  
10 issues and make it more clear is to, frankly, make Tier  
11 II more like broker-dealer, not in the sense of the cost  
12 burdens, which is why people were hesitating to do this  
13 but from a reasonable practical perspective such as  
14 require more disclosures -- right? -- require -- like  
15 require the Tier II folks to keep the same records, you  
16 know, communications history as a broker-dealer or a  
17 lawyer would do for their clients; right? Require, you  
18 know, them to be subject, like, if there is an issue for  
19 the SEC would be able to, you know, frankly ask the Tier  
20 II finders, "Hey, show me your records." Make sure you  
21 did it the right way; right?

22           So we're basically eliminating the unnecessary  
23 cost burden on broker-dealer, but we're still  
24 maintaining truth to the spirit of it, which is you have  
25 to be transparent. You have to be honest because a lot

1 of small business owners, frankly, don't know any of  
2 this. And I think they can be taken advantage of from  
3 basically the bad actors that Sara gave an example of.

4 And so that's kind of my two high-level  
5 comments. There is basically two types of, you know,  
6 finders, the good people that really just wasn't -- you  
7 know, just helped. The second -- why try to make some  
8 living off of this or at least some reasonable income,  
9 in which case, all we're -- all we -- in my opinion, all  
10 we should do is try to lower the cost burden of the  
11 broker-dealer but still make them very serious -- excuse  
12 me -- follow the spirit of the broker-dealer regulation.

13 And maybe one way to do it is, for example, in  
14 Tier II or Tier I for that matter, like, get a  
15 broker-dealer in between; right? Like you can -- don't  
16 do a one-on-one conversations. You can have a  
17 broker-dealer in between and that maybe solves a problem  
18 because a broker-dealer themselves are subject to  
19 regulations. And I can speak from personal experience  
20 because we operate as a broker-dealer. Kind of like  
21 Jason said, I get -- I mean, not even exaggerating --  
22 literally thousands of emails, you know, probably a week  
23 or not a week, a month and definitely, like, several a  
24 day. "Hey, I have this deal. I have this investor.  
25 You know, give me X percent." Obviously just ignore all

1 of it. But if I had ability to work with kind of a  
2 trusted network of Tier II finders I know is doing it  
3 the right way because I and my firm and our registered  
4 representatives can probably tell better which of these  
5 finder twos are legit and which are basically trying to  
6 make a buck or trying to take advantage of the  
7 situation.

8           That would make it so much easier for us,  
9 especially in these local communities, and say okay.  
10 You know, this firm in Tulsa, Oklahoma, we know you're  
11 good. So anytime you have, you know, different issuers  
12 or investors that you wanted to work with, here is a  
13 process. We as a broker-dealer are ultimately  
14 responsible, but we have a trust relationship with you  
15 that we can use to, you know, provide more services, for  
16 example, in a city like -- just using Tulsa as an  
17 example versus, you know, just having those guys just go  
18 at it on their own.

19           MR. SOLOMON: All right. Thank you, Youngro.  
20 I think those are two helpful -- so just to summarize  
21 sort of, you know, maybe make Tier II a little bit more  
22 like a registered broker-dealer but with less in terms  
23 of record-keeping and some of the things that obviously  
24 keep the -- the undesirables out, probably, so that if  
25 the SEC -- and it does certainly put some rails around

1 if the SEC wants to go in and ultimately take a look at  
2 the activities of Tier II.

3           There will be at least records to look at,  
4 which, I think, is obviously -- it makes -- it keeps  
5 people who would otherwise do untoward things kind of  
6 out of the -- out of the game if they think that there  
7 is a specter of an SEC audit or somebody coming in and  
8 taking a look at them. And then in Tier I, you're just  
9 saying -- I just want to make sure I understand. You're  
10 saying that you think we should just limit the amount of  
11 incurrences so that -- is that what I'm hearing? Is it  
12 more in the --

13           MR. LEE: I think -- I mean, I think there is  
14 some -- at least it wasn't a hundred percent clear in  
15 the rules. But basically I think the rules seem to say  
16 the limitation is once per 12 months that someone can  
17 use this. I apologize if I got that wrong. But it was  
18 -- I basically think that doesn't make sense in the Tier  
19 I context, which the real-life example of Tier I is,  
20 again, somebody who has no idea, frankly, about how any  
21 of this works. They are just really good connected  
22 people in the local community, like a church member  
23 even, you know, or, you know, a nonprofit organization  
24 that, you know, helped small businesses.

25           I know SPIC can't do it, but there is, like,

1 SCORE and these organizations that are all volunteers;  
2 right? So these are all really large scope of people --  
3 at a time. For those people, just, like, they should be  
4 able to help, and they should be able to work with a lot  
5 of different businesses because they are not really  
6 getting involved in the, you know, different  
7 communications and stuff. So it's basically handing it  
8 off to more, you know, professional services.

9 MR. SOLOMON: Right. But they are getting  
10 paid.

11 MR. LEE: They are getting paid. So maybe --  
12 I mean, maybe because there are limits on the payment.  
13 But, like, literally -- like for example, we can't even  
14 pay much -- the companies are raising \$50,000; right?  
15 They can't pay much to anyone. Like from a  
16 broker-dealer perspective, I love to pay someone who  
17 have -- you know, let's say we're raising \$100,000 for a  
18 business and it's a local small-town USA.

19 So frankly they're not going to get  
20 attractions from, you know, New York investors. But if  
21 somebody says, "Hey, like I'm a" -- it's a really  
22 legitimate person. Here is an investor that can pay  
23 \$10,000. I'd love to pay this guy a hundred bucks.

24 MR. SOLOMON: Okay. So this is an interesting  
25 thing that the -- at least as I read the order, and I'm

1 not a lawyer. So it's entirely possible that I missed  
2 this. But so what you're talking about, though, is --  
3 and I agree. We all have issues where we try to figure  
4 out how to pay individuals to introduce business to us.  
5 They're not -- when I say "we all," anybody who is a  
6 regulated broker-dealer is always, I mean, asked all the  
7 time.

8           You know, if I show you this deal, how much --  
9 what's in it for me? And, you know, we're oftentimes  
10 hamstrung in our ability to make payments to people  
11 because maybe making that payment to person if that  
12 person is not a registered representative or not  
13 affiliated with another broker-dealer, it becomes more  
14 problematic. So I wasn't sure -- and Catherine, we're  
15 going to get to you in a second because I know you have  
16 questions, but I just wanted to get some clarification  
17 from the staff.

18           Does this order at all contemplate the idea  
19 that, you know, both in the case of Tier I and Tier II  
20 finders, perhaps bringing a broker-dealer into the  
21 discussion so that there is some regulatory framework  
22 that enables the broker-dealer to collect a fee and make  
23 sure that everything is being done according to -- you  
24 know, according to the rules and regulations but allow  
25 the broker-dealer to pay non-registered representatives

1 for those finders? Is that something that's  
2 contemplated here, or is it just silent on that?

3 MS. RUTKOWSKI: You know, right now, it's a  
4 really good question. So, you know, obviously there is  
5 an established framework for broker-dealers in terms of  
6 soliciting transactions. You have protections in  
7 Regulation BI. We say in the proposal that you can't be  
8 an associated person of a broker-dealer. And so I think  
9 it depends on how you structure this. And, you know, in  
10 the FINRA world, of course you have Rule 2040 that says,  
11 you know, you can't make a payment to an unregistered  
12 person who is supposed to be registered. So I think it  
13 all depends on how it's actually structured.

14 Geeta, does that sound right?

15 But it's a really good question.

16 MR. LEE: Jump -- that's kind of --

17 MR. SOLOMON: Youngro, let's -- let me --  
18 let's just hear from Geeta really quickly. Go ahead.  
19 Geeta, go ahead.

20 MS. DHINGRA: I would just agree. Yes, hi. I  
21 was just agreeing with Joanne. Thank you.

22 MR. SOLOMON: Okay. So Youngro, one final  
23 comment. Then let's move to Catherine.

24 MR. LEE: No. I was just saying, Jeff, that's  
25 what I was getting at. Definitely whether for Tier I or

1 Tier II, if there is a registered broker-dealer that is  
2 ultimately on the hook for it, I think that perhaps  
3 helps the efficiency of those suggestions. And even if,  
4 per the rules, if the broker-dealer doesn't pay, that's  
5 okay. If a broker-dealer works -- working with an  
6 issuer coordinates with the issuer so that the issuer  
7 basically -- you know, we're kind of not a cop, but  
8 ensuring that the issuer doesn't get taken advantage of,  
9 that would be very helpful, even if the payment is going  
10 directly from the issuer to the finder.

11 MR. SOLOMON: Got it.

12 Catherine?

13 MS. MOTT: Thanks, Jeff. If I -- what I would  
14 add to this is what -- and of course, I've been a  
15 proponent of this since Greg first started talking about  
16 it, is we have to think of this as this is -- I think  
17 Youngro mentioned this as well. One size does not fit  
18 all. That's how we treated the accredited investor  
19 definition as well.

20 Think about this in the context of not  
21 everybody is in a large metropolitan area like we are,  
22 many of us are here present today. But instead, there  
23 are small to medium-size -- excuse me -- thank you.  
24 There are small to medium-size businesses that are  
25 occurring in small to medium-size cities, towns. So

1 think of a town, 35,000 to 100,000 individuals. And  
2 I'll give you a good example, Jeff. You're probably  
3 familiar with Titusville, Pennsylvania, probably a size  
4 -- a town of about 8,000 people; right? Small --

5 MR. SOLOMON: Yeah.

6 MS. MOTT: -- company there needed to raise  
7 money. It was actually a cool technology for junkyards,  
8 you know, owners. So imagine that. So -- but this  
9 person is not, you know, part of the social network of  
10 the local country golf club; right? So, I mean, the key  
11 thing is how does a person like -- and again, probably  
12 not into, like, major metropolitan areas where there is  
13 lots of crowdfunding stuff all over the place that they  
14 know and understand.

15 But they do know that individuals will give  
16 them money. And their -- it's their neighborhood and  
17 that if they get to the right people they'll -- their  
18 neighborhood will support another business owner. And  
19 -- but again, this person needs to have access to those  
20 people. So one of the things I would like us to think  
21 about in this context is that not one size fits all.

22 And particularly, this is going to be, I  
23 think, important for minorities because the same thing.

24 It's your social network. The people who have the  
25 money, how do you get to those people? And if you have

1 someone who can make that introduction, you know, I  
2 think it's going to make a difference in this small to  
3 medium-sized towns that won't have -- they don't need a  
4 million. They don't need 10 million. So they're not  
5 going to need an angel network. They're not going to  
6 need a venture capitalist. But they're going to need  
7 some capital to get off the ground.

8           So having said that, though, I'd like to talk  
9 about a letter that I thought was presented, one of the  
10 comment letters, around creating some structure around  
11 how we address these things. One is -- I think it was  
12 Bybel Rutledge that -- their comment letter. They had a  
13 comment around perhaps we could clarify that finders be  
14 limited to natural persons rather than creating a  
15 business. And then that business turns around and sells  
16 names to desperate people looking for money. I thought  
17 that was a good idea around structure.

18           There was another comment around -- let's see  
19 -- general solicitation. Does this mean that a finder  
20 is prohibited from advertising his or her services as a  
21 finder? So can they -- can they advertise their -- and  
22 I didn't see anything addressing that. The next thing I  
23 will -- oh, fee structure. This is something the Angel  
24 Capital Association discussed at length. And I think we  
25 put it in our comment letter as well to the SEC. And

1 that is around reasonableness around fees. We as an  
2 organization, as a national organization, we discourage  
3 charging fees, especially excessive fees, to  
4 entrepreneurs. Entrepreneurs can be very desperate, and  
5 they will do things when they need money.

6 And it probably is not very logical that there  
7 should be some comments or something -- some structure  
8 around reasonable compensation as we address the  
9 rulemaking on this. And I think those were -- oh, and  
10 the other thing is -- and I wasn't clear on this either,  
11 and I think someone alluded to this earlier, is if  
12 you're raising money under a Reg D offering and it's  
13 preempted from state securities, shouldn't this also be  
14 preempted from state securities? There should be some  
15 consistency. So those are my comments.

16 MR. SOLOMON: Okay. So just to kind of -- I  
17 tried to take a few notes here, but I want to make sure.  
18 So one size does not fit all. So I guess that's largely  
19 around the size of the offering. So maybe there -- we  
20 should be thinking about recommending to the SEC that if  
21 it's offering or below a certain size that, you know,  
22 that we shouldn't even be consider -- we should just  
23 have a blanket exemption potentially for offerings below  
24 a certain size. You know, maybe it has to fall within  
25 Tier I or Tier II. But in any case, if we put a size

1 metric on this, at least for offerings under a certain  
2 size, you know, everyone knows that they're in a safe  
3 harbor. That's the first thing that I heard. The  
4 second thing I heard is just that we need -- we should  
5 think about this idea -- well, why don't you -- I just  
6 -- I'm not sure I quite -- the last one, I'm not quite  
7 sure I understood exactly what you said there. I want  
8 to make sure I get it right.

9 MS. MOTT: What was that? Reasonableness  
10 around fees? Is that what --

11 MR. SOLOMON: Okay, yes. Reasonable -- so, in  
12 other words, are you say -- you talk about aggregate  
13 fees? You know, I mean, the SEC doesn't generally get  
14 involved with fees, per se. That's more of a FINRA  
15 thing. So how --

16 MS. MOTT: There -- you know, one of the  
17 things we talked about is -- at the ACA is that if  
18 you're a broker-dealer, there is sort of a -- you know,  
19 kind of a, you know, a standard, no more than -- you  
20 know, sometimes it's tiered, but it's typically not more  
21 than 5 percent of the total raised or total raised that  
22 the money you raise, yourself raise, not the total part  
23 of the raise. That was the other thing that came up in  
24 the discussion. I forgot about that, is, you know,  
25 brokers generally come in and they say, "Hey, we get a

1 percentage no matter what you raise." That's -- whether  
2 I'm involved or not, we get a percentage of that. We  
3 thought that finders should be -- you know, get a  
4 percentage of the amount of money they, themselves,  
5 raise, not that other people raise for them. So there  
6 could be some issues around that.

7 MR. SOLOMON: Okay. So then maybe we should  
8 just have a blanket comment or just maybe chase down a  
9 little bit this idea of, you know, try to have some sort  
10 of a limit on the amount of fees so that there is some  
11 protection for small issuers so that they don't get  
12 abused.

13 MS. MOTT: Right.

14 MR. SOLOMON: And then the third one is really  
15 -- you know, and again, I think this is going to come up  
16 a lot. And will want to hear from Melanie on this  
17 topic, is really how to deal with -- you know, with  
18 state issuers and how to make sure that we have  
19 conformity and that people are applying -- that are  
20 people who are engaged in this activity are doing so in  
21 compliance with the state authority. So we'll come to  
22 Melanie probably in a little bit on that topic. My  
23 guess is -- and so did I get, Catherine, where you were?

24 MS. MOTT: Yes, thank you.

25 MR. SOLOMON: Okay. By the way, Titusville,

1 little fun fact here. Titusville is home of the very  
2 first oil well in America.

