THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION

ROUNDTABLE ON REGULATORY APPROACHES
TO COMBATING RETAIL INVESTOR FRAUD

Wednesday, September 26, 2018

9:30 a.m.

U.S. Securities and Exchange Commission
100 F Street, NE
Washington, D.C.
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Additionally, in May, we launched the SEC Action Lookup for Individuals, or SALI, a new online search feature that enables retail investors to research whether the person trying to sell them investments has a judgment or order entered against them in an enforcement action. SALI is intended to help investors avoid financial fraud by giving them more information about who they are dealing with. Our agency also participates in a joint agency task force, spearheaded by the Department of Justice on market integrity and consumer fraud.

In addition to detecting and punishing fraudulent conduct that has already occurred, it is paramount that we act proactively and consider preventive measures. Put simply, we need to continue to examine whether our regulatory framework is appropriately tailored to help prevent fraudulent activity before it occurs.

Today's roundtable will explore many of the questions in this area that have been on my mind. For example, are there specific rule changes the Commission should consider that would better deter fraudulent practices? Are the rules governing the distribution and trading of penny stocks appropriately tailored in this regard? Are there ways that we can help enhance the ability of broker-dealers, investment advisers and other industry participants to identify and combat retail fraud? Are there things that gatekeepers such as lawyers and accountants can do to help in this regard? Are there steps that the Commission, our fellow regulators and the financial services industry can take to help investors better protect themselves?

I am extremely passionate about this topic and have been looking forward to this event. Let me pause, again deviating from my prepared remarks and say how I look at this.

As we look at the field that is presented to retail investors and we look at the available field of investments, the available field of investments is larger than the field presented to retail investors. But is the field that we're having them play on the right one? Are there places where they are investing where there is really no upside and there's a great deal of risk?

Perhaps we should restrict that field or make it more protective? And are there places where they're not allowed to participate where there is opportunity and we can limit the risk of fraud?

It has been a long time since we have looked across the field of available investments for retail investors and said, what makes sense? And I look forward to the contributions of this group with that perspective.
Mr. Redfearn: Thank you, Commissioner Peirce. And I am very enthusiastic about today's roundtable. I think it looks at some issues that can help us take a more systematic approach to dealing with retail fraud, which I think is important. I'm particularly interested in the work that we can do with respect to transfer agents and finders, which could again be helpful in taking a systematic approach but also could be helpful in making sure that we don't squelch legitimate activity in our efforts to combat fraud.

So I think the conversation today will be very useful to me. Although I won't be able to be here for much of it in person, I do look forward to watching it afterwards. And thank you again for your time and the effort of everyone who put this roundtable together.

Thanks.

Commissioner Roisman: Thank you, Commissioner Roisman.

Mr. Redfearn: Thank you, Commissioner Jackson.

Commissioner Jackson: Thank you, Director Redfearn. I just want to join my colleagues in expressing our deep gratitude to the panelists and participants today. And I'll be brief, because we are really here to hear from you.

But the point I want to make is I've spent some time recently thinking through, working through the long and detailed history of the issues in this area. And I want to say that in my view, we're starting in exactly the right place, which is, regardless of how we got here, what is the best way forward for average investors we're sworn to protect?

That's why I'm so excited, not only about today's roundtable but about all the conversations we're going to have in this area over the coming months. I am very pleased to have the opportunity to work with the Chairman, with Director Redfearn and others on these important subjects. I know we all have the same goal, which is creating markets where retail investors are protected and safe and have the opportunity to participate in our nation's economic growth.

Thanks so much to all of you for being here today and I look forward to the conversation.

Mr. Redfearn: Thank you, Commissioner Jackson.

Commissioner Peirce: Thank you and welcome.

Thank you, everyone attending the roundtable today in person and those watching online as well. Today's event is one of particular importance to all of us at this agency. The first part of the SEC's three-part mission is to protect investors. And this particularly motivates many of us in this building who know victims of retail investor fraud who have worked on these types of SEC matters.

While I have only served as commissioner for a short period of time, I've been greatly troubled by the number of cases involving harm to Main Street investors, some of whom have lost their life savings. Like my fellow commissioners and the incredible Staff here at the SEC, I am committed to doing everything I can to eradicate these types of behavior. While OIEAs, OCs and Enforcement's roles in combatting retail investor fraud are more apparent, the entire SEC, including the policy-making divisions, actively work to address it. Today's roundtable demonstrates this, and also it brings together many important market participants, including regulated entities such as investment advisers, broker-dealers, market centers, regulatory organizations, as well as state authorities, amongst others. We're all in this together, working to make the market safer and bolster investor confidence.

Today's panels provide an excellent launching pad for many of the issues on which the SEC and others are focused. Thank you to the Division of Trading and Markets for hosting this roundtable, and to our Office of Compliance Inspections and Examinations and Division of Enforcement for all that you do to identify bad actors and hold them accountable.
Finally, I commend my fellow commissioners and Chairman Clayton for their continued focus on Main Street investors in both enforcement matters and in our rulemaking agenda here at the Commission. I look forward to hearing from all of the panelists about your experiences as well as any suggestions as to how we can improve our current effort. Thank you.

MR. REDFEARN: Thank you, Commissioner Roisman.

COMMISSIONER STEIN: Thank you, Brett. I just want to welcome you all again for being here and taking time out of very busy schedules to give us your best thoughts today.

Retail fraud and, I think, more importantly, how to prevent retail fraud is at the heart of the Commission’s mission. And unfortunately, as Elad was saying, every week I see investors harmed by different types of cons and schemes and market manipulation. And sadly, I think a lot of the time, there's very little we can do to get money back to investors because the money is already gone. And that’s why the focus on prevention is so important.

And I think we need to think about prevention broadly, because I guess fraud -- and they, when it comes in so many forms, so I think sometimes it’s like whack-a- mole, there’s always a new scheme. It’s about Ebola vaccines or marijuana dispensing machines or there’s always some new investment scheme. And these lies or misrepresentations are not limited to individuals or small groups of people. You know, unfortunately it can happen at major institutions, at small institutions, on the Internet. And therefore, I think we all need to be looking at all corners of the market to pleas for fraud.

And I think the other thing that about being a Securities and Exchange commissioner that’s hard sometimes is you see the real-world effects that fraud has on real people. It affects retirements, college plans, homebuying and other things that people were saving money for. And to prevent the damage caused by fraudsters, government and industry need to work hand in hand in partnership.

So please give us your best thoughts today. Are there any changes to existing rules, policies or laws that could help in this area? And what other advice do you have for us, you know, on this important part of our mission?

So again, thank you to everyone for being here and I look forward to the conversation.

MR. REDFEARN: Thank you, Commissioner Stein.

Great. So before I start with a couple other introductory comments, I just want to provide our standard disclaimer that the views I and the Staff that are here today provide are our own and do not necessarily reflect the views of the Commission, Chairman Clayton, other commissioners or my colleagues on the SEC Staff.

So as you all know, this is the second in a series of roundtables we will be holding that are focused on trading and market-specific rules and topics. In April, we held a roundtable focused on thinly traded, exchange-listed securities. And as we announced on Monday, we will be holding a two-day roundtable on market data and market access on October 25 and 26.

Today, as you know, our focus is on retail investor fraud and possible regulatory measures to help counteract fraudulent activity. The U.S. securities markets, like other global markets, historically have attracted fraudsters, particularly with respect to schemes involving the latest hot or in trend. Over the years, we’ve witnessed schemes involving penny stocks, mining stocks, tech stocks. And more recently, digital asset securities. These schemes are perpetrated by both registered and unregistered persons who work hard to convince individuals to invest in enterprises that they claim will be sure to be moneymakers.

Targets of such fraudulent activities have changed little over the years. Seniors and members of affinity groups continue to be preyed upon by the unscrupulous. And we don’t have to look far to find these schemes.

As Chairman Clayton and others have mentioned, just last week, the Commission announced that it had charged several individuals and entities with engaging in a Ponzi-like scheme that netted more than $345 million.

The investors included retirees, doctors, accountants and current and former professional athletes. The Commission alleges the defendants faked documents to show phony transfers, bank statements and portfolio reports, and stole money to fund their own lavish lifestyles.

The Commission has been busy bringing cases against scammers as well as seeking trading suspensions in instances of suspected fraud. In fact, in fiscal year 2017, the Commission suspended trading in the securities of 309 issues, a 55 percent increase over fiscal year 2016, in order to combat potential market manipulation in microcap fraud threats to investors.

In fiscal year 2017, the Commission brought charges against 13 individuals allegedly involved in two Long Island-based cold calling scams that bilked more than 100 victims out of more than $10 million through high-pressure sales tactics and lies about penny stocks.
And also 27 individuals and entities behind various alleged stock promotion schemes that left investors with the impression they were reading independent, unbiased analyses on investing websites, while writers actually were being secretly compensated for touting company stock.

The Commission’s Enforcement Staff cannot carry this burden alone. Well-tailored regulatory measures along with investor education efforts can also help to protect investors from fraudulent and manipulative schemes. To that end, we are holding this roundtable to highlight problems associated with retail investor fraud and possible regulatory approaches to these problems.

Today’s roundtable will consist of three panels. I will be moderating the first panel that will focus on the types of fraudulent and manipulative schemes that are currently targeting retail investors.

Specifically, we will discuss what types of schemes retail investors should be wary of and the role that the Internet chatrooms, online platforms and social media play in these schemes.

The next two panels will focus on the ways that we can enhance the ability of broker-dealers to combat retail fraud that are discussed during the first panel, and whether there are steps the Commission can take with respect to broker-dealer regulation. Panel Two will be moderated by Lizzie and will discuss Rule 15c2-11, Broker-Dealer Registration and Suspicious Activity Reports.

The third and final panel will be moderated by Christian Sabella, my other deputy, and will address transfer agents, trading halts and investor education.

Our panels today represent a wide array of participants from industry, regulators and academia and I’m looking forward to hearing what they — what you have to say about these important issues. So first, I want to thank you all for being here and thanks again for agreeing to do this. We are very enthusiastic about hearing your views.

I would also like to thank the Staff that worked very hard on this, especially Arisa Koenig who put in a lot of work making this all come together.

So now, let’s go ahead and turn to our first panel to explore what plots are duping retail investors and the current trends that regulators and industry participants are noticing.

So first, I would like to ask each of our panelists to introduce themselves. And I think it would be helpful for each panelist to just explain for a minute or two your role in the market, key concerns in this space. And so why don’t we start with Charu Chandrasekhar? Well start with you. Did I get that right?

MS. CHANDRASEKHAR: Great, perfect. Yes, thanks, very much, Brett.

Hi, I’m Charu Chandrasekhar. I am the Chief of the Retail Strategy Task Force in the Division of Enforcement. Delighted to be here. As always, my remarks reflect my own views and not those of the Staff or the Commission.

So the task force is the newest national group within the Enforcement Division. We launched earlier this year and we have a presence in eight of the 12 regional offices and here in the home office.

Retail fraud is obviously a very broad category and, accordingly, our mandate as a task force is similarly expansive. Retail fraud includes classic frauds such as Ponzi schemes, boiler room schemes, misappropriation and churning by brokers, market manipulation and pump and dumps and, more recently, fraud involving cryptocurrencies and digital assets. And the common thread across all of these cases is harm to an ordinary, everyday investor.

So, in turn, our task force has two objectives, enforcement and investor advocacy. So first, when it comes to enforcement, the task force deploys data and technology to strategically identify widespread abuses that target retail investors. And we apply this data-driven approach to bring enforcement actions that target these high priorities of retail investor harm. And doing so, we partner with several other groups across the Commission, including Staff from our national exam program and Staff from our Division of Risk and Economic Analysis.

Second, in terms of investor education and advocacy, we collaborate with the Commission’s Office of Investor Education and Advocacy on investor outreach. And that messaging is focused on increasing investor awareness about common investment frauds and red flags that the everyday investor should look out for when protecting themselves against investment fraud.

So in terms of areas of emerging risk for retail investors that concern me the most, I would say the first would be the central role of the Internet in propagating retail investor fraud. We see many of these schemes unfolding in very pernicious ways across the Internet. Second, financial professionals who are bad actors in the space. And I would say third, retail investors who are purchasing products that aren’t necessarily suitable for them in terms of the complexity...
and appropriateness.

Thank you.

MR. REDFEARN: Thank you. Secondly, I'd like to introduce Cam Funkhouser from the Office of Fraud Detection and Market Intelligence at FINRA.

MR. FUNKHOUSER: Thank you. First of all, thank you, Chairman, for hosting this event and inviting FINRA. We, too, share your concerns that retail investors are our primary mission. In fact, FINRA's mission statement is very simple. It's investor protection and market integrity. And we have about 3,000 people who every day work to carry out that mission in a variety of ways.

I oversee the Office of Fraud Detection and Market Intelligence. That's a group we started about 10 years ago, designed specifically to be a centralized intake group of all tips, complaints and other techniques we use to identify fraudulent or potentially fraudulent schemes and identify the perpetrators and gatekeepers of these schemes.

One of the things we do in my office is we're really a fusion group where we're bringing in a lot of data through our surveillance, our electronic surveillance of the marketplace, and also through the human intelligence that we gather through tips, complaints, field reports from our examining force and other parts of FINRA, through interaction with my colleagues at state regulators and the SEC. Our general sort of concerns, and it's a broad question of retail fraud, in my office, we see a very steady diet of micropump and dump schemes. These are very large-scale operations that are borderless. So both the perpetrators of these schemes are potentially inside the U.S. and outside the U.S. The victims of these schemes are both inside the U.S. and outside the U.S. So it not only impacts retail investors in the U.S. but potentially globally.

But all fraud is local, right? So to the retail investor, how you become a victim of fraud could be through the Internet or through individuals, very personal type of events. The Chairman just mentioned a Ponzi scheme that was uncovered and confronted in the last two weeks and this was done by really four individuals and they were able to perpetrate this fraud on a national basis right outside of Baltimore.

So for the victims of that fraud, I'm sure as this case unfolds, it will show that the victims were personally I guess approached in some manner to invest in what was purportedly something that was good for them, right? So with interest rates low, you have people who can't get the kind of return on cash in banks or through safe investments and they are approached with higher interest rate returns and they're purported to be safe investments. I mean, that's a very big challenge for regulators and law enforcement.

So we work very hard to identify through the tips and complaints we see about these types of schemes and put them together at FINRA and send them to law enforcement and the SEC. We work very closely with the SEC's Office of Market Intelligence to identify these schemes, the trends we see, the people we see. Last year, my office sent about 850 referrals to the SEC. We also worked with the state regulators in sharing intelligence. In fact, in just the last couple of weeks, my co-panelist Chris and I had a discussion about a situation he was looking at and we had intelligence on that situation which we happily share with our colleagues in other regulatory agencies.

MR. REDFEARN: Thank you, Cam. Next, Chris Gerold, Chief of the New Jersey Bureau of Securities.

MR. GEROLD: Thank you. And thank you, Chairman Clayton and the rest of the Commissioners, for welcoming us here and allowing us to be on the panel. I am the chief of the New Jersey Bureau of Securities. We are the agency in the state of New Jersey charged with investor protection. And it's within the New Jersey Attorney General's Office. I am also the chair of NASAA's Enforcement Committee -- and for anyone that doesn't know, NASAA is the North American Security Administrators Association, which is comprised of all the states as well as other securities regulators from Canada and Mexico and some of the U.S. territories, as well.

So as Cam alluded to, the securities markets and capital markets are global. But securities primarily are sold locally. And state securities regulators tend to be the cops on the beat. We're the closest to the fraud, I guess, when it does happen with retail investors. So our approach is pretty broad in that we regulate the securities markets in our states -- New Jersey in my case -- we have dealings with the unregistered community, those selling Ponzi schemes, there are straight misappropriation cases. We also register and have authority over registrants, the broker-dealers, as well as investment advisers. And states are responsible for state-registered IAs exclusively, those that have less than $100 million. So in New Jersey, we have a rigorous exam program to go out and make sure that they are being compliant.