3 Am I right about that, Catherine?

4 MS. MOTT: Yes, yes, yes. First oil well and,  
5 by the way, there is a beautiful bike trail there.

6 MR. SOLOMON: There you go. Okay. So Jason,  
7 you're next.

8 MR. SEATS: I don't know -- I don't know if my  
9 comment is going to be additive. Youngro is laying out  
10 sort of profiles. Greg, you helped. Youngro helped  
11 snap it into focus. The idea is that Tier I is sort of  
12 someone who is casually helping, and this is not their  
13 -- this is not their desired occupation versus Tier II,  
14 they're trying to make a business out of it effectively  
15 -- right? -- as a person. That makes sense to me. And  
16 the thing I think about is you said, you know, the way  
17 you described it, you're really trying to describe the,  
18 quote/unquote, good actor.

19 And therefore the, quote/unquote, bad actor is  
20 someone who is doing something that's either fraudulent  
21 or illegal. But I'm actually -- what I'm trying to  
22 picture is how are we either attempting to include or  
23 screen out people who are following all the rules that  
24 are undertaking activity in a way that's not actually  
25 going to be helpful? And so maybe the category there

1 would be the Tier II, you know, person who is going to  
2 follow all of the rules but whose mechanism of the way  
3 that they're behaving is basically spamming people with  
4 opportunities which is absolutely not additive and is  
5 something I think we all sort of see in our inboxes  
6 already. And so I'm wondering -- like that's the thing  
7 I'm thinking about, is like how do we know that -- you  
8 know, I guess opening the floodgates is not quite  
9 exactly what I'm picturing.

10 But how do we know that we're making it easier  
11 for the people who are doing it the right way and who  
12 are actually adding value in the process of connection  
13 versus those who are just playing a numbers game and  
14 trying to attach to as many possible endpoints as  
15 possible?

16 MS. RUTKOWSKI: Hi. It's Joanne. I know it's  
17 not a perfect answer, but that was one of the things we  
18 were trying to address with the no general solicitation  
19 requirement, was it was -- you know, we do sort of  
20 contemplate this would be sort of relationship-driven.

21 MR. SEATS: I see. Got you. That's helpful.

22 MS. RUTKOWSKI: But I think everything you all  
23 have said, the points are all extremely valid. And if  
24 this were simple -- you know, this has been in the works  
25 for 50 years. If this were simple, I think, you know,

1 we will have sorted out a long time ago. So everything  
2 you're saying, we're totally taking to heart.

3 MR. SOLOMON: Well, thank you for making me  
4 feel better about that, Joanne, because I'm still  
5 struggling with it. So I'm glad to know that some  
6 people have been working at it for 50 years. I don't  
7 feel so bad anymore about not --

8 MS. RUTKOWSKI: No. You're dealing with human  
9 nature; right? You know, questions about money and  
10 particularly small issuers. And so, you know, you have  
11 the most vulnerable people. We almost also have --

12 MR. SOLOMON: Yeah.

13 MS. RUTKOWSKI: -- the most needy.

14 MR. SOLOMON: Well, I think we're -- you know,  
15 this is always sort of the balance of this committee --  
16 right? -- which is opening up pathways for small  
17 companies to get access to capital but, you know,  
18 keeping out the players who I affectionately refer to as  
19 the riffraff. And they're always there. You know, it's  
20 -- and as long as I've been in this business, there have  
21 been people who have tried to take advantage of other  
22 people.

23 We need to make sure we keep those folks out  
24 as best we possibly can, you know, and that's really  
25 always foremost in our minds, both from an investor

1 standpoint and an issuer standpoint. So I think we're  
2 looking to make sure that, you know, whatever we have  
3 recommended, it takes into account safety and soundness  
4 and making sure there is a protection against fraudsters  
5 who could potentially utilize some of these exempt  
6 orders to do some untoward things. So thank you for  
7 that.

8 MS. RUTKOWSKI: Thank you. Thank you.

9 MR. SOLOMON: Melanie, I know you've got  
10 comments here. But let me ask you a question. Do you  
11 want to wait to hear everyone's comments because I'm  
12 sure that a bunch of blue sky stuff is going to come up  
13 here and then you can respond to them, or did you want  
14 to make a comment now so far?

15 MS. LUBIN: Why don't I jump in and just kind  
16 of go through my bullet points for the comments because  
17 a lot of it, I think, would help with some of the  
18 discussion.

19 MR. SOLOMON: Okay.

20 MS. LUBIN: So -- and it's kind of prepared to  
21 make sure I don't miss anything. So thanks for the  
22 opportunity to weigh in on how state securities  
23 regulators are reacting to the finders proposal. In  
24 general, probably not a surprise, we opposed the  
25 proposal for the same reason we've opposed a lot of the

1 commissioners -- a lot of the Commission's other recent  
2 efforts to expand the private market. We look at this  
3 as another instance where the Commission seeks to  
4 facilitate capital formation at the expense of investor  
5 protection.

6           And the evidence is clear, and it's come up in  
7 the comments that you all are making and something that  
8 Jeff just said a couple of minutes ago, that there is a  
9 lot of fraud. There are a lot of bad actors. And  
10 totally giving a pass to people who are in this space is  
11 going to get rid of any of the gatekeeper functions, any  
12 of our ability to take a look at who's doing this and  
13 said, "Yes, you can do it. You're not just fleeing your  
14 bad disciplinary history and another situation and  
15 coming into this space."

16           And this is not just anecdotal. NASAA's 2020  
17 enforcement report -- and you may want to take a look at  
18 it -- it's up on the NASAA website. It's a survey of  
19 all of our members about what's gone on in enforcement  
20 cases during 2019. It showed that, during that year, we  
21 brought 738 enforcement actions against unregistered  
22 persons, including 57 cases against unregistered finders  
23 and solicitors. That more than doubles the number of  
24 cases we've had since 2015.

25           We're very concerned because this proposal is

1 an extraordinary departure from previous recommendations  
2 that have come out to deal with the finders issue. And,  
3 yes, it's been a 50-year thing. I've been in the  
4 securities regulatory universe for a very long time.  
5 And I've been hearing about it since day one. I haven't  
6 been in it 50 years. But if I get that far, you guys  
7 are going to tell me -- you should tell me it's time to  
8 retire.

9           As Commissioners Lee and Crenshaw noted in  
10 recent dissents, the proposal would undermine  
11 longstanding staff interpretations about when  
12 broker-dealer obligations apply to finders. Previous  
13 recommendations in favor of registration make sense  
14 because finders engage in activities that are the same  
15 as the core broker-dealer activities. States have  
16 already grappled with this issue. We've been right  
17 there with the SEC grappling with this issue.

18           And some states have adopted approaches to  
19 register finders to allow registered -- those who are  
20 registered to engage in a limited scope of brokerage  
21 activities. These approaches are sometimes called  
22 broker-dealer lite and are discussed in more detail in  
23 NASAA's forthcoming comment letter. In closing, if the  
24 commissioner decides to move forward with this proposal,  
25 we strongly urge that it considers these safeguards.

1 First, the exemption should only apply to natural  
2 persons. We're creating entities to come into this  
3 space, opens the door for boiler rooms and other  
4 fraudsters that will just be able to do this under the  
5 imprimatur of saying, "Oh, we have an exemption from the  
6 SEC." Finders should be obligated to conduct their own  
7 due diligence before making a recommendation,  
8 particularly when they're making a career out of  
9 becoming -- out of being a finder.

10 Only persons living in the United States  
11 should be allowed to use this exemption. So when it  
12 does go bad, the regulators do have the ability to reach  
13 the enforcement actions. The finder's activities should  
14 be limited to primary offerings. Going beyond that  
15 doesn't really do anything for capital raising because  
16 that happens in the primary offering. Any order that's  
17 issued should include guidance on the conflicts of  
18 interest that a finder would be required to disclose.

19 We're asking the SEC not to move forward with  
20 these proposals until it engages with the states, the  
21 SROs and other stakeholders. That's been the  
22 recommendation in earlier efforts. The opportunity to  
23 address many of these issues are -- that have been  
24 raised during the discussion can be hashed out if we all  
25 sit down together and try and coordinate -- come up with

1 a coordinated approach to addressing the issue. I  
2 appreciate the opportunity to present my concerns. I'll  
3 try and answer questions you have about state securities  
4 regulation and how this applies if you have any.

5 MR. SOLOMON: So thank you, Melanie. That's  
6 actually really helpful. And I think it -- you know,  
7 again, I'm going to try to continue to foster the  
8 conversation here without expressing my own personal  
9 biases. But I will allow that a lot of what Melanie  
10 says, I agree with. I am deeply concerned about this  
11 opening up the floodgates of people that I think we all,  
12 in the industry, have worked so hard to eliminate.

13 And without the proper framework to have the  
14 SEC or other regulatory bodies be able to oversee this  
15 in some capacity is going to be challenging. I also  
16 think there is going to be a practical challenge  
17 associated with if you open up the floodgates with many,  
18 many, many finders. I just don't know how the staff and  
19 the enforcement staff is actually going to be able to  
20 monitor it from a practical standpoint.

21 But again, I want to continue to foster the  
22 conversation. But I think you've laid out here is, in  
23 fact, the risk case that we should consider. And it's  
24 what -- probably where a significant amount of the  
25 comments are going to come in the comment period. So

1 all we need to balance both of those. So thank you for  
2 that, Melanie. Next is Greg again.

3 MR. YADLEY: Thank you and --

4 MR. SOLOMON: Or that was not Greg Dean. Was  
5 it Greg --

6 MR. YADLEY: Yeah.

7 MR. SOLOMON: Greg -- yeah, Greg.

8 MR. YADLEY: Oh.

9 MR. SOLOMON: Was it Greg Dean?

10 MR. DEAN: Well, I do have a comment later on,  
11 but if Greg wants to go first, I'll happily let him go.

12 MR. YADLEY: Yeah. I'll just be brief. Thank  
13 you, Melanie, and certainly the ABA task force and prior  
14 recommendations from the small business forum and the  
15 prior advisory committees have called for a coordinated  
16 approach. And I think this is part of it. The SEC is  
17 taking a first step. And I'm sure it's not offered as a  
18 challenge but it is. So I think your comments today  
19 that the states are ready to work with the Commission  
20 would be something that would be quite welcome.

21 Part of this -- I think within the framework  
22 of what the SEC has proposed does have to do with a  
23 little more regulation in sense of filings. It will be  
24 difficult for issuers -- we're talking about small  
25 businesses, entrepreneurs, you know -- you know, Joe and

1 Sally, with everything else they have to do to try and  
2 monitor whether the finder is doing what the finder is  
3 supposed to do. So we do need accountability. I think  
4 Commissioners Crenshaw and Lee included that in their  
5 statements. So a simple notice filing I think would go  
6 a long way to make sure the new regime works well.  
7 Could list the offering, of course, the finder's contact  
8 information, the amount being raised and the finder's  
9 compensation and should be filed not only with the  
10 Commission but with the states where the officer --  
11 offers are being made.

12           And this gives the states the opportunity to  
13 investigate. And it also gives the Commission the  
14 ability to create the data to be able to determine how  
15 the rule is working and answer Commissioner Roisman's  
16 question. We'll have the data, and we'll be able to  
17 more importantly see where it may be being abused.

18           MR. SOLOMON: Okay. So thank you, Greg. And  
19 so that's actually really helpful because I think one of  
20 the frameworks that folks talked about is really  
21 leveraging off of the state regulatory framework here in  
22 order to monitor compliance. So one of the things that  
23 maybe is a notice -- and that's actually a very helpful  
24 idea around notice requirements, both for Tier I and  
25 Tier II. So let's consider that. The others, I would

1 say -- and maybe this is just me sort of adding on to  
2 that. But there should be some framework that ties in  
3 to the FINRA rules on compensation. So even though  
4 you're not regulated, you have to abide by certain rules  
5 as laid out by FINRA on compensation so that can  
6 hopefully keep a lid on, you know, extortive behavior  
7 or, I would say, aggressive behavior by finders. And  
8 ultimately, at the end of the day, it would be, you  
9 know, really, you know, up to the state securities  
10 regulators or maybe whoever the notice period goes to,  
11 to ensure that they could monitor the activities of the  
12 various finders pursuant to that notice.

13 But I think there has to be some governing  
14 mechanism here that gives finders a guide on what  
15 maximum compensation would be, just like you have with  
16 the regulatory framework for underwritings and  
17 placements and things like that. That would probably be  
18 something that I would add on that point, Greg. All  
19 right. So next is Sapna.

20 MS. MEHTA: Thank you. And I will also admit  
21 that this is not really my area. So forgive me if some  
22 of these questions sound naive or perspectives. But,  
23 you know, my background in working in the VC industry,  
24 I, too, like Jason mentioned earlier, I have not quite  
25 seen the use case for this, I mean, other than fund

1 formation but that's separate. But, you know, and we've  
2 invested in 100 and -- over 160 companies, portfolio  
3 companies. And, you know, we -- and maybe in the VC  
4 industry there is already a natural readying that goes  
5 on, and there is already some sort of built-in  
6 validation of a business idea before it gains traction  
7 and people are wanting to -- I see the value in, you  
8 know, let's say you're using a law firm. The lawyer  
9 really likes your business, and the lawyer wants to make  
10 some introductions.

11           And in that more casual, you know,  
12 introductory phase, I feel like that is very valuable,  
13 and we've received so many, you know, introductions and  
14 tips via that informal network. I'm finding -- I'm  
15 having a hard time wrapping my head around what the  
16 value of a Tier I investor is if you're simply just able  
17 to share contact list. And again, there are concerns  
18 around selling that list, you know, spamming people. I  
19 never look at these emails when I get them.

20           And so, you know, maybe it is that it's  
21 supposed to be just for your existing network. But I --  
22 so on that note, I'm not sure. Maybe it's -- if you're  
23 trying to create a role for -- like if what we're saying  
24 is it's too onerous for broker-dealers to focus on SMBs  
25 -- maybe it's too expensive. Maybe it's just the costs

1 and the effort of compliance are too great. Melanie,  
2 you mentioned broker-dealer lite. I don't know enough  
3 about that. But in my notes, that was what I was  
4 thinking, that, you know, there could be another --  
5 still be regulated but maybe it might not be as onerous  
6 if you're working with earlier stage companies. You  
7 know, and there does need to be a certain amount of  
8 validation of a business idea before you seek outside  
9 investment. You know, there absolutely -- there has to  
10 be some investor protection here.

11           And so, you know, that -- I feel like that can  
12 naturally happen, whether it's through getting loans,  
13 getting angel investors or VCs. There is already some  
14 amount of word-of-mouth that happens in communities.  
15 And this is in all communities, not just Boston, New  
16 York, San Francisco. I mean, in fact, the smaller the  
17 community, the more likely it is that word will spread  
18 if the business is getting some traction or if it's a  
19 great idea.