Some of the things that we're seeing, and I'm sure we'll be touching on it later, some of the greatest
risks again are the unregistered area, the Ponzi schemes. One of the big ones that the SEC brought action against recently is a $1 billion Ponzi scheme out of Florida, which was in bankruptcy in Delaware — I'm forgetting the name as I'm sitting right here —

MR. FUNKHOUSE: Woodbridge. It remains front of mind. Woodbridge.

MR. GEROLD: Woodbridge, thank you. Forgive me. Woodbridge, where 10,000 investors were impacted and a billion dollars potentially lost. You know, those things, those cases, unfortunately are all too common. And so those are certainly things that are a risk to retail investors as well as classic pump and dump, Ponzi schemes and, of course, as you've stated, whatever the hot issue is at that point in time, whether it's cryptocurrency, tech or unicorn companies, fraudsters will latch onto that and use that to sell and defraud individuals and investors. So those are the areas we're in. Thank you.

MR. REDFEARN: Thank you, Chris. Next, I'd like to turn it over to Jean Setzfand, SVP of AARP programs, AARP.

MS. SETZFAND: Thank you. Thank you to the Chair and commissioners for your remarks on your focus and concern for the retail investors.

Hello, everybody. I'm Jean Setzfand from AARP. For those of you who aren't familiar with AARP, we're a membership organization protecting the interest of those over the age of 50. We are a membership organization that's mission based, as well as nonpartisan. We have 38 million members that we represent.

What we do for our members is really focused on providing sort of trusted resources focused on helping them prevent fraud. We also provide them guidance on where to report scams. They like to share their experiences and stories. But also, for those who have actually been victimized or have been impacted in some way by victimization, they actually want to actually join forces and combat fraud. So we actually have several of our members who are very active volunteers who really are out there fighting fraud.

So for AARP and for where we sit as an organization, we are all about fighting for the older consumers as well as empowering them through resources. The ways that we go about that beyond education is, one, we hear a lot from our members. We hear a lot just in terms of the overall calls that we receive. But we also have a dedicated help line where we are -- we have volunteer staff who actually take incoming calls around fraud. And later on, I'll share some insights in terms of what we hear about frauds in general but more specifically focused on investment fraud.

Through our education, we always want to ensure that what we're providing content wise is basically current and relevant to our consumers, but also the way that we approach them. So we do a fair amount of research, understanding the profile of victims compared to the general population. So there's where I can also share some insights in terms of our research profiling older investors as well as vulnerable segments, like the military.

But the key concerns in terms of what we see from AARP is for older individuals -- this is not going to be a shock to anybody -- they are targeted as victims. What we see in terms of evidence and reports, if we look at the Federal Trade Commission, the Consumer Sentinel Report, we know that older victims represent more than half of those victims. But the losses are far greater. So 53 percent of the victims who actually report are over the age of -- or older -- over the age of 50. But the losses represent over 60 percent, 61 percent. So as you actually age as a victim, the size of impact or size of loss continues to grow. And that continues if you actually look at the various age segments. So for those over the age of 70, they represent 16 percent of the victims and yet 23 percent of the losses. So the impact is not only greater financially but it also emotionally takes a much greater toll amongst older consumers. One, they have less time to recover and also several of them are suffering diminished capacity.

Beyond that, in terms of just the pure impact, other emerging trends that we see, there's been several discussions around technology and the pervasiveness that fraud exhibits right now. And what we hear from our consumers is a sense of apathy, quite frankly. So a lot more people are feeling like it's inevitable, it's just going to happen to me, I might as well brace myself rather than protect myself.

So that notion, that emotional notion, is something that we have to really guard against. And we can't sort of -- and so a lot of, I think, what we do educationally has to be smarter and penetrate through that apathy.

Another concern we have around sort of the emotions of people is the treatment of victims. And what we like to say, if we take a look at a victim who has been held at gunpoint, versus those who have fallen prey as a result of a bad action they've taken or feel like it's a bad action, they're treated very differently. So
the shaming of the victims is also another trend that we want to be careful of. Because again, reporting wise, in terms of what we see, particularly around the older victims, is far lower, far less than the general population. So we have to be very careful in terms of how we treat victims so they can come forward and report.

Thank you.

MR. REDFEARN: Thank you, Jean. And last but not least, by webcast, we have Nicole Iannarone, Associate Clinical Professor at Georgia State University College of Law. Welcome.

MS. IANNARONE: Hello. Thank you for having me with you today.

I work with a clinic at Georgia State University College of Law. We represent investors who have already been defrauded or been harmed financially in some way. We work with investors who have claims before FINRA arbitration. They've typically worked with a retail broker. And the things that we see are the same things that we've seen for some time. While there may be some new trends in products from time to time, we continually see high-fee products being suggested to retail investors. We are still seeing some REITs. We see variable annuities. We see things like mutual funds with high levels of fees.

We also do some work with our state securities administrator. And in that realm, we see a great deal of unregistered investments related to things that are important locally in our area and in our news. So Georgia is a great state for movies and new development there, so we are seeing more unregistered securities being offered to folks related to the movie deals that we're having in Georgia.

For what our clients see, when they come to us in the clinic and what they tell us is that they trusted the individual they were working with. They didn't understand the products that were being provided to them. They don't know what they cost. And a lot of the harms come from that trust and a reliance upon the professional to do the right thing for the individual.

So we can always provide legal assistance and help out a consumer investor who can't otherwise obtain an attorney to help them recover their costs. But we prefer that they don't ever need our services at all. So we do engage in some investor education and outreach and we're really grateful for opportunities like this to talk about how to prevent fraud with retail investors so perhaps someday our services are not needed.

Thank you very much for the opportunity to join you and I'm very sorry I can't be there in person today.

MR. REDFEARN: Thank you very much, Nicole, and we appreciate your efforts to join us even remotely.

So obviously, there is a lot of different areas of fraud, retail fraud, that we're seeing that are of great concern to us. And I think what I'd like to explore first are just some of the -- you know, some things that we should be looking at as the more recent trends and some of the newer forms of fraud that seem to be popping up. Because it does seem these things kind of get reinvented in new ways depending on the times and new technologies and so on.

So, Charu, maybe we can start with you. What are some of like the key trends? You mentioned earlier Ponzi schemes, pump and dump, churning. But if you had to sort of say like the biggest areas that you're focused on right now, what are they and what is sort of unique about them in the packaging they're in today?

MS. CHANDRASEKHAR: Sure. So to your point, I do think that a lot of traditional retail frauds are now taking new forms and transforming with technology. The first one that immediately comes to mind is the ICO cryptocurrency space. And in terms of enforcement, the Commission has been very active here in bringing cases against multiple individuals and entities that have, we allege, perpetrated these sorts of cryptocurrency-related frauds.

To give you some examples, we can tick through cases like the Titanium Blockchain case, the BitFunder case, the AriseBank case, all cases involving either cryptocurrency platforms or digital assets, where really in an older era these might have been more traditional offering frauds. But now with the advent of digital technology and ICOs, they have become Internet-based and digital frauds. And again, the Internet is front and central here to recruiting investors and to perpetrating false statements about the business lines and the potential for expansion. So I think that would be the first area.

The second area is one Cam touched upon, which is the global proliferation of market manipulation schemes, pump and dumps. As Cam put it well, the Internet really is borderless and we've seen global rings of market manipulators and fraudsters really deploy the Internet and technology really to recruit victims worldwide and to propagate false statements about product lines and businesses across the globe.

MR. REDFEARN: Thank you, Charu.

So, Cam, again, for you, you mentioned a number of different things. But how would you answer that in terms of the most pressing things that you're seeing now?
in the sort of packaging of these sorts of frauds?

MR. FUNKHOUSE: Yeah, it's a good question that we probably could expand on for hours. I think it comes down to two kind of big things, right? So you have the people who perpetrate fraud do it really in one of two ways. They're either going to use this mass marketing campaign, right, to either send out spam emails, you know, even get fliers in the mailbox, you know, advertising some investment. You might even get text messages, you might see these things in social media. And so that impacts a whole bunch of people who have computers and cell phones, so that segment of the market.

And then in terms of the other broad place is sort of the very personal, one on one, I'm going to target a senior citizen group, a church group, some sort of affinity group. And somebody somehow hacks into that person or that church or some source, some school or some affinity group and becomes the trusted adviser for that person. And then they recruit other people. And that can happen pretty frequently. And it's not easy to identify that wolf in sheep's clothing until you try to get your money back.

You know, this is an industry where it's highly regulated, the securities industry, right? The SEC and

finra regulate registrants. But, you know, a lot of what we see in terms of victimization is by people who are unregistered, who are out there victimizing individuals in a variety of these schemes.

And so it's important for us to send that message out that, you know, you've got to educate -- and this is what's great about this discussion is, one of the things we try to do is educate investors. And we have some great resources to -- so people can educate themselves to help prevent being victimized. And also -- what also we encourage is if you see something, say something. Because many times, you know, the regulators are coming in from behind when, you know, these schemes start to unfold. Like we really appreciate any tips you might have of people that are, you know, sort of noisy neighbors type tips.

I know, again, back to this Ponzi scheme that the Chairman talked about. I mean, one of the perpetrators of that had 25 cars in his driveway. Probably a pretty good sign he's either doing something well or maybe something else. So those are the types of very subtle pieces of data that might help head off a retail fraud.

MR. REDFEARN: Thank you, Cam. So, Chris, from the perspective a state regulator, are the trends you're seeing consistent with this or is there something you would add in terms of new packaging, new trends?

MR. GEROLD: Sure. Actually, the NASAA and the enforcement committee specifically, their annual survey of all the state regulators and the types of actions that they've brought over the course of 2017, the trend that emerged from that is that, for the first time in three years, there were more actions brought against non-registrants than registrants. And that's -- like I said, that's a change over the last -- it wasn't that way over the last two years.

I think part of that has to do with the number of cases that have been brought related to cryptocurrencies or I call them crypto-frauds, because they're not really against currencies, they're just cases involving crypto, blockchain and essentially fraud around cryptocurrencies that we've seen emerge the end of '17 and continued into '18.

State securities regulators filed or have open investigations on more than 200 cases. We actually did Operation Crypto Sweep, which was a multijurisdictional effort to stop some of these online crypto frauds. I think it was very successful. But I think the biggest success to come out of it was to raise awareness and as a deterrent. Especially -- and I'll give the example, at Christmas 2017, I'm sitting around the table and my mother starts talking to me about cryptocurrencies and everyone is getting rich. And right there, saying, there's a problem here. And, sure enough, over the next couple months, we did a great number of actions and hopefully have raised awareness that this is ripe for fraud.

The other thing that Cam alluded to was a classic pump and dump. One of the things we've seen, and it's sort of evolved over time, is -- it started -- I don't know if it started but I recall in years past, it was someone calling up and saying, invest in a penny stock, buy it from me. With the Internet, it evolved into paid promoters, which we still see as an ongoing issue, where companies are paid to promote specific stocks and you see the price go up. And then insiders sell out.

And then more recently, in the last two months, we've had three complaints along those same lines of people actually getting phone calls, seniors primarily, getting telephone calls promoting a stock -- not offering to sell it to them or for them to buy it from them but rather telling them to go on their online account, check it out, it's publicly traded, and buy it. And they've done that in a coordinated effort with both a website and
a paid promotion along with that phone call. And those people did go out and buy it and within two months, the stock price went way up and came crashing right down. So that was something new.

And New Jersey is putting out -- actually NASAA is working on an investor alert about that, about not only the promotion via the Internet, which we've all seen before, but along with personal telephone calls from local phone numbers with -- I don't want to say very common-sounding names. We've traced those calls to overseas and it seems like it's an international effort in manipulating a stock or a penny stock. So those are some of the trends we've been seeing.

MR. REDFEARN: Very interesting. And it is particularly notable that this trend of sort of ICOs and cryptocurrencies has been coupled with the observation that more non-registrants than registrants are the problem now, right? And this has been a big area of focus for Chairman Clayton and the Commission as we try to get our arms around this new sort of asset class, some of which may be okay but much seem to be kind of problematic.

MR. FUNKHOUSER: And also, Brett, on that note, you have the direct cryptocurrency issue. We also observe stocks that claim to be somehow tied into a cryptocurrency. In effect, FINRA just brought its first case involving a registered person who was involved in a cryptocurrency issue. You can see the public announcement on that. But it's not only the cryptocurrency, but that evolved into some sort of micropump and dump scheme, where they just latch onto the cryptocurrency.

CHAIRMAN CLAYTON: I'm holding my tongue. I want to comment on all of this. But I'm going to let Jean and Nicole comment before I make a comment. Thank you.

MR. REDFEARN: Okay. So, Jean, it's interesting. We're hearing about, you know, sort of the crypto and a lot of the issues that are coming out across from the Internet. Are you seeing with seniors a very similar trend? Or is there something different or unique you're seeing for your constituency?

MS. SETZFAND: I don't think we have enough volume to actually make any comments around the particular types of investment trends or the use of different product tactics. But one of the things that we see is consistent with what Cameron touched on, what Christopher touched on, which is the mode of fraud is very much still the same, which is by phone.

I think technology has allowed the expansion of the phone use with robocalls and better targeting, perhaps. But that's still the main form of loss, based on what we hear. So in terms of our sort of helpline, we have seen -- our top 10 frauds, investment fraud is eighth in our rank. It's roughly about 3 percent of the calls we get, and we get roughly about 20,000 calls a year just on our fraud line.

From a profile standpoint, I think this is relatively well known as well. The typical victim tends to be older. So our victims are 74 years in age, they tend to be more male than female, so 59 percent are male.

The losses involved are relatively great. They're over $100,000 is what they report to us. And again, the most common method of contact is inbound phone calls. They are also reporting online and in-person contact as well. But that's kind of just what we see. Over and over again, phone is by far, I think, greatly used. Emails as well. More so, the expansion and use of technology-based ways of reaching people more through the phone base, still, unfortunately, still a bad mode.

The other thing I wanted to pick up on in terms of the profiling as well, we are looking at sort of more of the psychological behavior. So how certain victims have a different view or perspective on investing. And I think there is -- the newness factor of products I think speak to this whole notion that, from the victim's perspective, the psychological mindset that we see more so in victims versus nonvictims is that they really value wealth accumulation. So one, some of the most important things to them in life is achieving or acquiring money and wealth. And they are also kind of very open to sales pitches. So they keep their eyes and ears open for emerging new investments.

This is no surprise, no shock. But again, these are sort of, again, typical profile psychologically of victims. And I think whatever new factor, whatever, whether it's credible or not, fraudsters know that they can use that to kind of prey on victims.

MR. REDFEARN: If investment fraud is eighth, what's -- what do you have as first?

MS. SETZFAND: Imposter frauds, like grandparents, or IRS scams. That's definitely one, that's 11 percent. That's actually tied with sweepstakes, prizes, lottery. And then most recently, I think we've seen more around tech scams, computer viruses, malware, software phishing also is fourth. So technology wise, three and four are tech scams, phishing.

Fifth is identity theft. Six is fraudulent sales. Seventh, home repair. And then eighth is investment fraud. Followed by auto sales/repairs and real estate
timeshares as tenth.

MR. REDFEARN: That's really interesting. And I'm sure on the educational side, it's good to let people know that when you hear you just won the sweepstakes or you just won a lottery or any of those things, that you know, obviously, beware of those.

MS. SETZFAND: Absolutely.

MR. REDFEARN: When you said grandparents, what was that one?

MS. SETZFAND: So a lot of grandparents are preyed upon by scammers where the fraudster will pretend to be a grandchild, usually stuck in a foreign country, saying that they've either lost their passport or they've been kidnapped and they need ransom money. So they need sort of a wire transfer. And unbelievably so, a lot of grandparents do fall for that.

And with the advent of social media, you can get a lot of information about your family through Facebook and other means. And that's why I think it's become more and more rampant.

MR. REDFEARN: Great, thank you.

So Nicole, out in Georgia, is it the same kind of stuff? Or is it something a little bit different in terms of what you're hearing from the folks who are reaching out to your folks?

MS. IANNARONE: I think we have a little bit of a difference in that it takes folks a couple of years to get to us after they've realized that they lost something as a result of a scam. But we are seeing along the same lines as Jean the same methods of communication that have previously been used. So telephone is definitely one that we see, as well as getting to know the community and the individuals within it before putting a new product or investment out there.

One that we're beginning to see that I hope is not a trend, and it comes up more quickly because the losses come up more quickly, is in currency trading. We are beginning to get calls from individuals who are engaged in currency swaps and really should not be in them. They are very unsuitable investments for the individuals who are reaching out to us.

I've spoken with another clinic who also has seen something like that. So we're going to hope that is not a continuing issue, simply because it is so easy to quickly lose money within that trading. And it's usually done by the investor themselves.

MR. REDFEARN: So that's somebody reaches out by phone or by email and they say I have a currency trading strategy that is great and you're likely to make a bunch of money doing this? And they get them into it and somehow or another, they are able to just defraud them and take their money while they're trying to run these strategies?

MS. IANNARONE: Yeah, the trades happen very, very quickly in the process. Sometimes, I've heard from another claim, that one of them involved, well, learn by phone or by email and they say I have a currency scheme, to Jean's point, are perpetrated both through a regular account with the investor's own money. When we get currency trading calls at our clinic, we are looking at someone losing 90 percent of what they had invested, usually in a few months, because they start out thinking they're going to do okay, they lose some money initially and they are trying to make it up, there are significant losses later. And after a while, pretty much all of the investment is gone.

MR. REDFEARN: Thank you. I want to take a minute to look at a couple more -- the details on some of the specifics to see if we can understand both how they work and what people should look out for. And the Ponzi scheme has come up a lot and people know of a lot of the big, more famous Ponzi schemes, but Charu, can you just help? Give us an example of another -- yet another Ponzi scheme is out there. What does it look like? What is an example? How do people see the footprint of a Ponzi scheme coming their way?

MS. CHANDRASEKHAR: Sure. So the Ponzi schemes, to Jean's point, are perpetrated both through a lot of traditional means, for example, outreach via phone or personal contact, but also some online Internet recruiting. And this is a space, where we in partnership with our Office of Investor Advocacy and Education, have been very active in reaching out to warn people about the red flags of Ponzi schemes. We see a lot of the same problematic indicia, such as promises of high returns, promises of guaranteed returns, a sense of urgency that people need to get in and invest right away or the opportunity will vanish. So a lot of the same high-pressure sales tactics with reassurances of large, large payouts at the end.

And we've also been, as both the Chairman and you noted, the Commission has been very active in bringing cases in this space, most recently the $345 million case in Baltimore, the Woodbridge case, the Life Pay case, the First Nationale case, a lot of the same methods of recruitment are being used over and over again.
and it's an area we are very much focused on in terms of
raising investor awareness.

MR. REDFEARN: Thank you. So Cam, you
mentioned affinity fraud, affinity groups. You said it
could be church, it could be school, it could be
military. How do those work? How does that targeting
happen?

MR. FUNKHOUSER: Yeah, again, these are some of
the, I guess, worst of the worst type offenders. They
somehow integrate themselves into a community, either
through a church or another type of, you know, retiree
group, it could be a cultural community. And, you know,
so in these types of schemes, it's very personal. You
go, you show up at the meeting, you find someone who is
vulnerable. You explain to them how you can help them.
Generally, people aren't really trying to hit the
lottery. They're trying to get some type of return for
the humble money they have and this person says, you
don't want to trust the people on Wall Street, those guys
are all thieves. Let me tell you about a very special
investment that I have. Right?

So, let me give you an example. We had one
case that came in through our whistleblower program. It
was -- actually, the tip came in by somebody that FINRA
had barred for a securities fraud violation. And he
said, I'm working at this place that even I can't work
here. Right? 

And it turned out that this person was working
with an individual who was targeting older women who
lived alone who were on fixed incomes up in Staten
Island. And he would personally pitch them that I've got
a real estate investment that is going to return 6 to 8
percent to you. You're only getting 1 percent in your
CDs. What I'd like you to do is take out a second
mortgage on your house or a first mortgage on your house
if it's fully paid off, take the equity out of your home.
You can get a mortgage at 3 percent. Invest all that
money with me and we're going to turn around and you're
going to make 8 percent and you can pay your mortgage and
you will have a profit.

This would -- the youngest victim in this
scheme was like 80 years old. And, of course, this guy
had whole display of plans and photos, all rigged to make
it look like it was a legitimate investment.

Fortunately, we were able to assess the
situation. It was obviously at the highest threat level.
And we got that to the FBI in New York, who went in and
ultimately busted it and this perpetrator of this is
currently incarcerated.

But that is the type of off-the-grid type of
scheme that doesn't show up on our surveillance reports,
doesn't show up, you know, in any type of data analytics.

This is very personal. And as my colleagues have
pointed out, the victims of this scheme are really
retirees who trust this person. And, in fact, in many
ways, they don't realize they're being defrauded. And
they like the person. And so when you meet them, the
Ponzi schemers, they're very likable people. They put on
the charm offensive and you trust them. So you don't
realize you're being defrauded. In fact, you willingly
give your money and then you recruit -- the bad guy there
sort of counts on one of the victims to recruit more
victims.

So it's a very dangerous situation for retirees
and other retail investors. It's also incredibly hard to
detect for regulators.

CHAIRMAN CLAYTON: Hey, Brett, do you mind if I
jump in?

MR. REDFEARN: No, please. Please. I welcome
that.

CHAIRMAN CLAYTON: First, I want to thank you,
know, our friends in FINRA, the states, AARP, Nicole,
what you do. You know, this is a partnership. We have
limited resources. And, as you note, particularly in
some of these retail investment frauds, acting quickly is
very important. Ponzi schemes grow for all the reasons
you say, and we need to do that.

I just want to make some observations. They're
observations that come out of today's presentation and
actually when I was in Georgia, Nicole and I had a chance
to spend some time together, and how we look at
prevention or how I'm looking at prevention.

Where are there indicia of legitimacy that are
illegitimate? So where do people see indicia of a
legitimate investment when they shouldn't? So, you know,
I just want to give you some current examples.

Crypto asset trading on an unregulated Internet
platform looks like an S&P 500 stock trading. Nothing
could be farther from the truth. The opportunities for
manipulation, for fraud, are -- we all know. But it
looks the same.

Penny stocks, they have tickers. They look
like an S&P 500 stock. Financials may be, you know,
icredibly stale. Trading may be incredibly thin.

Let me give you an example. If I can call a
bunch of retail investors and their individual online
actions -- call a bunch of retail investors and say, hey,
is this a good stock, and their individual actions can
change the price of that stock, that's nothing like the
kind of stock that they're thinking it is, right? I
mean, if the trading of a few retail investors can move
the price significantly, that's not a stock that should
look like, you know, a large-cap stock.

Another thing. Unregistered investment
professionals, they look like registered investment
professionals. We all know, because we sit through the
cases every week, 500 of them a year, if you're in
unregistered land, the risk of fraud -- it's orders of
magnitude higher. We have bad actors in the registered
world. We seek to identify them and get them out.

That's, you know, FINRA, what you spend a lot of time,
you know, doing, what we spend a lot of time doing. But
once you move into unregistered land, you know, enough
said.

One of the hardest things is taking confidence
in the confidence of others. That's a really tough nut
to crack but it is an indicia of legitimacy. Smart-
looking people, friends of mine are investing, I take
confidence from that. I think about that one. I'm not
as sure about how to crack the code on that.

So what comes out of all this from my
perspective? How do we help investors? We know what to
do in Enforcement, we're trying to get better. How do we
help investors? Key questions. Are you registered? You
know, if you're not registered with the SEC or the states

as an investment professional, you really need to take a
pause. Like every potential investor should know that.

Is the investment registered? If it's not
registered, it doesn't mean it's bad. But you need to
take a pause, you really need to take a pause.

A question I love to ask, how much of my money
is going to work for me? To Nicole's point, if there's a
high fee, there's a high carrying cost, there's, you
know, a back-end fee, no.

Last question, and then I'll pause, are there
audited financial statements anywhere around this
investment? I have not seen, you know, a better question
in terms of separating the speculative from the less
speculative.

So those are my thoughts. I wanted to share
them with the group. And, you know, I really appreciate
your spending the time. Prevention is key here and we
are looking at all of our rules, trading rules,
disclosure rules, registration rules. You know we are
pursuing regulation, best interest, with an eye toward
greatly reducing the opportunity for retail fraud. So
thank you.

MR. REDFEARN: Thank you, Chairman.

I think that that set of questions and set of
issues sort of provides an opening for us to just
transition just for a second to just sort of -- I want to
throw something out generally to whoever wants to answer
it. Which is that, so the Chairman just listed four
questions that we think people should be on the lookout
for that will help them to basically have a little bit of
a screening to determine whether or not they actually
want to take their money in that direction.

Let me just ask, is there anything -- maybe
since we just finished, Chris, is there anything else you
would add to that list? What other things do you think
we should tell people to really kind of think about
before they put their money somewhere?

MR. GEROLD: Well, I think the Chairman's
questions kind of run into the second and third part of
today's program in terms of both investor education as
well as finders and really private offerings, which some
of those questions makes -- scares you when it comes to
private offerings and who those are being sold to.

In terms of what we would add to that, we in
New Jersey have had a long-running initiative, Check
Before You Invest, which encourages anyone before they
sign up with an adviser or buy any securities from a
broker to go on BrokerCheck, which FINRA has and is
readily available, to go on there and check their
background out and make sure they're registered.

You know, one of the things that we always
teach in our investor education classes is don't invest
in anything that you don't fully and completely
understand. I take it one level even above that, is
don't invest in things that you don't use. That's my
philosophy. But, you know, others have a different one.

In terms of, I guess, what to add to that, I
think some of the questions that he encourages investors
to ask are fantastic. And I wish every investor would
have done that.

Going back to what Cam touched upon was -- and
what I have found is people only do business with other
individuals that they know, like and trust. And
naturally, almost every victim that we've ever spoken to
is, oh, he's a great -- I'm going to say guy. It's
traditionally men but we have some bad actors that are
women. No, he's such a nice guy, we have complete
confidence in him.

And then in other cases, for instance, when we
investigated Woodbridge, for instance, we spoke to a
number of individuals and they said, don't screw this up.
We're getting 5 percent interest, the bank is paying us
less than 1, don't screw this up on us. They drank the
Kool-Aid, I mean, that's how we refer to it in our
office. And once someone has bought into the product or
the individual, it is extremely hard, especially if
they're continuing to get paid the commission -- excuse
me, not the commission but their interest or their coupon
to back them away from that and say, well, there are
problems here. And oftentimes, they don't come to that
realization until after a case is filed. Or even,
sometimes after the case is filed, the bad actor will
blame the regulator and say, hey, they're the ones who
screwed this up; you'd still be getting paid otherwise.
But those are, you know, the problems we run into.
The Chairman did offer some fabulous questions
that all investors can and should be asking. And that's
going to touch upon our investor ed on how we get that
word out.

MR. REDFEARN: I will just ask one other thing,
Chris. Earlier, you mentioned paid promoters and we
haven't talked about that much. So I just want -- like,
the paid promoter type scheme, just tell me a little bit
more.

MR. GEROLD: Yeah, so what I was referring to
was not so much the individual paid promoter but paid
promotional ads, where they go out to these companies
that have email lists and then go by various names, Penny
Stock Locks or Guaranteed Penny Stock Returns or what
have you on the Internet. These are typically paid for
by the issuer of a penny stock and they will send out
newsletters touting the stock.

Now, technically, it's legal. I mean, the SEC
has guidance on it. As long as they're disclosing -- as
long as they're not saying anything false -- and we
generalize, so anyone, go check out the rules. But as
long as they're not saying anything false, as long as
they're disclosing they're being paid, the amount they're
being paid, they will send out email blasts to hundreds
of thousands of people. Actually, the more email
addresses they have, the more the paid for their
promotion of it. And they'll say things such as, if you
bought at yesterday's opening of 1 penny and sold in the
afternoon and sold in the afternoon when it traded at,
you know, 2 cents, you would have made a 100 percent
gain, you know, exclamation point, underline. And
they'll go on with this, usually in conjunction with some
news release by the issuer about some contract they're
about to enter or some other news, depending on how
nefarious or how far they want to stretch the truth in
terms of how they frame the story.

That's what I meant by paid promoters. Really,
internet promoters, newsletters and the like. And then,
going one step further, which we've seen lately, are
actually the phone calls coming in promoting the stock
for individuals, typically seniors, to go out and buy
that security in their online account.

MR. REDFEARN: Thank you. Jean, just kind of
continue on this trend. One of the things you had
mentioned in your sort of top list was identity fraud.
And can you just describe a little bit more in detail
about how that works and how that works to defraud
investors?

MS. SETZFAND: So identity fraud is -- or
identity theft, quite frankly, fraud is all about
stealing somebody's identity through various means. A
lot of it can come in different forms.

So one that we really focused on a lot was the
issuance of the new Medicare cards that came out earlier
this year. There's a process that you go through or
actually the phone calls coming in promoting the stock
and then start to essentially either steal your money or
use it to issue a fraudulent IRS tax return form, so on
and so forth, a whole host of different things. But they
take your identity, it wreaks havoc in your life. So
that's essentially another form of fraud.

But I also wanted to comment on the other
questions that you should ask. One of the things that
strike me is we're asking the consumers as well as
potential victims to do quite a bit. And yet, fraudsters
don't have to do a lot to steal money. So they make that
process of taking money away really easy and yet we make
the preventative action relatively hard.

So I think it's really important for us to list
out preventative actions that people can take, ask the
right questions. But also let's think about how we can
make this easier in terms of protecting people. Are
there places that, as we get into this world where Amazon
is going to make our lives so easy, we don't have to go
anywhere anymore, how do we actually make prevention that
way, too?

So that's something that strikes me is the
field that quite frankly isn't fair to consumers. They
are -- it is a little bit of a David and Goliath. So how
do we even that a little bit further and make the process
around prevention far easier for them, rather than
putting the onus and responsibility purely on consumers?

MR. REDFEARN: Thank you. Nicole, we've talked
about a lot of different things but I wanted to just make
sure that we touch upon actual registered securities,
initial offerings or secondary offerings a little bit
more, moving into that space. And I'm wondering if you
can -- you know, including microcap stocks. So I'm
wondering if you have any insights from your
constituencies in that area for us.

MS. IANNARONE: I'm not sure I have anything
more than really anecdotal evidence on what we're seeing
from our clients and the people who are coming to us.
Really, we are seeing investments that, if I could
classify them generally, that the investor does not
understand, can't understand, and trusted somebody else,
and that's why they're in them.

So they might have asked some of the questions
that the Chairman set forth. They developed a trust
relationship with somebody. And they are in an
investment that they cannot explain. They don't know
what a REIT is. Sometimes, we hear some accents in
Georgia. And we hear about the names of the products
like "Areat," that they believe they have, and we're
looking for a legal document like a writ. And we realize
what they have is a real estate investment trust. It's
not something that the client can explain, they wouldn't
have the background necessarily to ask questions about to
understand it and know whether it's something that's
suitable for them.

Added to the Chairman's list of questions, I
might ask, what do you get from this? How much are you
being paid and by whom?

It's surprising to me how many of the people
who come to us actually believe that they haven't paid
anything for the advice that they have been provided, or
that the products that they're purchasing come with no
fees at all.

And I think finally, convincing victims and
encouraging them to come forward early and asking
questions is really very, very important. Don't just
look at your account statement and say, is my money still
there? Ask questions about, what's going on? How is
this working? Why is this good for me? How would I
explain this to my family members? Encourage them to
find some way to talk to their friends and their family
about it to make sure that it is the right investment for
them.

MR. REDFEARN: Thank you. I want to get for a
second to the question of who are these people? Right?
So, Cam, you mentioned it's somebody with charisma and
very likable people, but there's a lot of, you know,
different flavors that we may be running into here. Are
we talking about just straight up con men, fraudsters?
Are they typically securities professionals gone bad,
other sorts of bad actors from overseas markets?

Charu, can you give us some sense of -- and
answer the question of who are these people? Where would
you point us to look?