20           I'm also having a hard time with the Tier II  
21 distinction of, you know, like you won't need to  
22 register to be a broker-dealer, provided that you're not  
23 giving any valuation advice or advisability of the  
24 investment. It just seems like a really hard thing to  
25 police. I mean, what's to say you can't just sort of

1 give a wink, wink. You know, and feel like that  
2 behavior has been regulated for a reason and that -- you  
3 know, and I don't know what has changed since -- you  
4 know, why we would say now that that behavior should not  
5 be regulated because if I'm thinking -- I just feel like  
6 it's going to be very hard for people to not give advice  
7 and they could just be like -- like I said, a wink,  
8 wink. But I just don't find there to be much of a  
9 difference between what's already happening, so those  
10 are my comments.

11 MR. SOLOMON: Okay. It's -- you know, I think  
12 there is a -- these are the things, I think, we're all  
13 struggling with because, again, for those of us, like  
14 you, Sapna, who don't necessarily see the youth cases,  
15 it's hard to understand. When Carla and I were having a  
16 conversation ahead of this with Julie and the team just  
17 trying to understand even the rationale between why  
18 there is a Tier I or a Tier II was hard, you know,  
19 though I think I'm learning a lot more, you know, today  
20 and listening to it.

21 But, again, you know, creating that -- the  
22 right kind of framework here, there seems to be a pretty  
23 significant unmet need, certainly at the lower end for  
24 smaller offerings. And so, again, I think in looking at  
25 this, going back to the one-size-fits-all category,

1 maybe we ought to think about, you know, limiting  
2 offering size and if we can keep -- you know, limit  
3 offering size. All of a sudden that becomes -- it'll  
4 get rid of a lot of the consumer -- from the industry --  
5 from the broker-dealer industry who will certainly  
6 probably write letters, you know, talking about how  
7 there is -- how unfair it is that they have to be  
8 regulated and other people don't. So, you know, maybe  
9 that's a good way to think about it as well in the  
10 one-size-fits-all.

11 All right. Next -- Kesha?

12 MS. CASH: Hi. I have a question, and then I  
13 have a comment and maybe another use case based on some  
14 of my experience prior to actually having a formal  
15 venture fund. I was sort of in this finders category.  
16 I guess the question is do we have a sense -- and  
17 probably not. It's hard to size gray markets. But do  
18 we have a sense now how many finders are operating in  
19 this sort of gray area of not being registered brokers  
20 but are doing broker activity is the question. And then  
21 I'll say for -- did someone want to respond to that  
22 before I jump in?

23 MR. SOLOMON: So --

24 MS. CASH: Think --

25 MS. LUBIN: So without a registration or a

1 notice filing or BD lite or any kind of, you know, setup  
2 like that, we don't have good numbers, although we could  
3 get some data by state because California, Texas,  
4 Michigan have formal requirements about, you know, and  
5 need at least notification, and I think two states at  
6 least -- at least two of those states would call it  
7 registration as a finder. So we could get some data on  
8 that. I could tell you, you know, just from my  
9 experience in Maryland people are constantly telling us  
10 why they shouldn't be a broker-dealer when they're doing  
11 this. And, you know, we've been following for years  
12 what's gone on with the SEC and try to work things out.  
13 But it is a very gray space.

14           And, you know, I've heard over the years  
15 problems where somebody is a finder. You know, they are  
16 supposed to do that. The issuer then turns around and  
17 says, "Oh, no, no, no. You should have been registered  
18 as a broker-dealer," so now I'm not going to pay you for  
19 the referral that you've made. And that -- I've gotten  
20 lots and lots of complaints over the years from people  
21 acting as finders because, you know, where the issuer  
22 then uses the hook, "I can't pay you because you're not  
23 a broker-dealer." So it probably would help people all  
24 around if this were set up in a way where everybody  
25 understands who is there. We can protect people -- you

1 know, we could gatekeep to make sure people aren't  
2 fleeing because of, you know, adverse disciplinary  
3 action, you know, the broker-dealer universe, the IA  
4 universe or whatever universe they're coming from and  
5 then also, you know, help the people who are doing this,  
6 make sure they don't get caught up in not getting paid  
7 because of something like that.

8 MS. CASH: Yeah. Yeah. And just quickly on  
9 my experience, when I transitioned, I was an M&A analyst  
10 on Wall Street -- and I say that from a background  
11 context -- and transitioned to support small businesses  
12 in Los Angeles. I'm really double-clicking on Youngro  
13 and Catherine's point about who needs this the most in  
14 my opinion. And so the work that I was doing in Los  
15 Angeles supporting small businesses, one example, I met  
16 a fashion designer literally at a swap meet who was  
17 phenomenal but did not have access to capital or  
18 resources to get capital.

19 And I was able -- you know, a friend of mine,  
20 so it wasn't a kind of cold call. But a friend of mine  
21 worked -- continued to work on Wall Street and had extra  
22 cash. And I was able to convince him to, you know,  
23 invest in this entrepreneur. And it was through, you  
24 know, the work that I did with the entrepreneur. So  
25 some might think it's -- Melanie, you raised a point

1 around diligence.

2           And so there are people, and I have colleagues  
3 and friends that have kind of followed a similar model  
4 where they hadn't yet established, you know, a fund or  
5 an entity, but they were in this sort of in-between  
6 state and very valuable to their community when they  
7 went back and had these networks and access to capital.  
8 So, you know, I don't know how to define that. But  
9 there are these good actors who are trying to build  
10 towards a business but aren't yet in that position to  
11 have -- you know, they're not yet a registered broker or  
12 have an entity. And those would be -- that I focus on  
13 as an example.

14           MR. SOLOMON: Yeah, I -- no question about  
15 that. So sorry. Kesha, I mispronounced your name. I'm  
16 so sorry about that.

17           MS. CASH: No worries. No worries.

18           MS. SOLOMON: I'm sure a lot of people do but  
19 I don't want -- you know -- I don't want to --

20           MS. CASH: We have bigger issues than the  
21 pronunciation of my name so I'm fine.

22           MR. SOLOMON: Well, no. Just want to make  
23 sure we got it. I want to make sure the record reflects  
24 it that I got it --

25           MS. CASH: Thank you, Jeff.

1                   MR. SOLOMON:  -- right the second time around.  
2    Anyway, next, Sara.

3                   MS. HANKS:  Yeah.  I had a question for the  
4    staff because one of the things that has gotten folks  
5    into trouble in the past is providing standardized  
6    documents.  And I didn't see where that came on the, you  
7    know, things you are allowed to do, would a Tier I or a  
8    Tier II broker be allowed to provide standardized  
9    documents of the sort that got one of the California  
10   platforms into trouble in the very early days of  
11   crowdfunding.

12                  MS. RUTKOWSKI:  Hey, Sara, it's Joanne.  As  
13   always, you ask the best questions.  And you're right  
14   that the proposal doesn't address that.  So I would call  
15   -- if you could call that out in your comment -- as you  
16   said, we've had experience with that same question, the  
17   crowdfundings.  And there are a lot of analogies, I  
18   think, here generally in terms of the types of investors  
19   and the types of issuers that you're looking at.  So  
20   that would be great.

21                  MS. HANKS:  Okay.  Thanks, Joanne.

22                  MR. SOLOMON:  Greg Dean?

23                  MR. DEAN:  Yeah, hi.  Thanks, Jeff.  I just  
24   want to say there has been a lot of discussion here on  
25   FINRA and the broker-dealer lite regime and so forth.  I

1 know this -- proposal exemption by the SEC is an  
2 exemption from broker-dealer registration. And so FINRA  
3 would have no part or oversight of any of those that are  
4 exempted as part of this exempt -- either Tier I or Tier  
5 II. So I think we would go back and say -- and look at  
6 our fellow regulators whether the states or the SEC or  
7 others to find out whether or not they have the tools to  
8 oversee in this particular area going through with that.

9 I think there is a couple of comments that I  
10 know will be coming from small broker-dealers that do  
11 have concerns with this particular -- especially the  
12 Tier II. As proposed, it really seems much broader than  
13 the discussions that were had in this particular  
14 advisory committee past and in terms of scope and in  
15 terms of coverage and in terms of the types of offerings  
16 that were being done. So I think based upon the  
17 conversation here, it looks as if people are looking to  
18 narrow that a bit in the scope.

19 In addition, I know there was a -- there was  
20 sufficient talk of bad actors as part of this. And I go  
21 back to that realtor that has never been part of the  
22 financial services industry. And Kesha, going back to  
23 your discussion about the good actors versus those that  
24 are just trying to make a buck and get involved in the  
25 industry really quick, I mean, those that are getting

1 involved in the industry, they're really going to hurt  
2 the entrepreneurs. And they're going to hurt the  
3 investors. So I think currently the proposal looks at  
4 statutory disqualification in the broker-dealer  
5 industry. And I guess there is a question back to the  
6 SEC. Were they thinking of expanding that to include  
7 other broker-dealer or other bad actors from other  
8 industries? Melanie had mentioned IA and others. And I  
9 know the SEC has the SALI database which weren't really  
10 mentioned as part of that.

11 In addition, going back to documentation and  
12 as looking from an enforcement perspective, will the  
13 regulators have enough documentation to bring a case?  
14 As a lot of discussion here indicates, it seems to be  
15 more of a fact and circumstance based upon that is --  
16 and as Melanie had pointed out, they are going to be  
17 re-creating this after the fact. And do the regulators  
18 have enough documentation to even find out what's  
19 happening, or is it after the fact, kind of a  
20 he-said/she-said in terms of what actually took place or  
21 the agreement of the minds when that happened.

22 Now, with respect to if they are looking for a  
23 registered space -- and Melanie had mentioned a  
24 broker-dealer lite regime. I know we've discussed  
25 previously the FINRA's capital acquisition broker

1 ruleset. We also -- which was established back in 2017  
2 and earlier this year. We did put out a proposal to  
3 look at how we can improve that ruleset. And FINRA is  
4 still open to those discussions. I know, Greg, this is  
5 part of the ABA discussions way back when and even  
6 mentioned the proposals of looking at FINRA and the SEC  
7 and what could be done in this particular area.

8           And I think FINRA is still very much open to  
9 looking at how we can improve that if people also want  
10 to have a licensed, registered component to this as  
11 well. But I do think there are some questions that are  
12 still a bit outstanding in this kind of broad proposal.  
13 We're looking forward to working with the SEC and the  
14 stakeholders here to make sure that the entrepreneurs  
15 themselves are being situated as well as the investors  
16 themselves.

17           Like Melanie, I've been working this area for  
18 a long time, especially in the finders and small  
19 business capital formation area. And it's good that  
20 we're having these discussions to kind of clarify what a  
21 finder is and what a finder is not because I think the  
22 no-action letters that have been given out is kind of a  
23 patchwork. So it's really a good step to kind of take a  
24 look at what's happening, whether it be the Tier I,  
25 which looks at what has pretty much gone before or Tier

1 II, which is kind of an expansion into new areas of  
2 this. But I know we're looking forward to working with  
3 everybody on going-forward basis.

4 MR. SOLOMON: Appreciate that, Greg. I know  
5 we had another comment again from Greg Yadley.

6 MR. YADLEY: Thanks. I just wanted to respond  
7 to one of the questions that Sapna had asked in terms  
8 of, you know, who is really in need of this assistance.  
9 We talked about it a little before. But it truly is  
10 this mismatch. And an illustration of that is that the  
11 SEC, through Rule 506(c) of Regulation D, allows general  
12 solicitation in private placement. So we're talking  
13 about a private offering. Could be a small company.  
14 And they only need \$50,000 or \$100,000.

15 They can legally put on their website or find  
16 a list somewhere and blast out information talking about  
17 their need to raise money, and they can qualify for an  
18 exemption if they meet all the requirements of that, one  
19 of the most important of which is taking reasonable  
20 steps to verify that the investors are accredited  
21 investors. And I have been writing about allowing  
22 general solicitation in private placements since the  
23 early 2000s. And I'm very happy to have Rule 506  
24 adopted. I support it. I talk about it all the time.

25 And I have on paper been able to qualify a

1 client's private placement under that exemption. But  
2 that's not really how the world works because it's  
3 really not even in the issuer's best interest to have a  
4 bunch of people invest who have no connection with that  
5 business. And I'll make an exception to that statement  
6 for certain types of offerings such as crowdfunding  
7 where the basis of that is that you have the authority  
8 of the crowd.

9           But in a regular kind of business that we're  
10 talking about that Catherine was alluding to, you have  
11 some business that is either local in scope or a virtual  
12 business. And it's just a few people. And they just  
13 need a few bucks. How do they find them? People don't  
14 generally -- I mean, I do. Melanie can give you plenty  
15 of examples and Greg too of people who are defrauded  
16 because they listen to noise that makes no information.  
17 But that's not what we're talking about. We're talking  
18 about the relationship that the finder knows people and  
19 the finder wants to help the issuer.

20           And we can talk about the nuances which are  
21 critical to this of what a recommendation is and how far  
22 can the finder go to do more than Paul Anka did, which  
23 is simply provide a list of names. But if this works,  
24 it will be because there is some relationship. And,  
25 yes, people need to do their due diligence. And the

1 issuer needs to comply with the law. But it's at this  
2 front end of I know this person and you might be  
3 interested. And without that, it's just advertising.  
4 And advertising has not been a good way for legitimate  
5 issuers to raise small amounts of capital. And I think  
6 that is a very true statement.

7 MR. SOLOMON: So you bring up another point  
8 here, which is -- which I think is worth mentioning,  
9 which is intrastate offerings; right? And, you know,  
10 certainly if the intent of Tier I is to allow for there  
11 to be a very light regulatory or a clear exemption for  
12 limited offerings, one of the things we discussed is  
13 obviously limiting the number that can get done a year,  
14 limiting the size. This is another one we discussed.  
15 Also, limiting the geography is another one.

16 And so maybe those are three limitations that  
17 we can consider. Again, I don't have a view on it one  
18 way or another. I'd love to hear what the group is.  
19 But just as we think about it, progressing the  
20 conversation into maybe potentially making a  
21 recommendation, those are three, you know, that I think  
22 we might want to consider maybe for Tier I and Tier II.  
23 I don't want to exclude Tier II. But maybe if we could  
24 direct our comments maybe -- now that we've had some  
25 general comments, you know, maybe we can direct our

1 comments on places where we can put some rails around the  
2 likelihood of there being fraudsters. You know, again,  
3 the three that jumped off the page are geography, size  
4 and number of deals in a year. Also, I think  
5 notification and net notification might have to go to  
6 local state securities regulators and leave it in their  
7 hands to monitor it. Those are four that I think we've  
8 heard.

9           But if there are other ideas that people have  
10 in terms of making sure if we can focus the next part of  
11 the conversation on just trying to keep things safe,  
12 that would be helpful. And then again, other ways maybe  
13 we can focus the conversation on opening up the aperture  
14 in a second part of the conversation. Okay. Well, why  
15 don't we do this then?

16           Carla, why don't you just -- you know, I know  
17 you've been feverishly taking notes. And we're a good  
18 team. I'm not so good at the note-taking thing. I  
19 tried. But maybe -- you're muted. So why don't you  
20 just kind of give a bit of a summary, and then we can  
21 use that as a jump-off point for the next part of the  
22 conversation? Still muted. And we still can't hear  
23 you. No. I mean, we can read your lips.