MS. CHANDRASEKHAR: Sure. As Cam and Jean and
Nicole all noted, there are often cases in which the
frauds are perpetrated by people who are known to and
trusted by the victims. For example, there was a case
the Commission charged earlier this year involving a very
prominent pastor who allegedly lured seniors into an
entirely fraudulent scheme involving -- involving false
bonds and told them they were worth millions. There are
other cases where you have members of certain religious
communities or ethnic communities and really affinity
frauds, people who are really members of the community,
who are capitalizing and exploiting that trust and that
compassion and care really to defraud people who are
known to them.

And, as Cam mentioned, I think in many cases,
the fraudsters are well known and well-liked members of
the community and they use that, that hook, to their
advantage.

I think in other cases, we see people who are
portraying themselves as somehow skilled professions,
where there is a seeming inequality in the amount of
knowledge or competence -- to Chris's point -- and taking
advantage of that seeming differential to lure in
victims. So I think it comes in a couple of different
flavors. But I think in all of these cases, it's really
exploiting a relationship of trust and confidence to
reign in victims.

MR. FUNKHOUSER: Let me follow up on that, too.
I think, you know, one of the interesting things about
the Internet, while we talk about how the bad guys can
exploit information, you too can do your own research on
people. And so many of these perpetrators, the
individuals that you come into contact, will claim to
have educational backgrounds that can be checked out,
they'll have work histories that can be checked out. And
a simple Google search, just a simple Google search could
uncover a whole lot of information about the person that
you're about to entrust your money with. And I think
that's one of the simple things people can do.

Don't believe what you're reading or seeing.
Check it out. And, like I said, sometimes you will see
even a simple search of the person's name plus fraud
might return some sort of commentary on a blog or some
other type of news story that might be of interest to
you. That's a very simple thing to do for individuals.

Also, you know, for FINRA, I mean, Chris
mentioned our BrokerCheck. If it's a licensed person,
you can get the whole history of the person if they're
MR. REDFEARN: Yeah, Chris, you did mention BrokerCheck before. I mean, do you think many people are in the habit of saying, oh, let me check BrokerCheck and see what the situation is here? Or do you think that's just something that's just not happening?

MR. GEROLD: The short answer is, no. I don't think hardly anyone does. I don't want to say anyone. I'm sure millions of people go on BrokerCheck, just not nearly in terms of percentage the number that should be going on there and checking out the person they're giving their money to.

And I really thought Jean asked a very interesting question on why is it so easy for the bad guys and so hard for the investors? It's a little different perspective than we normally -- or normally the way I look at it. But I think it's a very interesting question. I know FINRA has passed some rules recently about disbursing money to -- excuse me, I'm forgetting the rule number.

MR. GEROLD: Yes, thank you.

MR. FUNKHOUSE: It's FINRA Rule 2165. And we took some -- not to hijack what you were just saying, but so I can tell you about the rule, you know, you talk about what can you do to prevent it. Well, FINRA took sort of an offensive action and empowered our registered brokers across the country to, in certain circumstances, and I'll give you the short story here, is when you see potential financial exploitation by someone who is senior or of diminished capacity or of some sort of vulnerable type of customer, they can -- they can intervene and prevent certain transactions from happening within their account so they can be checked out.

And we have also asked all of our registered persons in firms to get a trusted adviser or trusted individual assigned to the account so that if, you know, you mentioned your mother or grandmother and my mother-in-law is always getting these calls. Before they give up the information or do the transaction within the brokerage account, the registered rep in the firm can contact the trusted person on the account and get them involved, so it's done, you know, sort of at a family level or a trusted adviser.

MR. GEROLD: No, I appreciate that. And states have actually gone one step further with that. I think 13 jurisdictions have enacted the NASAA Senior Safe Act, where it then requires the -- it's related to all financial professionals but certainly broker-dealers as well as IAs, in those situations to notify state regulators and adult protective services of that potential exploitation. And about two years ago, some states started enacting it. I know Alabama and Texas, for instance, both have that as part of our enforcement survey. And that is actually starting to yield results.

I know Texas got 200 additional reports as a result of -- approximately 200 -- of that act that they passed. And that act actually has the support of both industry as well as advocacy groups, because it does provide a safe harbor for not disbursing money and for reporting senior exploitation or vulnerable adult exploitation. And it's starting to yield results, where investigations are being opened and cases being prosecuted.

So it is some effort to address the problem. Hopefully, more jurisdictions will be passing it in the near future. Hopefully, we'll hit a tipping point where eventually all jurisdictions pass it. Because that information is critical and it does give us one more tool to identify bad actors that are in the space.

MR. REDFEARN: Indeed. And we will be in our panels later spending a lot of time on how do we hopefully make it a little harder for the bad guys to, you know, make it not so easy for them and harder for the investor. I think that's part of the intent there.

I guess, Jean, I just want to follow up with the same question in terms of who are these people? Now, obviously, they're coming in, in many cases, you talked about through the phone or robodialing. I don't know if in that vein then it's that easy to know who are these people?

MS. SETZFAND: Right. I think it's been stated before but it's probably more bad actors than registered reps who are perpetrating the really egregious acts. But even to kind of build on Chris's point there, what we're trying to do is in the course of any transaction, we're just trying to make sure that investors have the right tools to make the best decision. So we've actually teamed up with NASAA to build an ask-your-investor -- interview-your-investor tool. So what are the sort of standard questions you should ask, regardless? Because again, going back to the profile of victims, we know that victims are actually more investor savvy, are making more transactions. So probability wise, they're kind of in the course of both good and bad, because they're in the vein of action, and therefore they fall prey.

So what we want to do is ensure that they're
taking -- taking the right steps to at least ask a set of basic questions. A lot of the questions the Chair, Chair Clayton, outlined. And that also brings them and presents them the easy access to BrokerCheck, quite frankly. So what we want to do is have them ask a set of questions and then at the end of that whole process, ensure that they're actually looking and making sure that the person they're talking to is a registered rep with no issues, so on and so forth. So if that helps. Again, we're just trying to get people in the sort of practice of doing these things regularly.

MR. REDFEARN: It sounds like a good thing there.

So Nicole, just again from your perspective, I don't know what kind of insight you would have in terms of who are the people behind the, you know, the schemes that the folks you're dealing with are experiencing?

MS. IANNARONE: So we don't deal as much with the things in the unregistered world and with the bad actors in that sense. I can say, in regard to the earlier question, do a lot of investors automatically do a BrokerCheck? No, they don't. In our experience, someone who has come to us has typically not done a great deal of research on the professional who is registered.

that they will be working with. And in some cases, in looking at a BrokerCheck, they would have been alerted to a great number of disclosure events that might have caused them to ask some questions at the front end as to whether this is someone they felt comfortable working with. So the more that we can do to continue to get investors to run a quick Google search, as Chris and Cam said, or run the BrokerCheck and see if there's information out there that might prevent -- might give them pause as to whether they want to work with the individual or at least give rise to some questions about what the individual has to say about those past events could help prevent some situations that many of our clients have dealt with.

MR. REDFEARN: Thanks. So probably just a couple more questions before we wrap up.

I want to turn back for a second to this area of cryptocurrencies and digital assets, because it is so new and it is seemingly on the rise. And, you know, notwithstanding the fact that certainly there will be digital assets or cryptocurrencies that are out there that are, you know, fine and legitimate in their own right, presumably. But what is your take right now on this space, on cryptocurrencies and digital assets? And how do you think that people should sort of be thinking about, you know, if some opportunity is presenting itself in that space. Chari?

MS. CHANDRASEKHAR: So I think people should interrogate cryptocurrency investments in the same way they would look at a traditional bricks-and-mortar investment. And many of the red flags we've seen in the classic frauds such as Ponzi schemes still apply to online investments. Promises of high returns, promises of swift returns, guarantees that there won't be any losses, pressure to invest, these are all the same old techniques that are being imported into the cryptocurrency and digital asset space.

Really, it's -- I would say encourage investors to stay on alert for these claims that have migrated to the online and the Internet context and the cryptocurrency context. So it's really in some ways, I think the expression, old wine in new casks really applies to a lot of the Internet and crypto frauds. And I would encourage, as all of our panelists have said, people really should be doing the same sorts of diligence about the promoters in these investments, about the actual business plan of the investments. A lot of these investments have so-called whitepapers. People should really read those, think through the claims in those and generally remain on alert in the space of these.

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Investments.

MR. REDFEARN: Same question, Cam. And is it - do you think that in that space, where in terms of the related fraud activities, we're at the bottom of the curve, at the middle of the curve? Or do you think that this is still a pretty rapidly growing trend?

MR. FUNKHOUSER: Well, I've been doing this a long time and I never think there is a finish line to fraud, right? So I would -- that would even be speculating on the answer, forgetting the investment itself.

So I think it's always a challenge when there's something new out there that's sort of unknown, and so investors want to get in on it, right? I missed the .com era, I -- you know, there's always this, I'm going to miss this next investment. So the currency itself, I think, is -- it's unknown because there's -- it's really unregulated in many ways. So that's hard to predict.

But what I do know is that most people know nothing about it. So how -- for the retail investor, from where I sit, one of the most dangerous places is, you know, somebody calling them or getting pitched. Here's a stock that's involved with currencies. Because that's
what retail investors do understand. They have invested in stocks, they have invested in funds.

So I think, from where I sit, of course, the digital currency is an unknown. But how it’s going to be pitched to retail people is probably, at least in one way, the stocks or the funds that are investing in it, which is the safe place where people think it’s disclosed, it’s regulated, and it may not be.

MR. REDFEARN: Yeah, I think that we’ve been very cautious here about actual securities coming into our markets that are based upon these products. We still contemplate these things. But so far, we’re not seeing a lot of it and you have seen the messaging come out of the Commission, the Division as well as IM, about crypto -- potential crypto-related funds and ETFs and so on.

Chris, any thoughts on the crypto digital asset space that you’d like to share?

MR. GEROLD: Well, New Jersey has filed a number of actions, cease and desists against crypto-related frauds. Going back to actually what Jean was mentioning and I think for her base, the AARP individuals, the telephone is how they get solicited.

In the crypto space, it’s the complete opposite. It is Twitter, Facebook, Snapchat, any other one you can think of. I am sure there are a bunch I don’t even know about. And once we started getting into that space and trying to identify these crypto frauds and we set up a dummy account on those, the information starts pouring in from those mediums. And so we are very, very, very, very cautious of the cryptocurrencies and the crypto space. Not the technology, necessarily, which is different than cryptocurrencies. But we are extremely cautious when it comes to the crypto space and cryptocurrencies specifically.

MR. REDFEARN: Thank you. So Jean, with respect to seniors, right, we’re talking about Facebook, Twitter, Snapchat, I don’t know about everybody else’s grandmother, I don’t know if that would be the first one I’d see, but maybe so.

Is the vulnerability to cryptocurrencies and digital assets the same for seniors, you think, and a trend there, as well?

MS. SETZFAND: I think I agree with what Cam actually said, is if cryptocurrencies will have appeal to an older audience, it probably is through more of a better-known asset. And so one of the things that strikes me is how cryptocurrencies are actually -- a lot of the language or promotional elements around it have similar elements to gold, quite frankly. There’s the mining of it. And gold coins, quite frankly, amongst the older population, is unfortunately a very popular scam.

So interestingly enough, I think if there is some sense of prospecting, it’s the new gold of the future. Right? So that’s, I think, where I would pay my attention. Is how closely sold or pushed, promoted cryptocurrencies is to gold coins amongst our population.

MR. REDFEARN: That’s interesting. So they know the interest in that community of gold and gold coins.

MS. SETZFAND: Correct.

MR. REDFEARN: And they try to repackage it in that kind of a wrapper to get that kind of -- interesting.

Nicole, again, cryptocurrencies, digital assets, in terms of the incoming calls that you’re getting there, is this something that you see also as a rising trend that keeps you concerned?

MS. IANNARONE: I think we will begin to see more of it. We haven’t begun to see it just yet. I do see a great deal out on Twitter. And the folks that I hear most about it from are, frankly, our students who are incredibly interested in it, seeing more of it from younger generations. And whenever a student comes and asks me about it, what do I think about investing in some cryptocurrency idea that they’ve seen, my response is, if you or I can’t explain the investment opportunity, how it is working and how I have an opportunity to make money, I don’t think it would be the right investment for me or for somebody else to get into.

So, yes, I do think that we are going to begin to see more of it. I think we’re going to see it probably from younger generations who tend to be more son on Twitter and Instagram. And I think it’s going to take some time for them to come to us and tell us if they suffered an injury as a result of a fraud related to it, particularly because of the embarrassment factor that all of our clients and all of our victims face and have to overcome before they seek out help to address the harms against them.

MR. REDFEARN: Thank you. So we have time for one more question. And just very quickly, since we are going to be moving on in the next panel to the policy things that we can potentially do to deal with this, I just wanted to ask if there was, you know, one or two sort of quick thoughts you have about policy areas we should be exploring, to use Jean’s term, to make it maybe not so easy for the bad guys to be able to defraud investors? What are the policy areas that you think we should be focused on? Charu.

MS. CHANDrasekhar: So I think Reg Best
Interest will be an important regulatory vehicle going forward to really help both members of the financial community but also customers really to understand what the obligations are in terms of educating customers, placing them in suitable investments and the like.

MR. REDFEARN: Thank you, Cam.

MR. FUNKHOUSE: Just off the top of my head, but I think the FINRA Rule 2165 is sort of forward thinking and maybe can be expanded so that there are some responsibilities on gatekeepers and, you know, others who are handling financial transactions for individuals to maybe do some first-alert type of prevention. But like I said, if you take a look at FINRA Rule 2165, I think that's a really good start in that regard.

MR. REDFEARN: Great. Chris.

MR. GEROLD: Sure. I think the largest policy and one that we're in the process of adopting in New Jersey will be a uniform fiduciary standard, which the governor announced last week that we're going to be pursuing over the next couple months.

MR. REDFEARN: Okay. Jean.

MS. SETZFAND: So building on Chris, definitely I think keeping the investor and insuring that the advice that they get is of best interest to them is definitely important. And then I think just kind of underscoring the fact that, again, whatever we can do to make the preventative actions as easy as possible for investors, I think is to what degree we can use policy to make that happen would be fabulous.

Last but not least, I think what are things that regulators can do to actually frighten the fraudsters, quite frankly? Are there more enforcement or greater punitive actions that make conning, scamming, stealing money scary or harder is another consideration?

MR. REDFEARN: Thank you. Nicole.

MS. IANNARONE: I think to Jean's great point, in addition to everyone else said about making prevention more Amazon-like and easy, I think it would be very interesting for us to explore technology and whether we can use any of the new technologies to help meet investors where they are with their level of understanding about investments, to help educate them about who they are working with, what they are getting from a proposed investment, and how they will fare. So looking a little bit into the technology to see if we can use it to help the relationship between an adviser, a broker and an individual to ensure that everyone understands what's happening, why it's happening and what expectations they should have going forward.

MR. REDFEARN: Great. Listen, I think that that is a great place to wrap up. I think that, you know, we have a lot more discussion to come later today.

We probably jumped into some of those areas a little bit here but we have the benefit of having you all here with us today. And so I think that this discussion in those areas was extremely useful. So I'd like to thank you all again for coming here, sharing all of these thoughts and we really appreciate it and we look forward to the additional discussions this afternoon.

Also, thank you, Commissioner Roisman, for staying here with us as well.

And we will now take a break and we will be back here at 11:30 for our second panel. So thank you all very much.

(Recess.)

Last but not least, I think what are things they purport to work for are probably also unregistered.

And in many cases, the securities are unregistered, as well.

This is one of two panels where you will hear about the tools that those entities that are registered have to try and combat fraud. And you will also hear about how that also helps the Commission and FINRA with their oversight and surveillance to combat fraud, as well.

So without further ado, I want to introduce you to some of my new colleagues in Trading and Markets that are going to help with this upcoming panel.

First, Val Dahiya in the Division of Trading and Markets will be moderating our Rule 15c2-11 panel. Tim White, also from the Division of Trading and Markets, will be moderating the broker-dealer registration panel. And Lourdes Gonzalez, again from the Division of Trading and Markets, will be moderating the suspicious activity reports panel.

So without further ado, let's turn to Val and ask her if she can kick off our Rule 15c2-11 discussion.

MS. Dahiya: Thank you for the introduction.

First of all, I'll start out by giving a brief overview of Rule 15c2-11. Also, I wanted to introduce Laura Gold, who is a senior counsel in the Division and she does a...
substantial amount of work administering Rule 15c2-11. And so she will also be moderating this portion of the panel.

So in 1971, the Commission adopted Rule 15c2-11 as a means to protect the investing public from fraudulent and manipulative potential inherent in situations when a broker-dealer submits quotations concerning any infrequently traded security in the absence of certain information. At a very basic level, Rule 15c2-11 requires broker-dealers to publish quotations in OTC securities to understand the products that they are quoting.

The rule requires broker-dealers to review certain specific information prior to initiating or resuming a quotation in an OTC security and form a reasonable basis for understanding that the information that’s being quoted is reliable and accurate.

There are many exceptions to the requirements of the rule, such as unsolicited customer orders, the piggyback exception and securities that are admitted to trade on a national securities exchange. As with many rules, understanding the exceptions is important to fully appreciate the rule’s strengths and limitations.

Over the last two decades, the Commission has proposed to amend the rule by modifying certain existing exceptions and adding new ones. In 1999, the Commission sought to limit the piggyback exception, require annual review of current information about the issuer, expand the information required for certain nonreporting issuers, and create new exceptions for certain securities, amongst other things. Although the Commission did not adopt the 1999 proposed amendments, the 1999 proposal contains an appendix that includes guidance regarding the Commission’s expectations for broker-dealers when they conduct the review. I recommend that broker-dealers who are involved in conducting 15c2-11 reviews acquaint themselves with the 1999 release and, in particular, the red flags discussed within that release.

Recent actions by the Commission as well as other matters that have come to the Staff’s attention suggest that some broker-dealers are not fulfilling their review obligations as required by the rule.

I’m looking forward to the discussion and hearing your views on the rule and receiving your input on ways that it can be improved. Thanks.

And first, I am going to turn it over to Troy Carlson, who is senior vice president at FIG partners.

MR. CARLSON: Thank you. Again, my name is Troy Carlson from FIG Partners. FIG Partners is an investment banking boutique focused in the community bank space. And today’s discussion on the 2-11 applications was certainly intriguing and thought that it would be best if I participated with my opinions.

15c2-11 is the official application. But for today, I think the abbreviated 2-11 is probably how it will be mostly referred to. So again, I appreciate the invitation and thank you.

MS. DAHIYA: Next, we are going to turn it over to Yvonne Huber, who is the senior vice president of market regulation at FINRA.

MS. HUBER: Hi, thank you. So I am a vice president in the market regulation department at FINRA and I oversee the OTC compliance team. But by way of background, I have been working at FINRA for 28 years and when I started, it was 1990 and it was right at the height of a lot of scrutiny on the over-the-counter securities and the over-the-counter space. And there was the penny stock task force, there were the amendments to 15c2-11 that were being proposed and subsequently adopted and FINRA had or NASD at the time had just started the Form 211 filing process.

In fact, I was hired to staff a team of people that FINRA had -- or NASD had created solely for the purpose of conducting surveillance in over-the-counter securities. So I spent the first five years of my tenure as a means to protect the investing public from investigations into potentially fraudulent activity in over-the-counter stocks.

I moved out of that area and for the next 19 years focused on short sale regulations. But in January of 2014, I was brought back into the over-the-counter space to take over heading up the OTC compliance team.

And in addition to my short sale regulatory responsibilities.

The OTC compliance team is responsible for receiving Form 211 applications from broker-dealers who wish to quote securities in the over-the-counter markets. We have a Rule 6432 which requires that firms file these applications with us to demonstrate that they have met the information review and gathering requirements of Rule 15c2-11. Our team is responsible for reviewing these Form 211s when they’re received to ensure that they -- that the broker-dealer has, in fact, met these requirements. And if, during our review, we find that there are any deficiencies in the information that they’ve gathered or any red flags or discrepancies in the information, then we will issue a letter back to the broker-dealer asking for them to address those discrepancies.
Once we believe that a broker-dealer has fully complied with Rule 15c2-11 and any outstanding deficiencies or discrepancies have been addressed, then we will process the Form 211 and allow the broker-dealer to begin quoting the security. It's important though to know that this process that we undergo is in no way a merit review of the issuer. We do not weigh in on the qualifications of the issuer in any way. This isn't a listing process at FINRA. It's really strictly a compliance review to ensure that the requirements of the rule have been met. I very much appreciate, though, having an opportunity to sit at the table today and to provide some feedback on the rule. So thank you.

MS. DAHIYA: Thanks, Yvonne. Next, we'll go to Dan Zinn, general counsel at OTC Markets.

MR. ZINN: Thank you, Val, and thanks to Brett and Lizzie, everybody at the SEC, for having us and for putting this panel together.

As Val said, I'm the general counsel at OTC Markets. For a little bit of background on what we do, we operate the primary interdealer quotation system. It's an alternative trading system, known as OTC Link, for the quoting and trading of OTC equity securities. So for purposes of this discussion, when Yvonne's team has done the work that they do and approved a 211 and told a broker-dealer that they can quote that security, they will quote it most likely on our market. There are some other competitors as well.

And so we sort of take the ball after the broker-dealer, after somebody in Troy's position, has put a filing together, after FINRA has done the work to ensure that that compliance responsibility has been met, we then allow for the broker to begin quoting.

Upon receiving a Form 211, an approved 211 from FINRA, we will do a couple of things. We will contact the applicable broker-dealer to make sure that they understand the form has been approved and that we will open the market for them to be able to quote. We will also then start tracking the time line and making sure that they meet their responsibilities, that the time line is met before other brokers can begin quoting on what's called piggyback eligibility, which I'm sure we'll get into some degree.

As the market, our interaction is with about 100 or so FINRA member broker-dealer subscribers. And so our interest is in seeing them have as much information as possible, seeing them have — be able to offer their clients and particularly retail as much of a transparent trading experience as they can. And so this is all kind of an iterative process that winds up with the business that's conducted on our market.

I think we will get into a number of the other issues and kind of explanations as we go through the questions. But just in terms of how we all sit, hopefully that gives some good background.

MS. DAHIYA: Thanks, Dan. Laura is going to kick it off with our first question.

MS. GOLD: Thank you, Val. And thanks to everyone who is participating today.

So to jump into our conversation, I would like to pose the following question. Since the last time the Commission proposed amendments to 15c2-11, there have been many changes to the over-the-counter market, particularly for equity securities, including the move towards an electronic quoting market, greater transparency and regulation of quotation mediums.

In your view, given the changes that have taken place, are there any considerations that the Commission should take into consideration if it were to engage in rulemaking in this space? Troy, would you like to start us off?

MR. CARLSON: Sure, thank you. Yes, well, I'll certainly say that today's OTC market is not your father's OTC market. There's been tremendous leaps made in terms of improving the transparency and communication, including, Yvonne, being able to electronically apply for the 211 application was a tremendous improvement and increased efficiency, which has just been the last year or two. There's been a tremendous advancement in terms of all the groups and parties working together in the OTC market.

And I guess I would say that if I was going to suggest any sort of change or amendment to the rules, it would be just to continue increased visibility and reporting by the issuers.

MS. HUBER: I'll be happy to go next. I would definitely agree that the environment is much different today than it was when the amendments were first approved back in 1991. And I think that the disclosure issues that were inherent, you know, at the time, they're not as big a concern. I mean, with the Internet, not that I think there shouldn't continue to be disclosure, just that they're not as prevalent an issue.

But I do think that the rule could be more effective if there was a little bit more of an onus placed on the broker-dealers to just ensure that they are looking over the information more critically from a potential fraud standpoint. As you mentioned, there were these red flags that were issued in 1999 when certain
amendments were proposed that are still -- that are still out there. But I feel that the way that the rule is structured, that the narrow amount of information that broker-dealers need to review in compliance with the rule, these red flags would not necessarily make themselves evident. They would not necessarily be something that would be observed. They tend to be something that gets observed after we make an inquiry back to the firm to ask certain questions or for them to get certain pieces of information.

So I think that either to somehow formally codify some of these red flags or potentially pull some of them -- certain key red flags into the rule could be helpful. For example, one major area that I think should be considered would be the tradability aspect, concentration of ownership.

We've received Form 211s where the freely trading shares, as far as we could tell, totaled 5,000. There were two shareholders that held shares totaling 5,000, one held one for 1,500 shares and the other held, you know, 3,500 shares. Those types of things, I think, should be on the onus of the broker-dealer to be looking at and assessing before coming forward and filing those forms with us.

MR. ZINN: We have about 20 minutes left? I can go?

(Laughter.)

MR. ZINN: I wanted to address even the first part of the question just the developments in the OTC market, I think. Yvonne did a great job of talking about what it was like, certainly, in 1990 and even up to 1999, when we were talking about the SEC release. What we've done over the past 21 years at this point is take what was a paper-based, basically, a phonebook market, where brokers would publish quotes and that physical publication would be mailed out to interested broker-dealers, and made that a real-time electronic market.

So now, coming kind of full circle towards almost where the exchanges sit, broker-dealers can quote. It's an attributable market so they can see who's on either side of the market. They use our system to communicate with one another for the purpose of negotiating trades or ultimately executing trades. But on -- you know, outside of just the broker-dealer experience, what we have is roughly 10,000 OTC equity securities that trade -- that are quoted on the platform. And we've categorized them based on the amount of information that they make available and the timeliness of that information.

So at the very top, we have what we call the OTCQX market, which for context is roughly 380 or so of those companies. Those are companies that are meeting certainly the 15c2-11 standards in terms of audited financial information. They also have quarterly and current reporting obligations. And they're also meeting a set of quantitative requirements.

Beneath that, we have the OTCQB market which we call our venture stage market. The disclosure qualifications, which I think is really of import when we're talking about Rule 15c2-11, are similar, the same in terms of current information and having audited financials and the like. But some of the quantitative standards are more geared towards what you might think of with a venture company.

And then at the bottom we have what we call the pink market, which is the open market. It's certainly a nod to the Pink Sheets, which was that predecessor publication. And pink is the open market, and it exists because broker-dealers have the responsibility to give their clients the best possible trading experience, have best execution and other responsibilities under the FINRA rules. And the pink market allows that to happen in a transparent manner.

I am going to bring this back to the question about regulation, specifically. So certainly one of the biggest differences between the way the market was set up, I think, in 1999, if that's our reference point, and the way it's set up now is the ability for the system on which these securities are quoted to provide information. So we are already building in all of these incentives for companies to try to basically move up the categorization system and be qualified as OTCQB or OTCQX. Even within the pink category, we will discern whether a company is current in their reporting, has limited information or has no information. No information comes with a stop sign next to it, as an investor warning. So even the fact that there isn't disclosure is a form of disclosure in itself and allows investors to access that information.

So with respect to some of the changes to 211 and how that works, because we have that capacity, A, you have the opportunity for the information that a broker files, that a broker is looking through and sending to FINRA, to be made publicly available. So that now everyone can have access to that, and that includes investors, certainly, and regulators, but also other broker-dealers who may have customers who are interested in quoting the security or who may have a proprietary interest themselves. So that's a big change and I think being able to have that information disclosed as soon as...
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<td>possible from the 211 filing and then have other brokers</td>
<td>potentially be some increased costs to broker-dealers based on these suggestions that you've provided.</td>
<td>there who are interested and sort of jumping into the market and, you know, investing in their companies.</td>
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<td>be able to work with that information in order to create a better market is something that can be addressed to the 211 process.</td>
<td>So in your opinion, in the context of, you know, if the Commission were to engage in rulemaking, what would be the best ways to achieve an appropriate balance between capital formation and retail investor protection?</td>
<td>So I think at the end of the day, putting forth regulations to make sure that the markets are fair and the investors are protected really is going to help all the market participants.</td>
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<td>Similarly, having a system like ours, you know, our system is now an SEC-regulated alternative trading system. We are a FINRA member broker-dealer, which is a requirement of all alternative trading systems. So having the system be more involved in the process itself, even to the extent that we have all of the relevant information and sometimes more, or sometimes have a contractual relationship with the issuer with respect to OTCQB and OTCQX, we may be able to file a Form 211 or otherwise provide that kind of support and background for other broker-dealers to file a Form 211. I think having all of the capability that we have now should cause kind of a second look at what we can do from a technology standpoint and even from a regulatory standpoint with respect to where we sit to help improve the process.</td>
<td>MR. ZINN: Just jumping in on that, I think there's a lot of truth to that, certainly. But it obviously can go too far, just to some degree, right? If you only allowed the S&amp;P 500 to trade, certainly there would be massive investor confidence in everything that trades on the markets. But that's not, you know, an end goal in itself. And so I agree with you, there's always going to be that rub and trying to get to that appropriate point where investor protection concerns are being met and being met at various stages in the process, as we kind of all represent from broker-dealers to the regulators to the market. And so one of the things that we've thought about from kind of a specific proposal standpoint is how do you allow the broker-dealer -- and, you know, I think Val kind of led off with what the broker-dealers' responsibilities are -- how do you allow the broker-dealer to best fulfill their responsibilities? In some circumstances, the broker is already going to have an existing relationship, they're going to have informed the issuer with respect to an offering or provide other investment banking services. In other circumstances, you have a broker that their primary responsibility is to facilitate trading and to do that in securities where, you know, some work needs to be done to some degree in order to kind of meet that standard that Yvonne was talking about. And so just like an underwriter is compensated for taking that risk and going out and doing the work necessary to get that offering qualified and to kind of stand in that underwriter role, a firm that is taking a company public, which is really what it is through the 211 process, should also have an opportunity to establish a direct relationship with the issuer. That's the kind of communication you want. You want there to be an open line between the broker and the issuer. And to potentially be compensated for it by the issuer so that there is maybe some of that offsetting -- or that helps offset some of the attendant cost and gives the market a better experience when that information is ultimately brought to FINRA and that security is ultimately traded with us.</td>
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<td>If you let frauds go through, if you let companies who are frauds be traded and quoted, in time, that's going to erode investor confidence. And all the rulemaking that you want to put in place, however easy you want to make it for companies to be able to get their securities, you know, publicly traded, it's not going to do them any good if there aren't going to be investors</td>
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<td>MR. CARLSON: I'd like to add, I agree with Dan. But with regards to the additional costs</td>
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associated, I just don't see that being a significant
deterrent. As it ties to my thoughts on rulemaking or
changes to rulemaking, to think about the relationship
about the broker-dealer, underwriter and issuer, should
play a significant part of the amount of disclosure or
the amount of - of protection that the retail investor
is going to be the beneficiary of.

You know, as an underwriter, we are, when
representing that issuer, absolutely doing what it is
that we do every day as part of our core business. The
expenses that are incurred in the application process,
the listing, all of that again is - we have not seen a
significant increase. And it's again just the natural
course of us doing business.

And I think it needs to be taken into
consideration when you have that relationship between
issuer and underwriter and investment bank, who is in
this case filing the application and listing those
shares, the checks and balances are already existent,
they're already there. The investor has been given the
opportunity or is being protected for any fraud because
of the amount of liability that we've already basically
put on ourselves as the underwriter, the broker-dealer.

I guess to summarize, I'd say that in thinking
about the rulemaking, some emphasis should be put on the
relationship between the broker-dealer and underwriter
and who is actually filing the application.

MS. DAHIYA: Thanks. So we are running a
little short on time but we wanted to get in one last
question, and one that everyone has strong views on, on
the piggyback exception.

So with the piggyback exception, it allows
broker-dealers to quote even for issuers who don't have
currently available information. And oftentimes, issues
that are dormant or no longer exist. So do you have
recommendations or thoughts on how the rule could be
amended to address this issue with the piggyback
exception?