24           MS. GARRETT: Can you hear me now?

25           MR. SOLOMON: Now we can.

1           A PARTICIPANT: Yes.

2           MS. GARRETT: Okay. Great. Weird. Okay.  
3 Thank you, Jeff. You -- I think you did a great job  
4 facilitating the discussion because I had a lot of  
5 static and also because I like to take a lot of notes.  
6 I tried to put together some of the things that I heard.  
7 And I want to see and get people's feedback on whether I  
8 heard things correctly from the committee. I believe  
9 that I heard that, for the most part, people believe  
10 that there is -- are use cases for this exemption. And,  
11 of course, that depends on what type of exemption is put  
12 into law.

13           But people mention different use cases for the  
14 exemption. And it sounds like the committee is  
15 generally supportive of an exemption from the broker  
16 registration requirements for certain finders as long  
17 as, you know, different measures that we've discussed  
18 are talked about. I, right now, am not going to get  
19 into the difference between Tier I and Tier II  
20 specifically because I did not hear overwhelming support  
21 for keeping the Tier I versus Tier II structure. So  
22 what I'm going to say in general instead are some of the  
23 different principles behind an exemption. And if I'm  
24 wrong on anything that I say, just please let me know.

25           As Jeff pointed out, a lot of people have said

1 one size does not fit all. But we could consider a  
2 blanket exemption for smaller offerings that are under a  
3 certain size. We believe it's very important to have  
4 accountability for these finders such as notice filings.  
5 And I did not hear a distinction between Tier I and Tier  
6 II on that. Maybe I'm wrong but possibly notice filings  
7 for all possible finders.

8           We should have the Commission consider the  
9 fees that are given to finders and whether the -- there  
10 needs to be a reasonable -- reasonableness standard  
11 around the fee or a limit on the amount of fees. I  
12 heard that possibly limiting the geography with respect  
13 to finders could be important. It is important to keep  
14 out bad actors. One time per year may be too limiting  
15 for Tier I finders, and limiting to natural persons may  
16 be too limiting for this exemption given that a lot of  
17 people do not act in their personal capacity when doing  
18 business.

19           The current exemption for Tier II finders may  
20 be too broad. And the more activities that a finder  
21 engages in, then we feel that the more regulations that  
22 finder should be subject to. And also we believe it's  
23 important to go further than the Paul Anka, you know,  
24 comment letter so that finders can do more than just  
25 provide a list of names. And lastly, we believe it's

1 important to work with the state regulators on these  
2 matters. So I'd love to get any feedback on what  
3 possibly I did not capture or possibly did not say  
4 correctly.

5 MS. HANKS: Could I add something, Carla?

6 MS. GARRETT: Yes, of course.

7 MS. HANKS: Yeah. As you were going through  
8 those things, it struck me that the more complicated we  
9 make this, the less likely there is to be compliance.  
10 And so I would be very much in favor of not doing  
11 anything additional to what's being proposed other than  
12 the statement that the notice filings, federal and state  
13 notice filings, would serve two purposes. It would help  
14 the states and the feds monitor what's going on and  
15 prevent bad actors and would also provide interesting  
16 and useful data, which is something that we are  
17 constantly looking for in this market.

18 And so I just want to say I think the staff,  
19 with a couple of tweaks, really did actually hit a good  
20 middle ground here in that this is likely to be complied  
21 with if you make it more complex. I think we're going  
22 to be back where we were, which is small companies using  
23 finders. And the finders are not complying. And,  
24 therefore, the small companies now have a rescission  
25 offer against their offerings.

1 MS. GARRETT: Okay. Thank you, Sara. I mean,  
2 it sounds to me like -- so you're pretty much in favor  
3 of the proposal that the staff has put together and with  
4 the exception of adding a notice requirement for --

5 MS. HANKS: Yeah. Yeah. With a clarification  
6 with respect to standardized documentation and what it  
7 means to do one deal a year. But that would be  
8 clarification as opposed to making significant changes.  
9 The change would be the notice filing.

10 MS. GARRETT: Are other people on the call in  
11 favor of the ways that the proposal was put together, or  
12 would other people have some additional comments to make  
13 with respect to that? Yes, Greg?

14 MR. YADLEY: Yes, I am. I think that's a good  
15 summary, and I definitely agree with your last point  
16 about coordination with the states and Sara's point  
17 about keeping it simple. I think there is some more  
18 clarification necessary that I think the comment letters  
19 will adequately reflect and may be more in the weeds  
20 than our committee needs to deal with. But some of the  
21 issues, we've talked about.

22 The ability for the finder to have some  
23 communication with the people on the list that he or she  
24 is providing and a little more clarity about the line  
25 between the prohibited activities and the permissible

1 activities, which begs the question. But I think the  
2 Commission really set it out very well. And it allows  
3 people to comment and in considering those comments will  
4 probably have a little more clarity, which is the main  
5 purpose of the rule. So, yes, I think that's a great  
6 summary, and I hope we will endorse it.

7 MS. GARRETT: So, Greg, when you say it was a  
8 great summary, are you talking about the summary that --

9 MR. YADLEY: That you gave, that you --

10 MS. GARRETT: Oh.

11 MR. YADLEY: -- just gave with Sara's final  
12 point about keeping it simple.

13 MS. GARRETT: Okay. Because I think,  
14 obviously, a lot of the things I said may make it less  
15 simple. But they were -- I guess they were suggestions  
16 for the Commission to consider when putting together  
17 this exemption of things that we have talked about  
18 during our meeting. So -- such as the -- offering, such  
19 as consideration on fees, the number of times per year.  
20 So are people kind of in agreement?

21 And I'm trying to take into account Sara's  
22 point about keeping this simple, about her liking the  
23 structure but us also wanting to make sure that the SEC  
24 is aware of the committee's different concerns and  
25 different ideas on also just the proposal in general,

1 whether we believe that it's the right structure. Yes,  
2 Steve? You're on mute.

3 MR. SOLOMON: You're talking to me?

4 MS. GARRETT: Now you're good.

5 MR. SOLOMON: Okay. So I guess I had a couple  
6 things that --

7 MS. GARRETT: Jeff --

8 MR. SOLOMON: -- first of all, agree --

9 MS. GARRETT: I was going to have Steve Graham  
10 talk.

11 MR. SOLOMON: Oh, I'm sorry. I thought you  
12 said Jeff. I'm sorry.

13 Go ahead, Stephen. You're on mute.

14 MS. GARRETT: We can't hear you, Stephen.

15 MR. GRAHAM: That's because I was using my  
16 phone. But in any event, I would agree that this is a  
17 great effort put forth by the staff. And, you know, I  
18 think it largely works. I mean, there are always tweaks  
19 that are going to be necessary. You know, I just, you  
20 know, want to reemphasize the use case, that this --  
21 that to me -- I mean, I don't spend a lot of time  
22 dealing with these kinds of issues with my practice  
23 directly. But in terms of use case, you know, my sense  
24 has always been that the focus is on underserved  
25 communities. We talk in terms of smaller towns, you

1 know -- you know, what's happening between the two  
2 coasts. But I am also concerned about the minority  
3 community and the women community. We all know how  
4 underserved those two communities are in terms of  
5 venture capital. I think that, you know, Greg's points  
6 with respect to guardrails make a lot of sense. I think  
7 that that's, you know, figuring out, you know, some way  
8 to help with monitoring is -- I think is important, but  
9 it shouldn't be overly complicated.

10           The -- I'm having a little trouble with the  
11 one transaction requirement. I'm not sure how that  
12 works. I'm not sure if it makes sense to have just one  
13 transaction per issuer per year or one transaction with  
14 -- or multiple transactions per one issuer or one  
15 transaction for multiple issuers. But just one strikes  
16 me as something that would be overly limiting. And I  
17 also just don't see how the no-contact works. I think  
18 that there is -- I think there is -- I think there  
19 should be some contact, and I think it would be  
20 difficult to have no contact in any event. But those  
21 are just a couple of things that come to mind.

22           MS. GARRETT: Thank you, Stephen. And I've  
23 gotten everything that you've said down so thank you  
24 very much.

25           Jeff?

1           MR. SOLOMON: Yeah. So one of the things that  
2 I think -- and this goes more to tone and structure than  
3 it does to, you know, any specific comments about -- any  
4 specific comments about the letter. But I think as we  
5 think about how to empower finders, like the idea here  
6 is not just to provide exemptive relief but actually to  
7 empower finders to be able to do the things that they do  
8 as identified here on the phone. And I think we should  
9 seriously recommend that as part -- we should consider  
10 recommending to the staff that they work very closely  
11 with state securities regulators to push this out so  
12 that people actually know they can do it.

13           Like, you know, sort of if a tree falls in the  
14 forest -- right? I'm sure these finders aren't sitting  
15 around waiting for SEC exemptive orders. Most of them  
16 don't even know it exists. And if we're really going to  
17 be serious about changing the dynamic here, then getting  
18 it out through state securities regulators, getting it  
19 out through media and enabling people, whether to know  
20 that there is a path here to provide and maybe even to  
21 encourage from this office activity that would promote  
22 small business, you know, capital formation for small  
23 business through the use of finders. That's a really  
24 powerful statement to make.

25           And it goes to sort of just, you know, again,

1 I think what the spirit of this group is, which is to  
2 try to find solutions. So while we're putting the rails  
3 around to make sure that it's -- you know, that we keep  
4 out the riffraff, you know, we should also be thinking  
5 at the same time about how we can frame this guidance to  
6 be more on the offense as a positive mechanism for  
7 capital formation. And, again, I think partnering with  
8 state securities regulators to -- you know, may be a way  
9 to get that done. I know Melanie has lots of concerns,  
10 but if we can figure out ways to address many of them,  
11 then, you know, why not?

12 MS. GARRETT: I like that a lot, Jeff. I  
13 think that's great because that is the purpose of our  
14 committee, is to help small businesses raise capital.  
15 And, you know, I haven't -- I haven't weighed in very  
16 much here. But I have seen -- as somebody -- as a  
17 lawyer that represents a lot of small businesses the  
18 need for -- there are a lot of finders that are  
19 concerned about their activities, and there is a lot of  
20 small businesses that would like to work with some of  
21 these people and are not clear on how to.

22 And therefore, I do see it as a way -- if this  
23 exemption is passed in some form, I do see it as a way  
24 to help small businesses raise capital because they  
25 would have access to just more people, and they would be

1 able to know about a lot more investors than they  
2 currently do. Does anybody else --

3 MR. GRAHAM: You know --

4 MS. GARRETT: Yes, Stephen?

5 MR. GRAHAM: You know, I bet there is not one  
6 person in this virtual room that hasn't been approached  
7 by someone who wants to help somebody else raise money.  
8 They're not interested in being in the finders business  
9 or anything like that. They just want -- they know  
10 people, and they're in a position to help. And we have  
11 found ourselves in those situations most of the time  
12 saying that what you want to do could run afoul of the  
13 broker-dealer regulations.

14 And so it sort of doesn't happen. And I  
15 think, you know, just that -- you know, I don't know  
16 what that represents in terms of situations like that.  
17 But I would bet that it's a lot. And, you know, just to  
18 be able to address those circumstances, I think, would  
19 move the ball forward to a great extent.

20 MS. GARRETT: Thank you, Stephen.

21 Youngro?

22 MR. LEE: Yeah. I just want to add to what  
23 Stephen said, and, I think, everybody's feedback, which  
24 is if we kind of -- again, the spirit of this committee,  
25 I don't think it was formed to really try to help \$50

1 million capital raise; right? It really was trying to  
2 help the small businesses, especially Main Street  
3 America and the middle of the country, as chairman  
4 Clayton used to say.

5           So if we really have that framework in mind  
6 and not overly complicate it, I think it really is, you  
7 know, exactly what Stephen said. There are people with  
8 good intent that want to help. They're not trying to  
9 make a living. But right now, it's very difficult for  
10 the companies or broker-dealers to basically say, "Out  
11 of goodness of your heart, please spend tens of hours to  
12 help this business, and we can't pay you anything."  
13 Right?

14           So if anything, I think maybe the limit is the  
15 dollar amount or some objective test so you can -- you  
16 can't get paid more than 1 percent of the capital raise  
17 -- I'm just totally making this up. But just you can  
18 set different frameworks around the way or the amount of  
19 compensation because the spirit of this proposal, I  
20 believe, is to help small businesses, you know,  
21 minorities, founders, you know, middle of the country.  
22 What framework would work for them?

23           And so I just wanted to kind of reemphasize  
24 that, not one-size-fits-all. And to the extent if you  
25 do put in the broker-dealer in the middle of that chain

1 and have them take responsibility for it, I think there  
2 is also a lot of broker-dealers, including smaller ones,  
3 and online platforms that would love to -- I mean, I can  
4 say for myself and our company, we would gladly take the  
5 liabilities of any of the finders that we work with are  
6 breaching the rules -- right? -- because we're not going  
7 to work with any of them unless we know that, you know,  
8 they did it the right way, and we're not going to allow  
9 them, allow our clients, to work with them if it wasn't  
10 prudent.

11 MR. SOLOMON: Yeah. So Carla, I just -- you  
12 know, I know we're also -- to pick up on that theme, you  
13 know, I thought the idea, actually, of, particularly for  
14 Tier II, I thought the idea of being able to have some  
15 sort of clarification around the broker-dealer's ability  
16 to pay finders, even if they're not associated persons  
17 would be, I think, a really strong signal that, you  
18 know, we're trying to move Tier II more into the  
19 regulated environment, but you're taking the onus away  
20 from the individual.

21 So here's an interesting thing. Like we have  
22 a regulatory framework. And a lot of these finders who  
23 are doing larger deals would otherwise make those  
24 announcements and do the things that a Tier II person  
25 can do. They have no problem with it. They just have

1 no, really, infrastructure to do it on their own. But  
2 if they -- they would gladly be able to say, "Listen.  
3 I'm going to refer this to a broker-dealer who actually  
4 can do all of the things the right way as long as I get  
5 paid a fee." And if you -- if we make it really clear,  
6 again, I think it's largely for Tier II, but I guess we  
7 can make it for everything. We make it really clear  
8 that broker-dealers are allowed to pay finders that are  
9 not associated persons, then that opens -- that probably  
10 takes a tremendous amount of burden away from the  
11 finders themselves.

12 I mean, I think it's -- they don't really want  
13 to be doing this. They just want to get the fees.  
14 Right? They want to make the introduction and hand it  
15 off. Like they really don't want to run processes. I'm  
16 a little concerned that what's laid out here in Tier II  
17 means you have to actually set up a lot of stuff anyway,  
18 and it's probably going to dissuade a lot of people from  
19 doing it.

20 So, you know, my view is at least on Tier II  
21 where we can have more substantive financings or more  
22 substantive numbers of deals done, people will gladly  
23 hand it off to a broker-dealer and actually do it in a  
24 regulated way because they have no problem with that.  
25 They just don't want to do it themselves and so making

1 it really clear that you can -- that broker-dealers can  
2 pay Tier II finders as long as they're not associated  
3 persons probably does more to open up finders than  
4 anything else. It also solves a lot of problems for  
5 Melanie because a lot more offerings are going to be  
6 done in a regulated broker-dealer environment. It will  
7 just be paying associated persons. That's what I would  
8 -- I don't know.