MS. HUBER: Well, I think we definitely think
that there should be some consideration to putting a
sunset on the piggyback exemption, particularly when, in
your example, the company is dormant or doesn't seem to
exist anymore.

We currently have a process in our operations
department, where we get alerts or get notified if
there's a company that hasn't had any trading activity
for a certain period of time or there have been no
corporate actions for a certain period of time. And in
those situations, they'll inactivate the quote. Or, sorry, they'll inactivate the symbol.

But there are often times when there is still
somebody who is out there in a name only quote or with an
unpriced quote. And they are -- they feel precluded from
being able to inactivate the symbol in that situation.

Now, typically, they will go and they will approach the
firm and let them know, hey, you've got a quote out here
or an unpriced quote out here in a stock that hasn't
traded in a certain amount of time. And usually, they're
not aware and they take it down and it gets resolved.

But I think if we built into Rule 15c2-11 the
ability for us to or for the piggyback exemption to be
sunset in situations where there's been -- you know, the
stock has been inactive for a certain period of time, I
think that would be beneficial.

MR. ZINN: I will go quick, I promise.

You know, I think, largely in respect to the
types of securities that Yvonne is talking about, that's
where you kind of need to focus, which is the securities
that we have identified for the most part as no
information. The SEC has done a really good job,
particularly of late, with suspensions. We work kind of
directly with the SEC on, you know, unable to contact,
companies that don't seem to exist anymore for whatever
reason. And that certainly is a great tool for clearing
those out.
CHAIRMAN CLAYTON: Brett, can I jump in here?

MR. REDFEARN: No, believe me, I'm not trying to cut you off.

No, I think, again, with respect to that subset of securities where there is no information, I think that makes, you know, some degree of sense, having that experts only or otherwise sort of segmenting that off. But the piggyback exemption generally, what you want really is to provide more opportunity for price discovery, to have more brokers that are available. So I wouldn't want to cut it off, you know, at the knees, right?

CHAIRMAN CLAYTON: No, I understand. But where it stands today, I think there's room for improvement.

MR. ZINN: Yeah, I agree. And I think with respect to the types of issuers, certainly, we're aligned.

MS. HUBER: And I think particularly, and this is probably not a question we are going to be able to get to today, given our limited time, but I think under certain circumstances, piggyback eligibility should be taken away, such as in the reverse merger scenario, where there has been a completely different – a complete shift in the business line of a company, a complete change in ownership, a complete change in officers and directors. That's essentially a new company and it probably doesn't make sense in that space to allow piggybacking to continue.

CHAIRMAN CLAYTON: Can I explain that for the retail investors, who may be watching via webcast? Which is you have a very low capitalization, thinly traded stock which happens to be in our registration regime. And a large company merges with that. The resulting company is the large company, but the large company has not been through the vetting process that we at the SEC and other regulators apply for it to become a public company. Some would call it a back door. But that is a process that troubles me.

MR. REDFEARN: I know that we are going to need to move on to the next panel. I just want to say we do have a place to post comments for all of the discussions that we're having here. I think this question in particular is one that we're keenly interested in, which is specifically to the extent that there is no financial information for an extended period of time, or any of the other factors, no corporate actions or whatever, the question is what do we do? Do you eliminate the piggyback exception? You'd suggested, you know, potentially a professional's market. But I think there's a view that more clarity would be helpful and perhaps some evolution of the regulatory regime here would be beneficial for the marketplace, especially when it pertains to retail. Because we have had experiences where retail investors do find their way into some of these names.

CHAIRMAN CLAYTON: As usual in this space, Brett said it better than I did.

MR. REDFEARN: I'm going to differ with you on that one. So I apologize, but I do think that we do need to move on to the next subpanel.

MS. BAIRD: Thank you, Val and Laura. And thank you, Troy, Yvonne and Dan.

Next up, Tim can you help provide us with an overview of what the current requirements are for broker-dealer registration?

MR. WHITE: Absolutely. Thank you, Lizzie. So this subpanel is focused on BD registration. But it's not only BD registration, it's also people who are unregistered as broker-dealers who are almost as important to the equation as BD registration.

You've heard a lot in the previous panel about BD responsibility and that's where registration basically gets you, is the broker-dealer is responsible for certain things. Broker-dealers play an important role in both protecting investors and increasing capital formation. They have been described as gatekeepers and, for most of retail investors, they are the entry point into investing in the market. That's the person that they know in terms of recommendations for investments or, you know, where do they put their money, that sort of thing.

So what is a broker? A broker is a person engaged in the business of effecting securities transactions for the account of others. Broker-dealers interact with retail investors, are typically registered with the SEC and are members of FINRA. Among other things, these broker-dealers are subject to legal requirements that govern their conduct in the marketplace...
and provide important safeguards for investors. They are subject to books and records requirements, financial responsibility obligations, targeted antifraud provisions, supervisory obligations, anti-money laundering requirements which will, I think, be discussed later, and examinations by regulators.

Many retail investors buy securities through registered broker-dealers and are afforded these protections of registration. Although fraud may still happen in these instances, the system is set up to try to minimize and address such circumstances.

But there are also persons that sell securities that are not registered broker-dealers but maybe need to be or maybe should be registered.

This takes us to our topic of discussion for this subpanel, finders and private placement agents. To discuss this topic, I am pleased to have the panelists introduce themselves, starting with Faith.

MS. COLISH: Thank you. It’s a privilege to be here. And I am looking forward to a good dialogue with you all. I am Faith Colish. I am a securities lawyer. I am in private practice in New York at Carter Ledyard. I started my career at the SEC in 1960 in the general counsel’s office in a much smaller building. And most of my practice over the years has been focused on smaller broker-dealers, investment advisers and other financial service providers.

In 1999, I was asked to join a, at that point, nascent ABA task force addressing the issue of finders. And one of the things I will hope to give you some insight into is what that task force has done and is still hoping to do with respect to finders.

In addition to being on the task force I was, how shall I say, invited to participate with the SEC Staff in what became the M&A broker no-action letter, which came out in 2014. And there is now a bill in Congress, in the House, H.R. 6127, which we will get into in a little more detail, which I did not write and I did not lobby, but which I was consulted about. And it is the furthest that has been accomplished in terms of a proposal to alleviate or to address the balancing -- and that's my view -- balancing of two important goals of the SEC, which were mentioned by Ms. Huber.

There are essentially three goals of the SEC, if you want to look at it from a 30,000-foot level. It's investor protection, capital formation and orderly trading markets. So I'm not talking about trading markets because this is all going to be private placement stuff. But I think it's important to focus on an appropriate balancing of investor protection and capital formation, which was one of the, I believe, motivations behind this bill. And also a concern for the original founders of the task force.

So I will be glad to elaborate on that later.

MR. WHITE: Thank you. Maybe if we could just go down the line. Chris, if you don't mind introducing yourself again?

MR. GEROLD: Sure, Christopher Gerold. I am the chief of the New Jersey Bureau of Securities. The bureau is in charge of regulating the securities markets in New Jersey and protecting investors. One of the things I forgot to say before and I should have is the views expressed here today are my own and do not reflect those views of the attorney general or any other state agency.

Well, I'm sure we'll get into our discussion after.

MR. REDFEARN: We'll apply that retroactively for the last panel then, Chris.

MR. GEROLD: Thank you.

MR. WHITE: Ignacio.

MR. SANDOVAL: Thanks, Tim. I'm Ignacio Sandoval, a partner in the Washington office of Morgan Lewis. I work in all things related to securities intermediaries and, in particular, registered broker-dealers. So I actually started my career at the Commission, I would say about 11 years ago, in the Division of Trading and Markets, working on broker status issues. So I've been here for a while. So even though my current work focuses on registered broker-dealers, the status issues regarding brokers, finders and private placement agents still present themselves often, usually in the transactional context, where a lot of the transactional attorneys in our firm are, you know, trained to recognize compensation arrangements that could raise broker status issues. So that's generally when we're brought in and we evaluate the situation. So these finder issues and evaluating whether someone is effecting transactions or engaged in the business, it's still a part of my bread and butter.

MR. WHITE: Thank you, Ignacio. You just mentioned finders. I think that's important, because there are a lot of retail investors hopefully watching over webcast, to describe what is a finder, what is a private placement agent so we all kind of know what we're talking about, and also why has it been an issue in the industry for a number of years?

MR. SANDOVAL: Sure, Tim. So, you know, when I think of a finder, you know, and part of this might have been the training I received while I was on Staff, you...
know, at its core, when I think of a finder, I think of someone who just gets paid for making introductions and that's it. You just make the introductions and you walk away. Now, that's the typical framework under which I evaluate whether someone is a finder or a broker.

And so, you know, in speaking whether -- on whether someone is a finder or not, really the epicenter of most of this focuses on the so-called Paul Anka letter. It was issued in 1991 by the SEC Staff and that sort of provides the framework under which you've evaluated the situations where that may arise broker registration issues.

So the premise of the Paul Anka letter -- so Paul Anka was a Canadian singer. So, incidentally, he wrote the song -- he wrote the lyrics to “My Way” even though Frank Sinatra sang it. It was something I was actually taught on the Staff my first day here. So he was looking to get paid a success-based fee for furnishing the names of potential investors to personnel of a Canadian hockey team that was looking to raise funds.

So under the terms of the letter -- and when I read no-action letters, especially those older ones, you read what the Staff's response is, but you also have to read what the incoming letter represents. Because in some of those older letters, the Staff's response is a little different than what was represented. You know, just adding that as a bit of an additional note.

So under the premise of the Paul Anka letter, he was effectively going to hand over his Rolodex to this Canadian hockey team and let them see if anyone they contacted through that Rolodex would be interested in investing. So, you know, the important thing to think about in terms of the Paul Anka letter was what he was not allowed to do. Right? So under the terms of that letter, he wasn't allowed to solicit potential investors, negotiate transactions, participate in any advertisement, endorsement or general solicitation, help prepare any materials or provide those materials to investors, wasn't permitted to do any due diligence or analysis of the issuer, provide financing or any advice, or be involved or have been involved in any other securities transactions.

And so, you know, from my perspective and the way I've always reviewed the Paul Anka letter, the reason the Staff back then was comfortable in issuing the letter was because he was arguably not effecting transactions, even though he was getting paid transaction-based compensation. So, yeah, I wanted to sort of unpack that a little bit more.
Florida, where the SEC suffered a loss. It's SEC v. Kramer case. You know, in that case, when the – the reason I mention that case is the Court, even though the Staff made some pretty compelling arguments that the Defendant in that case was actually effecting transactions and acting as an unregistered broker-dealer, the Court in that case eventually took the view that the person was acting -- was merely facilitating a transaction.

And so the reason I think Kramer is important is because, unlike other broker cases out of the district courts, the judge in Kramer actually went through the process of evaluating each of the indicia that typically get thrown out by the Staff as indicative of broker status and really just tore them all apart.

So I normally would have been a little dismissive of Kramer except for the fact that you have a lot more courts citing to it now to find people that were not acting as broker-dealers.

So that’s a long-winded way of saying that this area has become grayer over the years. And, you know, probably could benefit from some clarity.

In the private placement context, I think, there, you're going to see people engaging a little more in solicitation efforts and passing documents back and forth.

MR. WHITE: And I think clarity, exactly, is what sort of, Faith, you're trying to get to with some of your efforts. I'm glad you mentioned Paul Anka, Ignacio, because that's a very limited letter. So in reality, nobody has a paper Rolodex anymore, clearly, so -- and people who solicit generally want to have conversations with the people they're soliciting and not just hand over names. So practically, that doesn't seem to be workable in today's environment.

But absent Paul Anka, Faith, if you could talk a little bit of your efforts as trying to bring clarity in this area of private placements and/or finders.

MS. COLISH: Thank you. I'd be glad to.

As I mentioned, I've been a participant in this ABA task force that got started in 1999. And it actually started -- was started by a group of lawyers who represented issuers, as it happened in California and Silicon Valley, and you may remember what kind of market there was for innovation even then. And these lawyers who were essentially -- and I'm going to use a shorthand term, but I hope everybody will understand -- they were essentially '33 Act lawyers. They were representing issuers who were doing some sort of offering of securities, typically a private placement.

These were all, as I say, '33 Act lawyers, they thought it might be helpful to have someone who knew something about broker-dealer registration. And that's how I came in, because that has always been a large part of my practice.

And the report, and I've had occasion to reread it not so long ago, and of course things have happened in the interim. But a lot of it is still absolutely applicable and valid and it's readable. And if anybody has, I don't know, an hour to spare, I would encourage you to read it. It's available on the SEC website and a lot of other places.

It essentially had two kinds of recommendations. One was greater clarification from the SEC of whatever the SEC would say does or doesn't constitute engaging in the business of effecting transactions. It's a two-part definition and there really is no de minimis exception. If you're engaging in the business but you only do it once and you only raise $100, technically you're supposed to be registered. I mean, that may be a little hyperbolic but technically that's correct. And on the other hand, what is effecting a transaction? And of course, the Paul Anka case is an example where the Staff felt that the activity of just selling your Rolodex -- and, by the way, I do have a
paper Rolodex still on my desk -- it was not -- it didn't involve you enough in the interaction or potential for misleading people. So that was thing number one, was we need more clarification.

And, B, we need a more customized, bespoke, hospitable process for becoming a registered broker, what we sometimes refer to as BD Lite. Not to throw out the baby with the bathwater, not to completely disregard the need for regulation, but to come up with a regulatory scheme that was more well designed for people who do a limited kind of business. The limited kind of business would be with no custody of any customer assets, with essentially relatively smaller transactions and a few other indicia that we felt were overburdened by the existing regulatory structure.

And, by the way, and this is not to denigrate FINRA. I mean, FINRA is a wonderful organization and we couldn't live without it. But most of the burdens of being a registered broker-dealer come from FINRA regulation. Once you are registered as a broker-dealer, obviously, there are antifraud requirements but I would say the single biggest burden that a registered broker-dealer has that comes directly from the SEC and the federal securities laws as opposed to FINRA is the Net Capital Rule.

And I know when I've had discussions with people on the SEC Staff about maybe dropping the Net Capital Rule for certain kinds of brokers such as finders, I've -- the reaction has been shock and horror. I mean, it was like sacrilege to even suggest it. But, frankly, most of these broker-dealers are eligible for the lowest net capital bracket which effectively means -- and I'm going to oversimplify -- but essentially net worth of $5,000. But it means that under FINRA rules you have to have a FINOP, which is a registered financial and operations principal, you have to file FOCUS reports, which are at least quarterly financial reports, and the most burdensome in terms of cost is you have to have an independent audit, which as of now, although maybe that will change, has to be by a PCAOB qualified auditor and that's going to cost you, I don't know, 20 grand, 25 grand, which is just too much money.

So you end up with finders who either are -- or potential finders who are actually doing an illegal business, and I see them all the time. I can't tell you how many there are but they're out there. And they say, I haven't been caught and I'm not going to commit any fraud so I'll take my chances. And the issuers will also take their chances. Or what is even perhaps more troublesome is they don't, they don't participate and they don't -- they're the missing link between the issuer and the source of capital. And these are typically smaller issuers who don't -- the owners of them don't necessarily know a bunch of accredited investors or people that they can go to directly. So you have those tensions there.

And by the way, one of the suggestions I've made when I've shocked and horrified people by suggesting to drop the Net Capital Rule for certain categories of finders is to replace it with a concept which is fairly common among the states, and I would commend it to the Commission or to whoever is going to be in charge of this, which is a bonding requirement. And for probably a relatively -- certainly less than $20,000 a year, you can purchase -- you will be able -- I guarantee you, there will be insurers out there that will see a market and will be willing to write insurance that will provide investor protection that will be less expensive for the general population of finders and which will eliminate a whole lot of regulatory -- I don't want to say red tape, but a lot of regulatory burdens that, frankly, I think are a disincentive to finders to come out of the closet, to come into the sunshine and to be known to regulators. And so I think that is a win-win situation. There have been a number of things that have happened since the task force report was issued in 2005. I mentioned this M&A broker letter which I am very pleased to have participated in. There are a bunch of both Commission actions and legislative actions to facilitate capital formation for small businesses, but essentially all on what I'm calling the '33 Act side. So you have Regulation A+ and you have a number of other initiatives that are designed to make it easier for small businesses to raise money. But in most cases, you still have the missing link between those issuers and the retail investors.

Now, FINRA has a CAB, a capital appreciation broker rule, which went into effect two or three years ago. But in that -- and these are obviously registered broker-dealers and FINRA members, but they can only solicit investments from not just accredited investors but institutional investors, which typically means 50 million and up. That's not retail in my book.

We also have the issue of what is an accredited investor, which I know is a whole topic much too big for this discussion today. But is an accredited investor the retail investor that we're talking about today? And I think it would be helpful to define those terms to see what category of investors do we consider to be the most vulnerable and which are presumed to be able to fend for
themselves? Which is how we got to the definition of
accredited.

MR. WHITE: And, Faith, can I just add to what
you just said there? And I know we're running short on
time. But I think you hit the nail on the head in terms
of bringing people into the light and trying to give
options to finders or broker-dealers that people can rely
on at a lower cost basis.

There have been many options thrown around
including, as you stated, legislation, your task force.
We've also been -- it was suggested to us about
disclosures in which the finder tells the person they're
finding that, hey, I'm getting paid to provide them a
document, just to show the conflict of interest.

But, Faith, you also mentioned the states. I
just want, because we're short on time, want to give
Chris an opportunity just to very quickly state --

MS. COLISH: Okay.

MR. WHITE: -- whether or not -- what he's
seeing on a state level in terms of unregistered broker-
dealers and any concerns for people who might be in your
state.

MR. GEROLD: Sure. Thank you, Tim.

We do have a concern in this area, New Jersey
specifically and other states as well. The idea, and you
mentioned it, bringing them into the light.

Registration is one of the tools we have. We
need to know who is selling what in our state. And
without that information, we're at a disadvantage until
there is a problem. And so exempting or, I know the
proposed legislation actually has that awful P-word in
it, preemption.

MR. WHITE: Can you explain what that is for
the retail investor?

MR. GEROLD: Sorry?

MR. WHITE: Can you explain what preemption is
for the retail investor?

MR. GEROLD: Yeah, sure. Preemption, essentially, and it exists -- well, in the securities
field, where the federal government essentially says this
is our area exclusively and states have no ability to
regulate that portion, whatever it happens to be. In
this case, securities. So it takes us as state
regulators out of the equation. In this case, it would
be as to the registration or any state-based requirements
for finders.

So our concern, well, first is preemption in
general, we have a concern. But, you know, what we see
as state regulators in this area, unfortunately, is we
see a lot of fraud in this area. We see a lot of sale of
unregistered securities by unregistered agents.

unregistered broker-dealers. And perhaps our view is
jaded somewhat because that's what we see. But I guess
the -- does this serve retail investors? Does having
this exemption serve retail investors? Or is it just
serving capital formation? And as a retail investor
forum in our function to protect investors, we have a lot
of concern around that. And primarily, you know, who's
selling what? And without that knowledge, we won't learn
until there's a problem -- we won't find out until
there's a problem.

MR. WHITE: Thank you. And I think we're
running out of time. But, in essence, from what I'm
hearing from the panel, the takeaway is, there are a lot
of people outside of the regulatory framework that are
unregistered but performing potentially broker-dealer
activities, and that's fraught for fraud, affinity fraud
or whatever the case may be. And there are many ways to
bring them into the light. To Faith's point, maybe full
registration is over-costly and overburdensome for these
type of people but there must be some sort of middle
ground.

So thank you very much for highlighting this
for us and we appreciate it.

Lizzie, back to you.

MS. BAIRD: Thank you, Tim. And thank you,
Faith, Chris and Ignacio. And, Faith, especially thank
you for giving a shout out to the Net Capital Rule, which
is another way that Trading and Markets, our brethren who
are not here today, provide various filters to prevent
certain entities from entering the broker-dealer market.

Now, Lourdes is going to tell us about
suspicous activity reports.

MS. GONZALEZ: So thank you, Lizzie. So this
segment of the roundtable is focused on the U.S.
government's use of suspicious activity reports, or SARs
for short, in identifying and combating retail fraud. As
most of you know, the Bank Secrecy Act requires a broker-
dealer to detect and report suspicious transactions
occurring by at or through a broker-dealer above certain
specified thresholds. And those reports are enormously
helpful to the SEC, FINRA as well as law enforcement in
detecting retail customer fraud.

So before we begin, let me introduce our
panelists. And Sarah, let's start with you.

MS. GREEN: Thank you, Lourdes. And thanks so
much for having me. I am global head of the financial
crimes program at Vanguard. But before I came to
Vanguard, I started out, after a brief stint at a law
firm, here at the Commission, developing the program for
compliance with the Bank Secrecy Act for broker-dealers
and investment companies. Followed that by a stint in
Enforcement, running the SAR review program there, where
we reviewed suspicious activity reports. Then came over
to FINRA with Mike, here, and worked on both the
enforcement and the examination programs in the anti-
money laundering area and also running FINRA’s program
that reviews suspicious activity reports. And now I'm
here at Vanguard on the other side of the table.

MS. GONZALEZ: And Jim.

MR. FIEBELKORN: You bet. Also very happy to
be here. Thank you, Lourdes. My name is Jim Fiebelkorn.
I am the anti-money laundering officer and identify
theft prevention officer for Ameriprise Financial, where
I also lead the anti-fraud and surveillance functions.
Ameriprise Financial is a large, publicly traded company
that includes wealth management, insurance, trust bank
and asset management services.

MS. GONZALEZ: And Mike.

MR. RUFINO: Sure, and thank you, Lourdes, and
thank you for the invitation, as well, on such an
important topic. Michael Rufino and I oversee our sales
practice program at FINRA. And a major part of what we
do in our program is conducting examinations of our
member firm broker-dealers, including those branch

offices and the registered individuals that work at those
locations.

MS. GONZALEZ: Great. So, Mike, set the stage
for us. Will you give us a brief overview of the anti-
money laundering, or AML for short, and SAR filing
requirements for brokers?

MR. RUFINO: Sure. With regard to broker-
dealers, as Lourdes said, broker-dealers are required to
have an anti-money laundering program. Under Section 352
of the Patriot Act, it requires broker-dealers to have
such a program. The program needs to be in writing and
designed to achieve compliance with the Bank Secrecy Act
and the implementing rules. Second, having policies and
procedures that can be reasonably expected to detect and
cause the reporting of transactions and the implementing
of regulations thereunder. Third, the designation of an
AML compliance officer. Fourth is having ongoing AML
training. And last is an independent test of the firm’s
AML program.

As part of that, as you can see in the
reporting requirement, Section 356 of the U.S.A. Patriot
Act requires a reporting requirement for broker-dealers.
With regard to that, just to give you a synopsis of what
that is, a broker-dealer must report a transaction to
FinCEN, which is the Financial Requirements Enforcement
Network, which is part of the U.S. Treasury, if it’s
created or attempted by, or through a broker-dealer.
It involves or aggregates funds or other assets of at
least $5,000, and the broker-dealer knows, suspects or
has reason to suspect that the transaction or pattern of
those transactions involve funds derived from illegal
activity or are conducted to disguise the funds or assets
derived from that illegal activity, designed to evade the
Bank Secrecy Act and the requirements thereunder, clearly
serve no apparent business reason. Fourth is not the
sort of activity that the customer would normally deal
in, and there is really no reasonable explanation as to
why they’re conducting such activity. And lastly, if it
involves using the broker-dealer to facilitate the
criminal activity. And that’s a synopsis of both the
reporting and the AML program requirements.

MS. GONZALEZ: Great. And now I’m going to ask
Sarah and Jim to begin and tell me, so what are some of
the typologies that you’re seeing at your firms.

MS. GREEN: Sure. Well, a lot of the
typologies certainly are things that we’ve already talked
about today. I think we filed the most SARs on, I would
say, account intrusion and account takeover. And that
includes both new account fraud, so people stealing
credentials or stealing people’s identity and then
opening up new accounts, and also breaking into existing
accounts, sometimes using credentials, sometimes using
stolen answers to security questions and then developing
new credentials and getting into those accounts.

I will also add that one fraud that we spent so
much time on at FINRA and also the SEC is what I would
call this convertible note that is used with microcap
firms. So essentially what happens is an investor will
loan money to the issuer and the issuer will issue a
convertible note which essentially says, if we can’t pay
you back, we will issue you shares in the -- in the
company. A lot of times, the note is not paid back.
Many times, because the company is not making any money.
So shares are issued. Then the shares are oftentimes
unloaded onto the market, into the hands of unsuspecting
investors. And that’s -- that’s a fraud that we see a
lot and is -- is terrible to see.

I do want to add that you included the
suspicious activity reports portion of this panel. This
is a big way in which law enforcement and regulators know
about all these retail frauds. The woman from the AARP
mentioned it briefly. People are embarrassed to report
to these law enforcement a lot of times. They’re
embarrassed to tell relatives. A lot of times, the only
way we as regulators and law enforcement know about these
crimes is through these suspicious activity reports.

MR. FIEBELKORN: That's right. And I'll add,
echoing Sarah's comments, there is a current typology
that's especially pernicious so I thought I would take a
minute to mention it. It's the latest evolution and it
shows how the bad actors or cybercriminals continue to
evolve their typologies.

We as an industry have spent a lot of time
battling email account compromises, to use FinCEN's term,
where bad actors or cybercriminals would gain control of
retail investors' email accounts. And the fraud that we
saw in the past was the bad actors would use that email
account to send an email to their adviser or registered
representative to try and disburse funds from their
accounts.

As firms have increased awareness around that
typology and implemented controls around that typology,
we've seen the next iteration of that fraud, which I call
real estate email account compromise. And the red flags
here are those same bad actors are gaining control of
real estate agents' email accounts or title insurance
companies or attorneys involved in real estate
transactions, and shortly before a retail investor is
closing on a house or a property, that bad actor will
send an email saying that the account for closing for
those funds has changed. Instead of sending those funds
to bank A as you previously had been instructed, send
them to bank B.

That retail investor gives authorized
instructions to their financial firm to send those
closing funds to bank B, not realizing that bank B
account is actually controlled by the bad actor. And
this is a fraud that we've seen, that we know many other
firms have seen, and therefore we're spending a lot of
time trying to educate our employees, advisers and
clients about it.

MS. GONZALEZ: And then, Mike, do you have
anything to add?

MR. RUFINO: Just for the most part, as Sarah
said, a lot of what we do see is on the microcap
securities side. What we do at FINRA is, on an ad hoc
basis, depending on our examinations, if we do see
underlying problematic behavior, we will go to the SAR
database, we will see whether the SAR has been filed by
the firm or other firms. So it's important as something
that we see, because that's something that we're looking
for in terms of fraud against retail investors.

MR. ZINN: Lourdes, I'm so sorry to break in,
but to the extent that we're talking about -- sorry --
about these kinds of funds in the OTC market, I think
certainly with that kind of stock loan fraud you're
talking about, a lot of times that is involved with a
pump and dump scheme as well, where the lender is trying
to increase, you know, the number of shares. All they
want is a liquid market, basically. And one of the
things we have sort of talked to the SEC about, that I
don't know if it would be helpful in the way you think
about it, is looking at promoters and increasing the
disclosure required of promoters and making sure that
when that activity is being engaged in, when the pump
part of the pump and dump is happening, that might help
you backfill and sort of see who's -- you know, who's
responsible, who is working with those bad actors.

It's sort of tangential but your comment made
me think about that potential unfortunate solution.

MS. GONZALEZ: So I checked down with the folks
in Enforcement. There's a SAR review group, it's called
the Office of Market Intelligence within the Division of
Enforcement and I asked them what we are seeing here at
the SEC, and this is what they told me from the SEC's
perspective in SARs that are being filed. Ponzi schemes,
or Ponzi-like schemes involving misappropriation of
funds, offering frauds involving retail investors who are
unsophisticated, unaccredited or solicited to participate
in the offering in connection with they're members of an
affinity group, such as seniors or specific ethnic or
religious communities. Also seeing pyramid schemes,
which are really multilevel marketing opportunities.
Initial coin offerings involving fraudulent conduct in
the solicitation of investor funds. Also seeing more SAR
filings from brokers with investment adviser platforms.
The suspicious activities in these SARs include cherry
picking, elder exploitation, investment fraud, excessive
fees, other activities such as breach of fiduciary duty,
failure to disclose material facts to clients about
private investments. So quite the range in the SARs that
the SEC is seeing.

Let me switch to the next topic which is
detecting retail fraud at your firms. So the SAR
requirement is very broad and requires reporting of a
wide range of suspicious activities. So, Jim and Sarah,
in your AML program, how do you detect potentially
suspicious activity involving fraud directed at
individual investors?

Now, you have two very different firms here.
Are the detection methods different than those that you
would use in, for example, market manipulation? And,
Jim, let's start with you.
MR. FIEBELKORN: That's right, absolutely. I
often describe AML and antifraud as two halves to the
same coin. From an AML perspective, we are trying to
prevent our firm's platforms and the U.S. financial
system from being exploited by bad actors. From an
antifraud perspective, we're trying to protect clients
from being defrauded. Nonetheless, the way that we
identify and surveil for AML and antifraud are very
similar. Therefore, we've combined much of our antifraud
and AML operations to make sure that we're leveraging
technology, the case management systems are very similar,
the investigations that our teams conduct are very
similar. So there's a lot of overlap between AML and
antifraud. But there are a couple of key differences.

Typically, in AML, we're looking for patterns
over time for large amounts of money moving through an
account. From an antifraud perspective, we're much more
interested in analyzing transactions on a one-by-one
basis in almost real time, because the goal is to try and
prevent unauthorized money from leaving the firm in the
first place. So a lot of overlap but a few differences.

MS. GREEN: Right. I would add, so in your
typical what you might think of money laundering schemes,
we rely on a lot of automated surveillances to look at
things like sudden change in activity. For instance,

maybe a senior investor who is buying a microcap stock
for the first time. We would certainly look at things
like international wires, when they haven't been sent
before. Unrelated customers all sending money to the
same place, that can be an indication of, for instance, a
Ponzi scheme or an unregistered investment professional.
That's for more, I would say, common money laundering
scenarios.

On the fraud side, when we think of the account
intrusion and so forth, our most important detection
scenario is people. It's the people on the phones, it's
the people looking at, say, when people come into their
account online. They're picking up the phone, they are
submitting internal referrals to us and telling us that
something doesn't seem right.

And for this reason, it is critically important
within a financial institution such as both of ours that
we train everybody on the indicia of retail fraud and we
have policies and procedures and quality assurance to
make sure that when we are receiving indicia of fraud in
all areas of the firm, that those people know to give us
a call and let us know about it and that they are
escalating the types of things that we need to hear
about.

MS. GONZALEZ: Great. This leads me to my next
question which is a particular challenge, I think, in a
lot of firms. Often, when we see that something goes
wrong at a firm, it wasn't that the suspicious activity
was missed entirely, it was that the information formed
the basis of a SAR didn't get to the right group. And
how do you address this problem at your firms?

MR. FIEBELKORN: That's right, Lourdes.
Several different ways, echoing what Sarah just said in
terms of training and education. We provide AML and
antifraud training to all of our employees, broadly. And
then, as new fraud risks or trends emerge, we will do
targeted trainings with the groups in the firm that would
be most likely to experience them, typically in an
operational area like new account openings or wire
processing.

Ameriprise is fortunate to have a business
model where our advisers typically meet with clients face
to face. It's a financial planning relationship. They
have a deep knowledge of our clients' financial needs.
And therefore, they are very well positioned to be able
to identify financial transactions that are out of
pattern for the client and refer those. So we spend a
lot of time making sure that all of our employees and
advisers know how to refer, to make sure that information
is getting into the hands of AML and antifraud.

A couple of other methods that I'll mention.
Number one is systematizing high-risk transactions like
Sarah mentioned. Human referrals, referrals where people
are always valuable but for those transactions that we
know are high risk, trying to implement technology so
that they're reviewed beforehand, so you don't rely on a
person having to push a button.