9 I throw that out there because I think it's  
10 one of the key things that can satisfy all of the  
11 constituents here which is, you know, people concerned  
12 about encroaching on regulated stuff with regulation  
13 light and people concerned about, you know, not having  
14 the right framework to keep out bad actors.

15 MS. GARRETT: Okay. Thank you, Jeff. I have  
16 that.

17 Melanie?

18 MS. LUBIN: So I was going to suggest that you  
19 might want to recommend, and I think the Commission  
20 would listen. And maybe I should back up and say this  
21 is kind of -- what I'm speaking right now, this is kind  
22 of Melanie's point of view and not necessarily the  
23 states' point of view but suggest to the Commission to  
24 put the brakes on this a little bit and give us all some  
25 time to work it out in a framework that's going to make

1 sense because there is state/federal coordination of  
2 what the approach will be to this that will take care  
3 of, you know, comments that have come up with that and  
4 then set out the framework where you want something  
5 that, you know, puts everybody on notice so you could  
6 find the people if they're selling -- has some kind of,  
7 you know, statutory disqualification, you know, bad  
8 actor disqualification that goes along with it, you  
9 know, set out the parameters that are important but  
10 recommend that the Commission let the regulators figure  
11 it out and come back with a proposal, with a joint  
12 proposal.

13 MS. GARRETT: Okay. Thank you for that input.  
14 I'm not sure. Do other people on the committee share  
15 the thought that we should have kind of put the brakes  
16 on this at this point in time? That's not exactly what  
17 I'm hearing from the rest of the committee. What I seem  
18 to be hearing from people is that they're really happy  
19 that the Commission has finally addressed this issue.  
20 And they're hoping that based on what has been proposed  
21 with, you know, changes that some kind of finders  
22 exemption can come about as a result of the current  
23 proposed exemptive order. What I was thinking is since  
24 we're about to hit the lunch time, first of all, I want  
25 to see, maybe just even by hand or what I just say, is

1 that what people are generally in favor of? And let's  
2 hold on one second. If -- and what I was thinking what  
3 we -- to do is Jeff and I and Julie and Sebastian and we  
4 could work a little bit on trying to put together a  
5 recommendation based on what we've heard and come back  
6 after lunch to propose that and for people to -- at that  
7 point in time, you know, we would have a little bit more  
8 discussion and a vote on the recommendation.

9           So I know we're in a virtual environment.  
10 It's hard to see heads nodding. But does what I  
11 proposed sound like a good idea? If so, maybe, you  
12 know, raise your hand. There is no voting right now.  
13 It's just is this a good way to go forward as the next  
14 step of our meeting? Okay. I seem to see many hands  
15 being raised.

16           Okay. So what we will do now, I think, is  
17 break for lunch. And we appreciate everybody's thoughts  
18 on this very, very complicated issue that people have  
19 been dealing with for decades. And we will see what we  
20 can put together as a recommendation. And when we  
21 resume at one o'clock, we'll have a short period of time  
22 to finish the discussion on this issue before we talk  
23 about the pandemic and its effects on small businesses.  
24 So the webcast will be turned off now. And it will  
25 resume at one o'clock. And thank you, everybody, for

1 your help.

2 (Whereupon, a luncheon recess was taken at  
3 11:59 a.m.)

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

5 MS. GARRETT: Hi. I -- meeting back to order.  
6 I hope everybody had a nice lunch. We have Chairman  
7 Clayton with us today to say a few words. Welcome,  
8 Chairman Clayton. Thank you for joining us.

9 CHAIRMAN CLAYTON: Thank you, Carla. And I  
10 may have more than a few words because I had the  
11 privilege of listening to the last part of your prior  
12 discussion. And before I get to that, I want to just  
13 note that Martha Miller, our advocate, is out on  
14 maternity leave. She is doing great. And we're wishing  
15 her well. As all you know, her shoes are impossible to  
16 fill. But Sebastian has done the impossible in Martha's  
17 absence, and I want to thank Sebastian for that. And I  
18 also want to thank the members of the team, Julie Davis,  
19 Jenny Riegel, Jessica McKinney and Colin Caleb.

20 As you all know, they do a terrific job. So  
21 in the area of thank yous, I want to thank you for your  
22 engagement and productivity, not just today but over the  
23 past several years. Your efforts have informed and  
24 driven policy action. And by effort, I do not mean just  
25 the time and attention which is -- which you've all

1 provided in ample supply. I mean true outcome-oriented  
2 analysis, pragmatic advice and actionable  
3 recommendations.

4           You've identified important issues, including  
5 the clear difficulty that small businesses, those with  
6 values between 500,000 and, say, 20 to 30 million, have  
7 raising capital from any source. You also recognized  
8 and have incorporated into your work two unassailable  
9 characteristics of the local, regional and national  
10 economy and the regulation of small businesses,  
11 including their capital formation activities. And I'm  
12 going to discuss these. First, small and medium-sized  
13 businesses are the lifeblood of our interconnected  
14 economy. They are the capillaries in our circulatory  
15 system. Without them, employment and consumer spending  
16 atrophy, and capital investment slows.

17           With a dynamic and growing small business  
18 community, employment opportunities expand and wages  
19 rise and consumer spending steadies and capital  
20 investment slows -- flows. Now, with our collective  
21 national effort to recover from the economic impact of  
22 the COVID-19 shock in the middle innings, we need the  
23 economic and societal dynamism of current, new, growing  
24 and strong small and medium-sized businesses.

25           Second, regulation of small businesses,

1 including the regulation of capital raising, must be  
2 effective. What do I mean by "effective"? Speaking  
3 through the lens of the SEC's mission, I mean it must  
4 further both capital formation and investor protection.  
5 But -- and this is important -- in the case of small and  
6 medium-sized businesses, effective regulation must be  
7 different from the regulation of capital formation for  
8 larger enterprises. Why? Because the economics and  
9 businesses and investors are vastly different.

10 For example, with small businesses, because of  
11 hopefully the high number of businesses seeking capital  
12 and the relatively low dollar amounts involved,  
13 regulation must be low-cost and substantially  
14 self-effecting. In other words, the regulation of the  
15 relationship between investors and small businesses much  
16 be such that frictions, paperwork, fees for lawyers and  
17 other professionals, commissions, placement fees,  
18 regulatory costs, etc., are low, and improper behavior  
19 is deterred or, when not deterred, promptly detected and  
20 remedied.

21 With those realities in mind, you -- you, the  
22 members of this committee, have brought together diverse  
23 perspectives and experiences as well as technical  
24 expertise. You've distilled that mix of ingredients  
25 into cogent analyses and tangible recommendations.

1   Importantly, as a group and as individuals, you have not  
2   let your personal interests or, in common parlance, your  
3   day jobs, interfere with that outcome-oriented  
4   collective spirit. In short, you have all -- you have  
5   been all that we could ask for in an advisory committee.  
6   I thank all of you and, in particular, Carla Garrett and  
7   Jeff Cohen for their leadership, including creating an  
8   environment of inclusion and mutual respect.

9               Now I want to turn to some of the fruits of  
10   those tangible actions of the committee. I'm pleased  
11   that you took time this morning to discuss our  
12   recently-proposed finders exemption. And I am pleased  
13   that the discussion will continue this afternoon given  
14   the complexity of this issue. This is an area of  
15   capital formation and investment where costs are way too  
16   high for both businesses and investors, largely because  
17   the rules of the road for intermediaries are not clear.  
18   We have not provided meaningful guidance in this area  
19   since the days of gas lines, disco and parachute pants.

20              As evidenced by your discussion this morning,  
21   this is very difficult, and there are a number of  
22   considerations to weigh. But as so often -- as is so  
23   often the case, waiting has not made this matter easier.  
24   In the regulatory arena, kicking the can down the road  
25   is rarely a good idea. The proposed exemptive order is

1 a long overdue step stemming from decades of repeated  
2 calls for clarity in this area. We know that smaller  
3 businesses seeking traction in our economy and their  
4 investors frequently encounter challenges connecting  
5 with each other, particularly in regions that lack  
6 established robust capital-raising networks.

7           For many of these companies, banks and  
8 institutional investors, such as venture funds, are not  
9 a viable option. And for all of them -- and I repeat,  
10 all of them -- the public markets are simply not  
11 available. In these areas, finders can play an  
12 important and discrete role in bridging the gap between  
13 small businesses that need capital and investors who are  
14 interested in supporting emerging enterprises closer.

15           Over the years, we have heard from businesses  
16 that want to comply with our rules on connecting with  
17 potential investors but struggle to understand whether  
18 they can engage a finder that isn't a registered  
19 broker-dealer. At the same time, individuals seeking to  
20 help companies raise capital may find themselves  
21 inadvertently engaging in brokerage activity or  
22 alternatively, they refrain from any activity because of  
23 the regulatory uncertainty. Last month's proposed  
24 exemptive order offers a two-tiered potential solution  
25 to these challenges with each tier tailored to a

1 different set of circumstances. Of course, the aim is  
2 to address the capital formation needs of entrepreneurs  
3 and certain smaller issuers while preserving and  
4 enhancing investor protections. Let me be clear here.  
5 I can see a number of ways we could structure an  
6 exemption and bring clarity in this area, any of which  
7 would be a welcome improvement over the status quo.

8           Let me say it a different way. There are a  
9 range of terms and conditions we could place on finder  
10 activity that would greatly improve both capital  
11 formation and investor protection. What we should not  
12 do is prolong the uncertainty and other costs of the  
13 status quo. In my words, we should not let the best be  
14 the enemy of the good. We should find a way forward.  
15 And this is a great group where a consensus among this  
16 group could provide a lot of guidance.

17           In that regard, the proposing release includes  
18 a request for comment on all aspects of the proposed  
19 exemption. And we welcome the committee's feedback and  
20 encourage each of you as small businesses, accredited  
21 investors, potential finders, state regulators and  
22 otherwise to engage with us during the comment period.

23           More generally and as I noted at the outset,  
24 the current environment and the disproportionate impact  
25 of the COVID-19 pandemic, particularly on our smaller

1 companies, illustrates how critical it is for small  
2 businesses to be able to access capital from various  
3 channels. I appreciate that you've all been sharing  
4 your recent experiences and marketplace observations.  
5 And I welcome your suggestions, look forward to the  
6 discussion, and I know that we will benefit from today's  
7 committee meeting.

8 So with that, Carla, back to you, and I'll  
9 stick around if you have any questions for me.

10 MS. GARRETT: Great. Thank you, Chairman  
11 Clayton, very much and we appreciate those remarks and  
12 all the work that you guys and you in particular have  
13 done in helping small businesses over the last few  
14 years. So back to our earlier discussion about finders.  
15 During the break, I did put together some notes on what  
16 it looked like we were talking about. And I'm going to  
17 share my screen now. And I would be interested -- I can  
18 read this out.

19 I'd be interested in hearing if people agree  
20 with this as a recommendation from our committee or if  
21 people have comments. I'll read it. And if people have  
22 comments, just maybe -- I can't see the chat function.  
23 Too many things going on at once. But maybe just pipe  
24 in and let me know.

25 In order to promote small business capital

1 formation, especially underrepresented businesses such  
2 as minority-owned and women-owned businesses and  
3 businesses that are not in regions with robust  
4 capital-raising networks, the committee supports a  
5 framework to permit certain finders to engage in limited  
6 capital raising activities involving accredited  
7 investors with the following principles in mind. Does  
8 anybody have any feedback on that introductory remark?

9 Okay. Oh, I'm sorry. Catherine just -- since  
10 I can't see, if you could just --

11 MS. MOTT: Yeah. I'm sorry. Yes. If we  
12 could also put underrepresented or underserved regions  
13 because when we discussed this, it wasn't just  
14 underrepresented businesses but underserved regions.

15 MS. GARRETT: Okay.

16 MS. MOTT: Well, it doesn't matter. You say  
17 the same thing. Sorry. I'm looking at the beginning.  
18 It doesn't matter. No.

19 MS. GARRETT: It's fine.

20 MS. MOTT: You say the same thing. Sorry.  
21 Sorry.

22 MS. GARRETT: Okay. Sorry. Okay. So it will  
23 be businesses that are not in regions with robust  
24 capital-raising networks. So the first principle we  
25 have in mind is that the framework should be kept

1 simple. And once again, if anybody -- comments, just  
2 please speak up since I can't see hands necessarily.  
3 The framework should keep out bad actors. The  
4 Commission should consider requiring a notice filing for  
5 all finders. The Commission should work with state  
6 securities regulators to provide additional certainty  
7 for market participants, including so that finders and  
8 issuers know the rules on how finders can assist with  
9 capital formation for small businesses.

10 The Commission should consider a blanket  
11 exemption for finders for offerings under a certain  
12 size. The Commission should consider the issue of fees  
13 to finders, including the reasonableness around finder's  
14 fees and/or limits on the amount of finder's fees. And  
15 the Commission should add clarity on prohibited and  
16 permissible activity. For example, the contact  
17 restrictions, the one time per year and the natural  
18 person requirement in the proposal may be too limiting  
19 and clarifying whether broker-dealers are allowed to pay  
20 Tier II finders that are non-associated persons. Is  
21 there anybody that has anything that they would like to  
22 discuss with respect to this recommendation?

23 MS. HANKS: Carla?

24 MS. GARRETT: Yes, Sara?

25 MS. HANKS: Hi. Yeah. If I could suggest

1 that No. 4 and No. 7 are actually sort of portfolio  
2 comments. So I would split four into two, state  
3 securities regulators being one and then the second is  
4 making sure that finders know -- finders and issuers  
5 know the rules. And then second -- the second point  
6 would be No. 7. The clarification is a different  
7 animal, I think, than clarifying whether broker-dealers  
8 can pay Tier II finders. I think they are two separate  
9 creatures.

10 MS. GARRETT: Okay. Does anybody have any  
11 objections to that?

12 MR. SOLOMON: That's a good suggestion.

13 MS. GARRETT: Okay. And so I'm not going to  
14 -- I'm going to let -- after the -- I don't want to take  
15 up our precious meeting time with getting the exact word  
16 on here. So if we do that -- and I cleaned this up so  
17 it's a little bit better written. Are there any other  
18 comments?

19 MR. SOLOMON: Melanie?

20 MS. LUBIN: I would suggest somehow working  
21 into those concepts that the Commission work with the  
22 states to come up with a uniform set of provisions to  
23 address the issue.

24 MS. GARRETT: I'm sorry. Can you repeat that,  
25 Melanie?

1           MS. LUBIN: I would suggest, however you end  
2 up re-, you know, consolidating those or making them  
3 with, you know, underlying bullet points under one  
4 number doesn't really matter that much to me. But that  
5 -- you suggest to the Commission that they work with the  
6 states to come up with a uniform, you know, set of rules  
7 to address the issue that's tailored to address the  
8 finder's issues. So we don't still have -- you know, so  
9 it can work together. So it will work together at the  
10 state and federal level, and we won't have to -- what to  
11 do after that.

12           MR. GRAHAM: Is it a uniform set of rules or a  
13 coordinated set?

14           MS. LUBIN: Uniform usually goes for the  
15 state. And we coordinate with what goes on at the  
16 federal level. But, you know, coordinated or uniform,  
17 it doesn't -- I don't know that it matters that much.  
18 Usually at the state level, we refer to them as uniform  
19 rules, like the Uniform Securities Act or the model  
20 rules.

21           MR. GRAHAM: I just don't --

22           A PARTICIPANT: Right.

23           MR. GRAHAM: -- want to suggest that they need  
24 to be the same.

25           MS. GARRETT: Yeah, I would --

1           MR. SOLOMON: He wouldn't suggest it as the  
2 same?

3           MS. GARRETT: Actually, I like the word  
4 "coordinated" better. Do you believe that the  
5 additional certainty for market participants does not go  
6 far enough, Melanie?

7           MS. LUBIN: I think regardless of how this --  
8 well, I don't want to say regardless of what the  
9 Commission does. But I think there are going to be  
10 questions about what goes on at the state level  
11 depending on how this comes out, regardless of how this  
12 comes out at the Commission. So if we coordinate it  
13 before it comes out, then we could all be working  
14 towards coming up with a uniform approach to deal with  
15 it at the state level that coordinates with the federal  
16 level.

17           So coordinating might be the right word. And  
18 we can worry about how we implement it down the road.  
19 But the important point is that it comes out in a way  
20 that we can all work with it to come up with something  
21 that provide the certainty everybody is looking for.

22           MS. GARRETT: Would that be correct, with  
23 coordination among the states and the Commission?

24           A PARTICIPANT: Yeah.

25           MS. LUBIN: Yeah. I think it would be

1 important to say something along the -- you know, of  
2 having a uniform set of regulations or rules to address  
3 this because what becomes very important is uniformity,  
4 you know, to anybody who has to look at it. So, you  
5 know, the issuers and the finders will know what they're  
6 supposed to do. The investors will know what they could  
7 look for if they're trying to do some due diligence on  
8 an offering or on the people trying to sell it.

9 MS. GARRETT: Yeah. I'm a little --

10 MR. YADLEY: This is Greg, Carla.

11 MS. GARRETT: Yeah, so --

12 MR. YADLEY: I agree with Melanie's point, but  
13 I think in the context of these recommendations, like I  
14 haven't made any other comments because there are  
15 nuances that I think need to be addressed by the  
16 Commission. And we're not trying to, I think, write a  
17 comment letter to address every single thing but make  
18 sure we get the salient points. So in that same vein,  
19 while I would love to have uniformity, I think this  
20 expresses that we simply want to support the effort, and  
21 we want the SEC, as the chairman said, to move forward.  
22 And so I think this strikes a good balance.

23 And, you know, uniformity would be great. But  
24 I think our recommendation is a little more broad, that  
25 we -- the dialogue is important. We recognize that

1 coordinations is necessary for this to work and sort of  
2 leave it with that because I think that's in character  
3 with the other more generalized points in Carla's  
4 summary.

5 A PARTICIPANT: I would agree with that.

6 MR. SOLOMON: So I had one thing I just  
7 thought that we should try to tighten down a little bit,  
8 is -- which is in No. 3, we had talked -- we had a whole  
9 conversation about making sure that the fees were  
10 disclosed so that, you know, whoever the primary  
11 regulator would be, would be able to take a look at how  
12 fees were being charged to keep it from being abused in  
13 the process, issuers. So, again, I don't -- you know,  
14 we had -- I had put out the idea that maybe we wanted a  
15 reference to any sort of fee caps that were in other  
16 regulatory areas that may be too specific. But I think  
17 it's more than just filing a notice. It's really filing  
18 a notice with the details on how fees were charged.

19 CHAIRMAN CLAYTON: Yeah, it's Jay. Could I  
20 jump in there?

21 MR. SOLOMON: Sure. Obviously, yeah.

22 CHAIRMAN CLAYTON: Now, look, I think that's  
23 -- I think that's a really good point. And it goes back  
24 to the point I was trying to make at the beginning,  
25 which is you want simple rules that are self-effecting.

1 And I'm just speaking for myself again. I can't speak  
2 for the Commission. But if people have to disclose  
3 prominently and file what they're making, that has a  
4 self-regulatory impact here.

5 Said another way without that, you know, you  
6 have to -- you have to look a little farther and dig a  
7 little deeper to see if there is something that you  
8 don't like going on. So those are the kind of  
9 suggestions that I think help a lot in this area.

10 MS. GARRETT: Thank you, Chairman Clayton.

11 Jay -- I mean -- sorry. Jeff, so your request  
12 for No. 3 would be a notice filing.

13 MR. SOLOMON: Including fees charged for  
14 finders' services. I mean, to the chairman's point,  
15 what's really important here is percentage. I don't  
16 want to get too prescriptive, though. It's really  
17 important here just so we're talking about -- it's not  
18 the aggregate dollars that are being paid but like the  
19 dollars as a percentage of the transaction size. That's  
20 actually what matters.

21 I'll leave it up to the Commission to figure  
22 out how to word that appropriately. Maybe it's both.  
23 You ought to put your dollars out there and the  
24 percentage of the transaction. But obviously if a  
25 finder were charging, you know, 25 percent of the

1 aggregate fees raised, I think someone would totally  
2 look at that and say that's abusive -- right? -- versus  
3 5 percent. Maybe not so much. But I don't want to be  
4 prescriptive here. I just think it's really important  
5 to have not just the notice but the economics associated  
6 with it because, you know, the chairman is right. It  
7 would be a self-regulatory. People -- someone can query  
8 how much somebody made on something. They'll think  
9 twice about how much they charge.

10 MS. GARRETT: Okay. Thanks, Jeff. Does  
11 anybody else have other things that they would like to  
12 add? Are people ready to take a vote on what we have on  
13 the screen? And I realize that the exact wording I will  
14 clean up. But just wanted to move on with the meeting.  
15 Okay. Then I am going to stop sharing my screen so that  
16 I can see the vote. And so now I am going to propose  
17 that we vote on the recommendation that was on the  
18 screen with respect to the finders that we talked about  
19 this morning and this afternoon. So all in favor of the  
20 recommendation, please raise your hand and keep it up so  
21 that Julie can see who all is in favor of it.

22 Okay?

23 MS. DAVIS: All right.

24 MS. GARRETT: And now all opposed? And I  
25 think I note for the record that there is not anybody

1     opposed; is that correct, Julie?

2                   MS. DAVIS: I don't see anyone. That's  
3     correct.

4                   MS. GARRETT: Okay. So we -- I think we had  
5     unanimity in that. So we have everybody was in favor of  
6     it and -- was opposed. So great. Thank you very much.  
7     That was obviously a big issue that the Commission has  
8     been working on for a very, very long time. So thank  
9     you, committee, for --

10                  MR. SOLOMON: Half a century. I think I heard  
11     half a century. That's what I heard.

12                  COVID-19 UPDATES, OBSERVATIONS AND DISCUSSION

13                  MS. GARRETT: Yeah. And so that means that we  
14     will move to the second half of our meeting, which is  
15     really following up on and talking -- continuing to talk  
16     about updates and observations on what, you know, you  
17     members are seeing in the marketplace as the result of  
18     the COVID-19 pandemic. As you know, since the pandemic  
19     began, the Commission has taken a lot of actions to  
20     respond to challenges -- small businesses as a result of  
21     the pandemic, including the recent amendment, harmonized  
22     exempt offering framework and temporary relief under  
23     regulation crowdfunding. And we are interested in  
24     hearing from your -- from you today on your observations  
25     on how the pandemic has an impact on businesses and your

1 thoughts on how the recent SEC amendment to harmonize  
2 the exempt offering framework may help smart businesses  
3 to shore up capital needed to get through the pandemic  
4 and also hear other suggestions on what the Commission  
5 can do to help small businesses address their ongoing  
6 capital needs. So at this point in time, I am going to  
7 turn it over to the committee members. If you'd like to  
8 raise an issue, please just work through the chat  
9 function for me. And -- okay, Youngro?

10 MR. LEE: Great. Thank you. And really  
11 appreciate, again, everything the Commission has done in  
12 the recent harmonization rules. They extended the  
13 COVID-specific provisions, which I really appreciate,  
14 and I think a lot of businesses will as well. Just for  
15 the benefit of the committee, I'd like to actually  
16 provide some specific examples of companies that use the  
17 rules during this period because they -- to state the  
18 obvious, I think all of us unfortunately know this.  
19 Small businesses are definitely still struggling and in  
20 pain.

21 Stock market went crazy today, but I think all  
22 of us know that is not a reflection of reality  
23 especially in Main Street businesses. None of them have  
24 the tech multiples. None of them have the kind of  
25 COVID-free business models that can get through. And we

1 have seen plenty of businesses fail, close, unable to  
2 meet their payroll on default. And it's frankly a lot  
3 of service providers, including banks -- in many  
4 instances, I've seen actually step up, try to  
5 renegotiate or provide some more, you know, relief and  
6 also real estate developers as well and landlords. But  
7 largely because of -- I mean, there is really no other  
8 options because it's not like another business will take  
9 in the place of one that goes out.

10 But having said that, I do want to emphasize  
11 what Chairman Clayton said, that let's not let perfect  
12 get in the way of good. And the SEC COVID relief was a  
13 prime example. A lot of people, I think, still have  
14 suggested that something like that is, again, not good.  
15 But here is -- on NextSeed platform over the last few  
16 months, there is only four businesses that were able to  
17 take advantage of it. And even these limited roles,  
18 it's still not easy. So one is a business called  
19 Morningside Playcare.

20 It's actually a daycare in Morningside  
21 Heights, in Harlem, founded by Dr. Gail Foster, who is  
22 an African-American woman with a career in, you know,  
23 childhood development and things like that and providing  
24 a service in that neighborhood if you guys are familiar  
25 with, you know, that neighborhood. And she raised

1 \$20,000 on NextSeed using our -- what we call Community  
2 Bridge Note, security that we created, which is  
3 basically individuals providing basically interest-free,  
4 you know, loan until 2021 and then having a four-year  
5 period to pay back 1.3 times the multiple. She raised  
6 that from 57 people. And there is absolutely no way she  
7 would have been able to do that if she had to file --  
8 you know, get the, you know, financial requirements and  
9 such. And she was able to also close quickly because it  
10 was so popular.

11 I think she ended up raising the money in, I  
12 think, less than a week or so. So she was also able to  
13 get the capital sooner than the typical 21-day  
14 requirement. Another business is in Austin. Again,  
15 they use this similar Community Bridge Note function.  
16 It's basically a boat cruise company in Austin which, as  
17 you can imagine, there is nothing now but primarily  
18 through his own clients and the local community raised  
19 \$150,000-ish from 168 investors. Another business is  
20 Roostar. It's a Vietnamese specialty restaurant in  
21 Houston raising \$150,000, founded by a Vietnamese  
22 husband and wife, couple.

23 And then finally, business called At Ease  
24 Rentals, which is a online housing -- kind of Airbnb for  
25 military housing because there is basically different

1 rules at military housing -- for military families  
2 founded by, again, an African-American entrepreneur  
3 who's also a veteran himself. These are four businesses  
4 that raised about \$550,000 by, I think, roughly average  
5 investment of a thousand dollars because I think it's  
6 about 600 investors all total. So this is all -- the  
7 main point that I wanted to make here is there is  
8 clearly macro issues happening in this world that we  
9 have nothing to do with. The SEC has nothing to do  
10 with. And SEC rules are clearly not going to solve all  
11 the problems.

12 But for certain businesses, it will help;  
13 right? Four businesses raising \$550,000 is obviously  
14 not going to make a dent in the big picture. I can  
15 assure you that each one of these individual businesses  
16 and the people that supported them would not have done  
17 these deals but for the SEC's COVID impact. So I want  
18 to just kind of provide that context when we discuss  
19 these issues that we're not trying to solve the world or  
20 solve all the problems that exist in the world. But I  
21 think there can be a very practical, helpful solution  
22 that can definitely improve the lives of certain  
23 businesses, especially during this pandemic.

24 MS. GARRETT: Thank you, Youngro. That was a  
25 great -- I think that's great information. And I would

1 love for other people to share examples from what you  
2 guys have seen too. But what I do appreciate you  
3 talking about is how, on a small level, these rules have  
4 helped small businesses, which is our goal. And it's  
5 helped the people that work for the small businesses,  
6 obviously. And during this pandemic, I think that's one  
7 of the most important things that we can do. Do other  
8 people have examples, possibly, of things that they have  
9 seen in the last few months with respect to capital  
10 raising and small businesses?

11 MR. GRAHAM: Yeah, I think we've all seen, you  
12 know, the devastation in that sector. Whether it's the  
13 restaurants that we go to or our drycleaner or you name  
14 it. It seems to me that what Youngro is getting at is  
15 that -- and we've taken a step in that direction but  
16 finding ways where neighbors can easily bank neighbors.  
17 And I think that should be a focus.

18 CHAIRMAN CLAYTON: I think, Carla, I'm going  
19 to jump in again if I can. Is that okay?

20 MS. GARRETT: Definitely.

21 CHAIRMAN CLAYTON: So I think one of the  
22 things that we have seen -- and I was on with some of my  
23 regulatory colleagues before I joined this. And this  
24 was a universal observation, which is the more connected  
25 small businesses are to our capital network, the more

1 nimble they are. And one of the things to think about  
2 in how we think about this approach -- and it was true  
3 in the harmonization approach, is taking out those  
4 frictions and making sure they're connected. It can be  
5 as simple as having bank accounts. They  
6 disproportionately adversely affect the businesses, are  
7 the ones that weren't connected to the banking system.  
8 Relief couldn't flow to them quickly. And it's the same  
9 for capital formation.

10           The more that we're able to use the technology  
11 of today to allow capital to flow where it's needed with  
12 all of the protections, the better off we should be.  
13 And this group, one of the things that we said is that  
14 what is happening here in the economy today -- knock on  
15 wood -- is things are performing better, particularly in  
16 certain sectors, because the ability to flow capital and  
17 flow labor in response is faster than it was 20 years  
18 ago. I'm not sure that it is. In fact, I'm sure that  
19 it isn't faster in much of our small business community.  
20 And we need to think about that. And I think with  
21 technology, we can bring small business financing to  
22 that level of speed and nimbleness while preserving  
23 investor protection. That's my view.

24           MR. SOLOMON: Carla, can I just add a couple  
25 things to the chairman's comments, not that it ever --

1 not that I ever need to modify what the chairman has to  
2 say. But I think I want to try to put it in  
3 perspective. We talked about it being a half a century  
4 on finders a little earlier and how long it's taking and  
5 what an incredible job the harmonization rules are in  
6 terms of streamlining the process for capital flows for  
7 small companies and even a number of the other things  
8 we've talked about. Sometimes they take time to play  
9 out.

10           And I just want to highlight a couple things  
11 that played out over the last two decades plus that have  
12 changed really the face of how capital raising works.  
13 And largely, it's been a part of the function of the SEC  
14 making regulatory changes to streamline the capital  
15 formation process. So first, I want to just highlight  
16 at-the-market offerings. I know this is for companies  
17 that are larger and can access the public markets where  
18 we generally play a little bit more.

19           But prior to the year 2000, there was no  
20 framework, really, for companies to continuously offer  
21 equity to the markets. And it was a pretty shady area  
22 that got pretty well cleaned up by the SEC in the early  
23 2000s. And it has reduced the cost of capital  
24 significantly for companies in the public domain that  
25 have to raise capital continuously, like biotech

1 companies, for example. And the at-the-market offering  
2 regime enables companies, once they get public, to raise  
3 money at a fraction of the cost as what it would  
4 otherwise cost them. And it was those rules that were  
5 really set up in 2000. It took, you know, the better  
6 part of a decade to a decade and a half for companies to  
7 really start to use them.

8           And now it's pretty much thought of in that  
9 community to be a good housekeeping -- you know, good  
10 housekeeping to have an at-the-market offering on the  
11 shelf ready to go if the company does need to raise  
12 capital. And a lot of companies during this time that  
13 needed to raise capital that didn't expect to have to  
14 raise capital because of delay in drug trials actually  
15 used their at-the-market offerings and were able to get  
16 access to the public markets to help them bridge from,  
17 you know, the beginning of this year until whenever this  
18 sort of gets resolved.

19           Second, I also -- I know there has been a lot  
20 in this room written about SPACs and a lot of commentary  
21 around SPACs. SPACs have been around for 25-plus years.  
22 It was actually the SEC that created the opportunity to  
23 do special purpose acquisition companies. And  
24 originally it was supposed to be for smaller companies.  
25 But now it is being used wisely by larger companies.

1 And it shows that the creativity, when people have the  
2 right regulatory regime, there is creativity around how  
3 access can be given to companies. And I just want to  
4 highlight one that happened, actually, that Sapna's firm  
5 and our firm worked on that goes right to the heart of  
6 some of the stuff we started talking about, about  
7 getting capital to flow to the right parts of the  
8 country.

9           Last month, we announced a transaction. It's  
10 not closed yet. But we did announce a transaction for a  
11 company that does ag tech and is planning to build over  
12 the next five years five hydroponic growing facilities  
13 in the poorest counties of Eastern Kentucky and Western  
14 West Virginia. And the movement of that capital, the  
15 initial capital, came from the coasts so not just  
16 Sapna's firm but also Jeff Ubben's firm at ValueAct on  
17 the West Coast, Martha Stewart but also J.D. Vance, for  
18 those of you that haven't had a chance to read Hillbilly  
19 Elegy, who is committed to bringing capital back to the  
20 part of the country he grew up in, in Ohio, the Ohio  
21 Valley and in Appalachia.

22           This is effectively technology that will help  
23 to grow tomatoes, lettuce and, you know, vegetables on a  
24 non-GMO basis, sustainable farming, reusing water and  
25 creating thousands of jobs for people in Appalachia.

1 And the fact that we were able to get first the private  
2 capital raised and then announce a SPAC merger that  
3 raised almost a half a billion dollars total to put to  
4 work in that part of the country is astounding because  
5 half a billion dollars just does not flow to Eastern  
6 Kentucky from private capital. And while we in this  
7 committee do focus on smaller businesses in that, I will  
8 tell you that if you looked at -- at this company a few  
9 years ago, it would look like a really small business  
10 with a really big idea that was able to pull this off.

11 And so when you see things like this, the  
12 creativity and the ability for us to streamline capital  
13 may play out over the next few decades. None of us  
14 could have imagined that a company like that would ever  
15 be around or ever have the -- a capital availability to  
16 it. But the structures that are being used that were  
17 set out in the 1990s that had become a way for companies  
18 like that to access capital give me great hope that the  
19 work that we're doing on this committee for small  
20 businesses will eventually gain traction. And that's --  
21 we shouldn't lose that in the midst of everything that's  
22 going on.

23 So it's been an incredible year for capital  
24 raising. And I would be remiss if I didn't take the  
25 opportunity while you were on the -- while you were on

1 the phone, Chairman, to commend the SEC on the insane  
2 amount of work that had to go on to get companies access  
3 to capital. There has never been a year in which there  
4 has been more offerings. That means a lot of work on  
5 your staff to process and review registration statements  
6 and keep the wheels of progress spinning. None of that  
7 happens without you and your team and the staff of the  
8 SEC being at the ready and working remotely and  
9 incredibly efficiently.

10 And so one of the stories of 2020 will be that  
11 the capital markets stayed open at a time when it might  
12 not have. And that would have been a whole world of  
13 hurt for a lot of people. And so I just didn't want  
14 this opportunity to go by without extending the praise  
15 where praise is due for both the creativity at the SEC  
16 and the process this year that has been incredible.

17 CHAIRMAN CLAYTON: Well, Jeff, that's very  
18 nice of you. But what I do have to say, and you touched  
19 on it, is we're -- I'm blessed. We're blessed with the  
20 best team I've ever seen in terms of willingness to be  
21 proactive and, you know, solve a problem before it gets  
22 worse. So -- and we had a whole lot of that going on  
23 here in March and April. And it was wonderful to be a  
24 part of. So thank you for those kind words.

25 MS. GARRETT: And I also --

1           A PARTICIPANT: Hey, Carla. Mute again.

2           A PARTICIPANT: It's muted.

3           MR. SOLOMON: Yourself -- but I'm sure it's  
4 brilliant, whatever you're saying.

5           MS. GARRETT: It was another thanks to  
6 Chairman Clayton for everything that he has done and his  
7 team and Julie and Martha and Sebastian's team, what  
8 people put together during this pandemic and how people  
9 have worked and come together to help have been truly  
10 amazing.

11           Bert, did you have a comment?

12           MR. FOX: Yeah. I was going to echo a lot of  
13 the comments, I think, Jeff just made. I know at our  
14 firm, we're actually seeing a big uptick in the number  
15 of companies that are getting ready or preparing for  
16 IPOs right now. And I know we talked about a lot of the  
17 hardships that smaller companies are having. But I  
18 think the actual original charter of the legislation  
19 that kind of created this committee actually really  
20 contemplated really looking at entities up to about a  
21 half a billion-dollar market cap and stuff.

22           And, yeah, so these are all companies that fit  
23 into that. And, yeah, I think we're -- you know, and a  
24 lot of them are really, you know, companies that maybe  
25 wouldn't even have thought about going public before

1 some of the actions the Commission has taken over the  
2 last couple years to really free up access to the  
3 capital markets, you know, between the ability for the  
4 confidential filings, some of the other things that have  
5 happened. I just know that that's the feedback that  
6 I've gotten from audit committees, from management and  
7 others.

8           And so I think we are -- I mean, at least I'm  
9 -- personally am seeing the impact of some of these  
10 actions in the capital markets. I am seeing also the  
11 free-up of capital in certain industries. But I also --  
12 it is becoming right now an industry or an economy of  
13 have and have nots. Clearly you have certain industries  
14 that are hot. And capital is flowing. And you have  
15 other industries that are not.

16           And, you know, the restaurant business is an  
17 interesting one -- right? -- where, you know, if you're  
18 incorporated and big, you're going to be -- you're  
19 almost like a winner versus if you're private,  
20 family-owned and you don't really have that sort of  
21 access to capital. You're almost a loser by default  
22 right now. And that's an unfortunate fact, you know,  
23 position to be in, you know, as a country, in my opinion  
24 -- right? -- that, you know, bigger is better right now.  
25 And that's not, I don't think, a really good thing

1 long-term. But -- so on one hand, I think it's great to  
2 see a lot of the stuff working. On the other hand, I  
3 think it's tough seeing where scale is becoming a really  
4 distinct advantage in terms of capital raising so --

5 MS. GARRETT: Thank you, Bert. And I think  
6 that goes to the point of what Chairman Clayton  
7 mentioned before about, you know, your second point  
8 about neighbors helping neighbors and how can we  
9 facilitate that. Steve? Stephen?

10 MR. GRAHAM: I'm here.

11 MS. GARRETT: Did you have a comment? It  
12 looked like you did.

13 MR. GRAHAM: No. I --

14 MS. GARRETT: Sorry.

15 MR. GRAHAM: You just echoed my comment.  
16 We're in good shape.

17 MS. GARRETT: Okay. Do people have ideas  
18 about the -- anything the Commission could be doing to  
19 help the smaller business, as Bert pointed out, because  
20 possibly the larger-scale businesses right now are  
21 having an easier time accessing capital? I mean, of  
22 course, that's the whole goal of our committee. But if  
23 anybody had any specific points that they wanted to talk  
24 about --

25 MS. HANKS: Carla? Carla, could --

1 MS. GARRETT: Yes, Sara?

2 MS. HANKS: Hi. Yeah. Just because we were  
3 discussing earlier the at-the-market, I would note that  
4 Regulation A does not permit at-the-market. And one of  
5 the disappointments of the Regulation A market was when  
6 Reg A was opened to reporting issuers, relatively few  
7 used it. And among them, sadly there were some, shall  
8 we say, problematic offerings to get more legitimate  
9 reporting issuers using Reg A.

10 One of the issuers, of course, they have is  
11 Reg A offerings tend to be continuous best efforts not  
12 underwritten. It is incredibly difficult if you already  
13 have a trading market however illiquid the trading  
14 market might be. And going out to the SEC -- going out  
15 to the public with a SEC-filed 1A, if we could look at  
16 the at-the-market prohibitions in Reg A to see if there  
17 was a way to move the benefits of that down to very much  
18 smaller companies would be great. And I know that, you  
19 know, getting at-the-market to the smaller companies in  
20 the first place was a struggle. But, you know, the Reg  
21 A companies would love that too.

22 MS. GARRETT: Thank you, Sara, for that  
23 suggestion.

24 MR. YADLEY: Yeah. Could I just add sort of  
25 -- and this is an obvious point but worth keeping in

1 mind as we go through our work. Some people are  
2 concerned with the Commission's focus on unregistered  
3 offerings because we should be spending more attention  
4 on registered offerings. But in real life, that's not  
5 the dichotomy. There is a growth scale. And not every  
6 private financing leads to a big company which goes  
7 public. But an awful lot of them do. And a lot of  
8 money gets made in the earlier stages and lost. And one  
9 of the things I think we're trying to do is be more  
10 equitable and allowing people the ability to make  
11 decisions for themselves about investing in these  
12 earlier companies.

13           And ultimately a vibrant public market  
14 provides the buyers for these private companies and  
15 provides liquidity. In the last iteration of the  
16 advisory committee, we talked about after markets and  
17 secondary trading and things. And that's part of our  
18 agenda in the future here as well. But it is all the  
19 same system. And the old, worn cliché phrase, "One size  
20 doesn't fit all," that's true. So having these options,  
21 rationalizing them, getting rid of ones that are  
22 duplicative but keeping in mind that as things get  
23 bigger and tend to get homogenized, the creativity of  
24 the participants in the capital-raising markets should  
25 be exploited and encouraged by the freedom to try

1 things.

2 CHAIRMAN CLAYTON: If I could jump in there  
3 because I -- I think you're making an incredibly  
4 important point and one that is not well understood and  
5 should be. I'll just tell you how I look at it from my  
6 perspective. It's really tiered. And let's just --  
7 we'll just pick a number. You know, 500 million and  
8 above. Maybe it's 250. I heard some good news that  
9 maybe companies in the \$200 million range are starting  
10 to look at our public markets. But pick a number. You  
11 can -- let's pick as low a number as is reasonable, and  
12 I'll ask those people to check me.

13 Let's say it's 200 million. Below 200  
14 million, the traditional public markets are just not a  
15 viable option for almost all companies. Now let's pick  
16 another number, 25 to 50 million. Again, I'll pick the  
17 -- I'll pick the lower bounds. Below 25 million,  
18 sophisticated institutional venture funds and the like  
19 are not really a viable option.

20 So somewhere between your friends and family  
21 number, which maybe it's 200,000. Maybe it's 500,000.  
22 Maybe you're lucky. Maybe you have friends and family  
23 who've had good fortune in their lives. Maybe it's 2  
24 million or 3 million. We'll pick the higher amount, 2-,  
25 3-, 4 million. So between 4 million and 25 million,

1 there is no alternative other than the private placement  
2 market for very specialty high-cost lenders. That's the  
3 landscape that we face. And our job is to just make  
4 that landscape with those tierings work better for  
5 investors and companies. But to everybody's point, with  
6 that landscape, there is not a public-private tradeoff  
7 for those first two tiers. So, again, speaking for  
8 myself, at that lower tier, 2-, 3 million up to 25  
9 million, how do we get local community involvement in  
10 the way that's good for investors and good for  
11 companies?

12 At that 25 to 200 million, how do we make sure  
13 that individual investors can somehow sit side-by-side  
14 with those institutional investors, not get the garbage  
15 deals but somehow able to sit side-by-side and  
16 participate. And then we get to our public markets,  
17 which, you know, high cost of entry. They are. But,  
18 you know, for large companies, that's worth it. And the  
19 wonderful benefit of that high cost of entry is you do  
20 have retail investors and institutional investors  
21 sitting side-by-side. So, you know, that may be a bit  
22 of a philosophical discussion, but I think that's the  
23 problem before us. And until we start looking at it  
24 that way, it's hard to solve.

25 MS. GARRETT: Thank you, Chairman Clayton.

1 And I think a lot of the new rules have started to look  
2 at it the way you've just outlined.

3 Sapna, did you have something to add?

4 MS. MOTT: Yes. In relationship to what  
5 Chairman Clayton was referencing, I know this is on the  
6 docket for future topics. But since you brought it up,  
7 Chairman Clayton, I -- one of the things that ties the  
8 hands of those of us who could have access to a plethora  
9 of accredited investors is to raise a small venture fund  
10 in excess of 10 million, in excess of 50 million, but  
11 our hands are tied by the 99 investor rule. And then  
12 there is also the -- you know, that was changed recently  
13 with legislation, is sure you can go up to 250  
14 accredited investors, but you're capped at 10 million.

15 And it doesn't make sense. One of the things  
16 that we're seeing, we're studying -- because we're  
17 trying to raise a fund that's going to look at  
18 opportunities between Pittsburgh and Chicago. And  
19 Chicago has been pretty successful because there is a  
20 group of small funds that syndicate. You know, so there  
21 are \$30 million funds and they syndicate well. And the  
22 company does well. It gets the growth capital it needs.  
23 I believe that there are other regions of the country  
24 that could be served well with being able to use that  
25 250 investor rule but raise the cap on it to something

1 like at least 70 million or 100 million, I mean, or  
2 something in that range. I'm not sure. We're still  
3 studying it because we're trying to come up with the  
4 right number for us. Thank you.

5 MS. GARRETT: Thank you, Catherine.

6 MR. SOLOMON: Sapna, did you have something?

7 MS. MEHTA: If anyone else has a comment on  
8 this topic, please go ahead. I was just going to raise  
9 another issue that I was going to raise under future  
10 topics, but I don't want to cut off the discussion  
11 prematurely.

12 MR. SOLOMON: Well, the only thing I would add  
13 on this topic before that, unless there is anything  
14 else, is I certainly think we still have work to do  
15 around some of these ideas of marrying individual  
16 investors and institutional investors. And while  
17 harmonization has done a great job, and I don't want to  
18 take anything away from it because that was a major,  
19 major milestone in so many ways. Certainly, you know, I  
20 think -- I go back to human nature.

21 I recognize that human nature is such that  
22 almost every investor wants to know who the smart  
23 investor is in the room. And that just -- that's  
24 individuals and institutions. So I know how deals work.  
25 And I have a lot of really sophisticated institutional

1 investors. And they're first questioning me, "Well, who  
2 else is involved?" Why? Because they want to know  
3 what's the quality of the deal. And so there is no  
4 reason why we can't create a framework where, for a  
5 certain percentage of whether it's venture funds or  
6 pooled investment vehicles, we can marry up smart  
7 institutional investors alongside of individual  
8 investors. And how do we do that and what's the  
9 framework for doing that?

10 I'll leave that up to you all to make sure  
11 that people get involved in -- you know, that we create  
12 a high enough bar so that we minimize the possibility of  
13 adverse outcomes for people due to, you know, fraud and  
14 things like that. But there is absolutely a way to get  
15 that done. And especially today with some of the  
16 broadly-distributed individual retail networks that are  
17 electronic in nature with crowdfunding. There's no  
18 reason why we can't be in a position where we're giving  
19 access to individuals for relatively small sums of  
20 money.

21 And I would argue that it's probably even  
22 better if we create a framework for them to do it in  
23 pooled investment vehicles so they're not trying to pick  
24 winners on single names because all of us know whoever  
25 managed the portfolio before, there is winners and

1 losers. And the only way you actually win in this game  
2 is to create a portfolio over time. And the SEC should  
3 be doing whatever it can to allow individual investors  
4 not just to have access to individual investments and  
5 try to pick winners, which is really hard, but give  
6 investors the opportunity to get involved in pooled  
7 investment vehicles where they can -- where they have a  
8 better shot at making an attractive rate of return and  
9 for relatively small dollar amounts. It can be really  
10 life-changing for a lot of people. And if we can figure  
11 out how to do that, it would be an incredible  
12 breakthrough in terms of closing the wealth gap in the  
13 country.

14 CHAIRMAN CLAYTON: Yeah. Jeff, let me just  
15 leave you with this comment, which is, you know, we've  
16 talked about access for what I would say is  
17 non-accredited investors to pooled investment vehicles  
18 -- I'm sorry -- to private investments. I am a huge  
19 believer that pooled investment vehicles with pari passu  
20 participation with institutions are the way to go. You  
21 have the protection of diversification. And then you  
22 have the protection of sitting side-by-side with  
23 institutions. And I believe it's doable. Yeah, again,  
24 a dichotomy of, you know, letting individuals in or not  
25 having them in, that's not really the question. It's

1 how do you provide access where you have that portfolio  
2 protection and the pari passu with the institutions that  
3 drives a good outcome here in my view.

4 Carla, I'm going to jump off, but I just want  
5 to thank the committee for letting me participate today.  
6 I really appreciate it, and I appreciate all your work.

7 MS. GARRETT: Well, thank you. And we're  
8 honored to have you today so thank you for coming and  
9 participating.

10 And, Jeff, you know, you raised a great issue  
11 about the pooled investment vehicles.

12 FUTURE TOPICS

13 MS. GARRETT: If we want to, a little bit at  
14 this point in time, in addition to talking about the  
15 pandemic, we can also talk about other issues that we'd  
16 like for our committee to explore. And next year -- and  
17 I think that's where Sapna was going with an issue that  
18 she had that was on her mind.

19 MS. MEHTA: Thanks, Carla. I know you have  
20 heard this before. I raised this issue back in our  
21 February meeting, the issue being funds, you know, hands  
22 tied a little bit for -- from making fund-of-fund  
23 investments, you know, preliminary background. I won't  
24 get into all of it in detail again. But under  
25 Dodd-Frank, venture capital funds are granted an

1 exemption from having to become a registered investment  
2 advisor, provided that they satisfy certain  
3 requirements.

4           And one of those requirements is that they  
5 have to keep their nonqualifying investments to under 20  
6 percent of their total capital commitments. And one of  
7 the nonqualifying investments would be an investment in  
8 another fund, rather than directly into an operating  
9 company.

10           And, you know, we had some guest speakers that  
11 day from, I think, Darcy Howe from KCRise and John  
12 McIlwraith from Allos. And they presented a pretty  
13 compelling case as to why their regional funds really  
14 could use that boost from other funds, coastal funds.  
15 They could -- a lot of their fundraising taps out at 30-  
16 to \$50 million. And if we truly want to create a  
17 flywheel effect in the startup ecosystem, particularly  
18 in middle America, it's really crucial that we are able  
19 to fund these funds, which, in turn, know their -- the  
20 companies in their backyard the best. And they really  
21 know -- have better insight into which ones might be the  
22 winners.

23           And a lot of times, you know, through our  
24 network, we take cues from a lot of these regional  
25 investors. And we -- it's, you know, a validation of

1 what we may be thinking or vice versa if we invest. And  
2 they may invest. But we would love to expand our  
3 strategy and invest directly into these funds that we  
4 have created, this really deep network. We coinvest  
5 with a lot of them. But I really think it could help  
6 dollars go further, and it could really help startups in  
7 these places if they could get more funding from these  
8 regional funds.

9           So, you know, why am I raising it again? I  
10 think during -- in the COVID area, we've touched upon  
11 it. But, you know, late-stage financings have  
12 recovered, possibly even are exceeding 2019 levels. The  
13 earliest stage -- stages of the startup investment  
14 continuum have lagged behind, and they're more at risk  
15 if the economy -- if there's a second wave or the  
16 economy takes a further downturn.

17           Based on Venture Monitor, which is a report  
18 co-authored by PitchBook and MDCA, at its current pace,  
19 2020 is tracking to fall short of last year's  
20 early-stage activity by 20 to 25 percent. And  
21 particularly impacted are first financing so not  
22 follow-on investments that funds are doing in their  
23 existing portfolio. But for first financings, they have  
24 declined. And they are now at a 10-year low in Q3 of  
25 2020. You know, I think it's a mixed bag. I think a

1 lot of the coastal deal counts and deal values have seen  
2 recovery. I think the rest of the country is a mixed  
3 bag. And some places, it's lagging. In some places, it  
4 may be up. But some of that data may be skewed by  
5 certain deals and also healthcare is doing a lot better  
6 than other sectors. So, you know, I just want to raise  
7 it. And, you know, I think by providing VCs more  
8 flexibility during this time, being able to diversify,  
9 it would create more liquidity in the early-stage  
10 ecosystem where I think the pandemic is creating the  
11 greatest challenges. And so -- and I really think the  
12 ability of these smaller funds to survive is critical,  
13 and we should not forget that. So thank you, Carla.

14 MS. GARRETT: Thank you very much. And I know  
15 that we talked about that issue in February. I think it  
16 was the venture capital operating exemption and whether,  
17 you know, we would recommend changes to that. And that  
18 would be maybe something we put back on the agenda to  
19 talk a little bit further about in 2021 as a committee.  
20 Do people have other items that they'd like to raise now  
21 that they are interested -- talking about in our  
22 meetings next year?

23 Yes, Sara?

24 MS. HANKS: One thing that we have frequently  
25 discussed is the preemption of state securities laws for

1 secondary trading under some of the exempt offerings.  
2 And noting, in particular, the Commission's  
3 extraordinarily robust interpretation of its powers  
4 under Section 28 in last week's rules, I wonder if we  
5 could get this on the agenda. I do mean extraordinary.

6 MS. GARRETT: Okay. And that was the  
7 preemption of securities laws in secondary trading. Is  
8 that what --

9 MS. HANKS: Yeah, secondary trading and  
10 specifically with respect to Regulation A that's been  
11 raised before. And it came up in the concept release.  
12 It did get a lot of affirmative feedback. Disappointed  
13 not to see it in the recent rules.

14 MS. GARRETT: Okay. Thank you.

15 MS. MOTT: Carla, I had written down in  
16 preparation for the meeting some things that have  
17 already been mentioned, but we already mentioned the  
18 pooled funds. Would love to have -- you know, to have a  
19 discussion around pooled funds. The 99 investor rule,  
20 if we can address that -- I'm not sure, you know,  
21 statutorily that we can. And the fund-of-funds that  
22 Sapna mentioned, those are the three items I wrote down  
23 for today's meeting.

24 MS. GARRETT: Thank you. So we're getting  
25 some consistency on some of the different items that

1 people on the committee would like to address next year,  
2 pooled investment funds, fund-of-fund investments.

3 MS. CASH: Carla? Hi. This is --

4 MS. GARRETT: Yeah?

5 MS. CASH: -- Keisha. Hi. I'd like to -- a  
6 topic that I'd like to discuss and explore is this topic  
7 of the gig worker and the gig economy and tech platforms  
8 and some type of equity, potential equity participation  
9 and upside for those who are participating. I know  
10 Airbnb, I actually met Martha through a discussion about  
11 Airbnb's proposal to the SEC and worked with the SEC  
12 around this topic for its homeowners.

13 But I think as we look for recovery with small  
14 businesses and workers, we will see more platform-type  
15 plays in thinking about how those individual businesses  
16 and workers can benefit from the upside of these tech  
17 platforms.

18 MS. GARRETT: Thank you. That's a good -- new  
19 one that I think would be very interesting for next year  
20 as the technology grows. Okay. I'm not seeing any  
21 other hands. Does anybody else have anything they'd  
22 like to share with respect to future topics or small  
23 businesses right now?

24 MS. DAVIS: I think Youngro -- raising his  
25 hand.

1 MS. GARRETT: Oh, Youngro. Thank you.

2 MR. LEE: Yeah. No, I was just going to say  
3 this is more of a request, I guess, to the SEC staff and  
4 also Gregory -- FINRA in the sense that I think the  
5 harmonization rules, again, was really incredible. And  
6 that alone, you know, really great for SEC and everyone  
7 on the committee for pushing those through. I will say,  
8 based on personal experiences, on behalf of the industry  
9 as well, and the first drafts that came out, there was a  
10 lot of confusion and especially going between the SEC  
11 and FINRA because of the broker-dealers and the funding  
12 portals were regulated by FINRA. Obviously our -- you  
13 know, FINRA is our primary contact, you know, for  
14 implementation.

15 So I think -- I'm sure you guys -- doing it  
16 already. But to the extent that there can be, you know,  
17 open communication to make sure there was nothing that  
18 falls through the cracks, when SEC had said something  
19 for certain FINRA, you know, offices or individuals to  
20 have a different view. And then we got to, you know, go  
21 back and forth. Like I think if we can have a good  
22 process -- by "we" I mean the industry that's  
23 interacting to really help the small businesses using  
24 the harmonization rules, I think that could be critical  
25 because -- to extent -- I mean, Chairman Clayton talked

1 about the different tranches.

2           And now regulation crowdfunding, you can raise  
3 up to \$5 million regulation. And you can go up to \$75  
4 million. So I do think that these new rules can have  
5 tremendous impact on small business financing going  
6 forward. But to state the obvious, again, it's not  
7 going to be Jeff's firms that have been working on  
8 these. It's going to be the smaller firms and the  
9 online investment platforms that are going to be  
10 primarily driving these efforts.

11           So that's just one -- I did want to state that  
12 out there, as we at the industry are really going to try  
13 hard to utilize these rules to make the capital raising  
14 process and investment process more efficient for small  
15 business investors. Just wanted to make that as a  
16 practical suggestion in terms of implementation of these  
17 new rules going forward.

18           MS. GARRETT: Thank you, Youngro. That's  
19 great to hear. That's the whole purpose, the new rules.  
20 So we'll be looking forward to seeing how they play out.

21           MS. GARRETT: Okay. Then I think that we  
22 could probably adjourn the meeting early. I do want to  
23 say a few things, first of all. Thank you, everybody,  
24 for your time today and the discussion on some very  
25 interesting issues. I want to also again thank Martha,

1 Sebastian, Julie, the entire Office of the Advocate for  
2 Small Business Capital Formation. I think they have  
3 done an incredible job putting together materials with  
4 respect to the rules and getting out information that,  
5 if the office didn't exist, I think a lot of people  
6 would not be familiar with what's going on with respect  
7 to small businesses. I know that we don't have yet our  
8 2021 meeting dates on the calendar. But that -- those  
9 will be coming out soon.

10           And so hopefully we can get those dates so  
11 that everybody knows when we will be meeting next year.  
12 And this is our last scheduled meeting for 2020. And I  
13 -- you know, I'm not sure -- I doubt we will have  
14 another meeting this year. But you don't know with  
15 uncertainty of our country. But I do want to say thank  
16 you for everybody. And, Jeff, did you have anything to  
17 add?

18           MR. SOLOMON: Only that I want to wish  
19 everybody a happy end to 2020. I think we all deserve  
20 a much better 2021. And I hope that we get a chance to  
21 be able to see each other in person. I said -- you  
22 know, when Carla and Julie and the team and I were -- we  
23 were talking, you know, we missed seeing everybody in  
24 person. One of the great things about this group is  
25 that we all get together and, you know, even though it's

1 just three or four times a year, just being able to see  
2 each other and share stories and build relationships,  
3 it's not the same when we're doing it on Zoom. And  
4 hopefully in 2021, we can get back to doing that at  
5 least some point safely. That would be my fondest hope.  
6 And I want to make sure -- I want to just, you know,  
7 make sure that everybody has a wonderful holiday season  
8 and enjoys, you know, whatever you can in this year,  
9 which is more challenging.

10 MS. GARRETT: Well, thank you, Jeff, and thank  
11 you everybody. And I'm now going to adjourn the  
12 meeting. Jason. Did you want to say something or no?  
13 Okay.

14 MR. SEATS: That was just me waving to Jeff  
15 and everybody else.

16 MS. GARRETT: Okay. Thank you, guys. I  
17 hereby adjourn the meeting, and thanks for all your  
18 help.

19 (Whereupon, at 2:11 p.m., the meeting was  
20 adjourned.)

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PROOFREADER'S CERTIFICATE

In the Matter of: SEC SMALL BUSINESS CAPITAL FORMATION  
ADVISORY COMMITTEE

File Number: OS-1109  
Date: Monday, November 9, 2020  
Location: Washington, D.C.

This is to certify that I, Christine Boyce  
(the undersigned), do hereby certify that the foregoing  
transcript is a complete, true and accurate  
transcription of all matters contained on the recorded  
proceedings of the meeting.

\_\_\_\_\_  
(Proofreader's Name) 11-13-20

REPORTER'S CERTIFICATE

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I, Kevin Carr, reporter, hereby certify that the foregoing transcript is a complete, true and accurate transcript of the matter indicated, held on \_\_11/9/2020\_\_\_\_\_, at Washington, D.C., in the matter of:

SEC SMALL BUSINESS CAPITAL FORMATION ADVISORY COMMITTEE.  
I further certify that this proceeding was recorded by me, and that the foregoing transcript has been prepared under my direction.

Date: 11/13/20

Official Reporter: Kevin Carr