I think it's very important for our industry,
financial firms, to be talking with each other and talk
about new risks that they see emerging, because that
helps protect our firms and helps protect our clients.
And we're also seeing a trend in the industry where
vendors, third party vendors, are providing fraud-related
services, where they aggregate information that might be
indicative of fraud, such as devices that have been used
for fraud, bad IP addresses, bad phone numbers,
collecting that from financial firms, anonymizing it and
then sharing that information back down so it can become
a source of intelligence that a single financial firm, in
and of themselves, wouldn't have.

MS. GONZALEZ: Great. So, Mike, I want to turn
to you and talk a little bit about how SARs are used from
the FINRA perspective and how valuable they are. And
before I do that, I want to preface it and explain how
SARs are used from the SEC perspective and the sort of
review that we do.

So the SEC aspires to review all SARs by broker-dealers as well as other financial institutions that report on potential securities violations. There's also a SAR filing hotline for more serious tips and we urge people to use it. It's 202-551-SARS. Talking to our Enforcement colleagues, they told me that in the past year, past fiscal year, the SEC reviewed approximately 30,000 SARs which were a combination of securities, bank and money service businesses. And they do one of three things. They may do a triage process where they look at SARs individually, they may do an analytical process where they aggregate large groups of SARs looking for trends, and the third way is they do a daily proactive search where they look for certain securities-related categories of SARs.

So, Mike, I am going to turn it over to you because you're our partners in this effort. How does FINRA use SARs and review SARs?

MR. RUFINO: Sure. And first, as you said, we are partners in that. And of all the reviews I've been involved in over the years, the partnership that we have with the SEC in terms of making sure we're lockstep on conducting reviews, making sure that we're consistent, has really been kind of, in my mind, you know, the kind of like the model for what we can do from a coordination perspective.

With that being said, we know that the industry spends a lot of time, effort and money on their anti-money laundering program. But when you look at the end goal of protecting retail investors, it's really money well spent. And I'll share with you some examples as we go.

When you look at what we do, we conduct, as I said before, many examinations in a given year. And what we will do is we have a program rule, our Rule 3310, FINRA Rule 3310, is an AML program rule. As part of that review, we will look at underlying activity. We will try to identify what might be some high -- you know, high kind of not suspicious but questionable activity that we want to ask questions of the firm. We'll test a firm's systems. And what we'll sometimes do is we'll identify what we -- well look at money movements.

In this one example, we saw some money movements that were somewhat questionable. When you see a multitude, you know, wiring money, say, to the same account, the question is why. Many brokers will have outside business activities. So when you look at their U4 and the question is -- and sometimes it's outside activity that the firm is unaware of and they're never told about it.

In this one example, we had money movements that were somewhat questionable. We went to the SAR database and realized that a bank had also filed a SAR with regard to this individual. And when you read the narrative of the bank, it really gave us a lot more information that really helped us uncover a Ponzi-like scheme on an investment fraud.

So when we look at the importance of it, sometimes you may be filing it, looking at it as activity in your respective financial institution. But from a law enforcement, regulators, sometimes other activities -- we're looking at it through the lenses of one broker-dealer. But if we see that it's going on elsewhere -- a lot of conversations today are microcap. Well, microcap happens, there's a buy and a sell somewhere, activities, money movements going through. Because the name of the game is to move the money sometimes through the financial system. And if you can muddy the waters a little bit, then you want to move the money, you know, to, you know, the end -- the end state. So when we see these SARs being filed, it's invaluable to the regulators, invaluable to law enforcement.

And I know sometimes firms will kind of raise their hand and say, is it really being utilized by the regulators? I will assure you that it's being used day in and day out.

MS. GONZALEZ: Thank you, Mike. So I often think of SARs as only as useful as the information that is on the SAR. Is there information from your perspective that is often omitted that you wish were there?

MR. RUFINO: What sometimes happens, Lourdes, is -- first and foremost, as you said, the narrative is paramount to the SAR. Those checkboxes are very important. They're also critical for doing analytics because you can analyze off a checkbox. It's harder to do off narratives without kind of machine learning or artificial intelligence. But the narrative is critical, critically important, when you look at overall a SAR.

Sometimes what happens is we'll see -- they'll list the transactions in the narrative but they won't say why the activity is suspicious or why they have concerns. So it's great to have all of that activity but without the underlying rationale -- because the institution is going to know best why they think it's suspicious and why they're filing the SAR. So the more that you can take the time and effort to identify the activity, the individuals involved and inviting a clear, concise and
MS. GONZALEZ: Thank you, Mike. For our part, we work with the broker-dealer community. I've worked for a long time with Jim and Sarah. I've also worked for a long time with Mike on these issues. And we continue - - we look forward to continuing that. We also represent the SEC internationally, so there are a lot of players here. But we learn from you, so we're very grateful for that.

And with that, I'm going to turn it over to...
Lizzie.

MS. BAIRD: Thank you, Lourdes. And thank you, Sarah, Mike and Jim. And I want to thank all the panelists for helping us to paint the picture of how protections are provided to retail investors through the requirement for disclosures and reviews before a security can be quoted, for registration requirements, for entities engaged in the securities business, and even how registered entities help us to surveil for investors who may be engaged in illegal activity.

This discussion will continue at 2:00 with our final panel. We are going to take a quick break now until then. Thank you.

(Whereupon, at 1:00 p.m., a luncheon recess was taken.)

AFTERNOON SESSION

MR. SABELLA: Okay, I think we're going to kick off, if folks can find their seats, please.

Great, so I would like to welcome everyone back who has been with us since this morning. And for those of you who weren't, welcome.

My name, for those of you who aren't familiar with me, I'm Christian Sabella. I am the other deputy director for Trading and Markets. I know that Brett Redfearn and Lizzie Baird were here this morning. And so I'm happy to see her again.

I am the third piece of that puzzle.

We're looking very much forward to today's third and final panel, scheduled for about an hour and 30 minutes, focusing on transfer agents, trading halts and investor education. And that's why we have such a long table of panelists who are here today and we will work our way down and thank everyone again for agreeing to participate.

Before we get into the meat of this, I just want to introduce the panelists -- or, sorry, the moderators who will be helping facilitate the discussion today. So immediately to my left, you have Moshe Rothman, who is an assistant director in the Division of Trading and Markets. He will be moderating the transfer agent subpanel with the assistance of Mark Saltzburg here as well.

For those of you who aren't familiar with Mark and Moshe, they are part of the team that spearheaded the Commission's 2015 concept release and advanced notice of proposed rulemaking on transfer agents. So this is part of the core team in Trading and Markets dealing with those policy issues.

Once we move beyond the transfer agent issues into trading halts, the moderation will turn to lady to my right, Racquel Russell, who is an associate general counsel at FINRA and also former alum of the Commission Staff, so we're happy to see her again.

And then finally, we'll be closing out on the investor education piece with Owen Donley, who is just sitting to the right of Racquel, who is the chief counsel in the Office of Investor Education and Advocacy and will be moderating that final panel.

So let's jump in right away. So the first subpanel discussion will focus on transfer agents. And we know there's a whole range of issues to discuss with respect to policy matters and transfer agents, given the focus of today's roundtable on measures to prevent retail fraud. We're going to try to keep the discussion very much on the point of that theme. But in particular today, I think we're looking forward to discussion about the role transfer agents play in removing restrictive legends.

For those of you who follow this space, you would be aware that transfer agents will provide services to issuers of restricted and control securities and they're generally responsible for processing requests from selling shareholders to remove these restrictive legends in connection with the intended resale of the securities by the owners. Now, if the transfer agent improperly or inappropriately removes a legend, the result could be the facilitation of an illegal public distribution of securities and that could harm investors, including retail investors. And this is a topic that was discussed in not a small amount of detail in the 2015 advanced notice of proposed rulemaking and concept release. And so I don't have to say that mouthful again, we will just refer to it as the concept release.

But for today's discussion, as I said, we're going to focus on some of the issues related to transfer agent processes for removing restrictive legends and potential regulatory or other solutions that may be implicated with respect to how these issues interact with the problem of retail fraud.

And so with that, I will turn it over to Moshe to take us further into the discussion and start off the dialogue with the panelists.

MR. ROTHMAN: Thanks, Christian. Before I turn it over to the panelists, I would like to just set the stage for the discussion of this subpanel today. I don't think it will come as a surprise to anybody who is familiar with this space that curbing illegal distributions of securities in violation of Section 5 of the Securities Act is a priority here in Trading and Markets and more broadly within the Commission.

The Commission has brought a number of
enforcement actions in this area, often involving small microcap companies. In some of these transactions, a key step in the illegal distribution is the removal of restrictive legends to make what would otherwise be restricted or control securities freely tradable. In these instances, transfer agents may be positioned to serve as a gatekeeper in preventing the fraud, due to their role in processing those requests for the removal of the restrictive legend.

While we recognize that this is a complicated area that, on its own, could probably merit its own full-day roundtable, for our purposes today we would like to focus on two areas in particular. First, we’d like to hear from our panelists about their day-to-day practices and experiences regarding legend removal. And second, in light of those day-to-day practices and experiences, we’d like to hear their views on some of the potential policymaking solutions that were discussed in the concept release that Christian alluded to. It’s our hope that through this discussion today we could gain further insight into the many different perspectives on and potential solutions to these complex issues.

So before we begin, I’d like to turn it over to our panelists so they can introduce themselves. David, if you don’t mind, let’s start with you.

MR. FRANZ: Robert Franz from Broadridge. I’m the general counsel and chief risk and compliance officer for Equiniti Trust Company, doing business as EQ by Equiniti. We are the business that used to be known as Wells Fargo Shareowner Services. We changed ownership back in February.

MR. HARMON: Mark Harmon. I’m a partner at Hodgson Russ’s New York City office for the last 25 years. And a substantial portion of my practice has been representing transfer agents that don’t have in-house counsel and assisting them in review of issuances, legend removals and compliance with state and federal law.

MS. MANNING: I’m Andrea Manning. I’m corporate counsel at Computershare. I’ve been at Computershare for over 20 years now in the TA industry. I’m also the cochair of the Securities Transfer Association Legal Committee.

MR. ROTHMAN: Thank you all and welcome. So to start the discussion, we thought it might make sense for each of our transfer agent panelists and, Mark, maybe your experience with your clients, start with maybe a discussion of what your firm or your clients do when they receive requests to remove restrictive legends on restricted securities.

What’s the standard practice in sort of the day-to-day, run-of-the-mill legend removal requests? What do you do to process the transaction? What does it look like from your perspective? And if you have specific examples or anything like that, it might help set the table for what the normal process might look like and that will help us get into some of the trickier, thornier issues that we see in this space.

MR. BECKER: Sure. So I’ve been at three different transfer agents, actually four if you count one that was in a merger. A couple of things we do — and remember that transfer agents by law, according to the Securities and Exchange Act, are -- take their actions on behalf of the issuer, not on behalf of the shareholder. So that’s the first thing we have to keep in mind.

But when we get in restrictive legends that have to be removed, we get in the letters, what do we actually do with those? So the first thing we do is we review the letter to make sure it’s consistent. Does it actually say what it’s supposed to say? Does it have the required time parameters of ownership? Does it say everything -- does it look professional? Let’s start with that.

What we also do is we check -- and we started this ourselves several years ago at a prior transfer agent and I’ve carried it forward to where we are today.

We check a list of attorneys who have been sanctioned by the Commission, particularly for bad 144 letters. And there’s a number of those that we’ve uncovered. But, in addition to that, and something that we uncovered -- that we discovered just a little while ago, is that one of the market participants, OTC Markets, actually maintains a page that has bad attorneys and bad accountants and others, and we do look at that as well to make sure we didn’t miss anybody. So we do look for all of that as we go through it.

Once we do that, we then move forward with the processing of that, depending on how we feel about that letter. And if we have questions, we do look further into the letter itself. We might look at the law firm or the lawyer involved to make sure we’re comfortable with them.

I’ve never been a big fan of the lawyers who advertise themselves as 144 lawyers. There’s a couple websites out there like that. I’ve never been a big fan of those because I think they’re just shops that are just doing this quickly and possibly inappropriately, although not always inappropriately. But we do like to check those as well.
MR. FRANZ: At Broadridge, we also have a practice where we check the Department of Justice list of disbarred attorneys. We check the OTC Markets list that David mentioned. We do a quality control review of the opinion. Is it addressed appropriately to the transfer agent, as opposed to the issuer. We can make exceptions there, if need be. Does it address all the points that are required to qualify for the exemption, things like the holding period, the volume limitations, the reporting status of the issuer. The presentation will also include a broker’s rep letter for affiliates, a seller’s rep letter, and we'll quality control all those documents and make sure that everything relates to the same transaction because those things can get mixed up.

You know, I don’t want to add anything, Mark.

MR. HARMON: So speaking for the smaller agents and clients, it would be a lot – the world would be a lot easier if all they got were 144 opinions, because those are really straightforward and they receive the opinion, they make sure that the opinion matches to the information they have, they do as much as they can to obtain documentary evidence on shareholder representations, broker representations. But the real issues, I think, for them, the challenges for them come because of the Rule 144I exclusion for former shell companies. So it’s very difficult to make that determination when you’re getting conflicting information. They do what they can to determine that. They then have to deal with 4(a)(1) opinions for shares having come to rest if they can’t qualify for the 144 safe harbor.

But beyond legend removal and something that wasn’t mentioned in terms of this space are the issuance requests that come for free-trading stock other than through registered shares. And that frequently involves debt conversions, 3(a)(10) offerings, and a myriad of other scenarios that people can try to come up with. The problem for the smaller agents then is they try to get information but don’t have any authority to compel providing information, so they’re stuck between trying to amass the information and their duty and obligation to effect the transfer because, under state law, the failure to remove the legend is a violation of state law and exposes them to liability for conversion damages or delay damages on the value of the stock.

MS. MANNING: I don’t have too much more to add. I mean, I think, you know, we all look for opinions, we look for rep letters. Because Computershare is one of the largest TAs in the country, and so we process thousands of restricted stock items a year, so we have a very detailed guide for various scenarios for our staff that we train them on, so that they can, you know, maneuver their way through the various scenarios.

As indicated, Rule 144 are the kind of easy, vanilla transactions. But we have a lot of things that kind of go outside of that. Reg S, for example, has become more common. 144(a). So there’s a variety of other exemptions and abilities to remove restrictive legends, so we have a very detailed guide that goes through various scenarios in terms of what to look for those transactions.

MR. ROTHMAN: That’s really helpful. I think one of the things that, at the Staff level, we’re interested in and we’ve talked about internally is, it seems like a lot of the recommendations deal with the Rule 144, kind of the standard exception. So a lot of the potential solutions maybe might gear towards that more routine, easier transaction, if you will. So I heard everyone kind of allude to this easy - easy situation. But Mark and Andrea, in particular, you guys mentioned sort of these outliers or these additional situations.

I think one area that would be helpful and we think might be worth discussing is what do you do in those? How does the process look different? What changes? What additional steps might you take or different steps might you take if you’re not dealing with a vanilla 144 request or something like that?

So, Mark, if you see anything in your area that you can speak to that? And I would invite any of the other panelists as well to jump in. I'm sure you all see those as well.

MR. HARMON: So debt conversions or the use of debt to create tacking of holding periods is a particular problem. I know one of the markers for my clients in reviewing those is getting evidence that the debt was actually incurred and that it's not just a debt, but that it was actually a security because the tacking is based upon the exchange of one security for another. So there’s an effort on the part of the agents to obtain independent evidence that consideration was paid.

In the 3(a)(10) space, I know that you need to get a copy of the court order and look at the background between the court order and then you try to take a look at the parties to the litigation that led to the issuance of the court order. Because too frequently, these actions are brought in really small courts where the judges are not familiar with securities laws, don’t understand the idea of a fairness hearing and are just happy to get the case off their docket and sign an order.
So it creates, again, a particular problem for agents trying to do their job who would reject that request and then expose themselves to the potential liability of the loss of a customer because they're trying to get information that they don't necessarily have a right to get but that they think that they need in order to create a good file.

In most instances, I think that they create or try to create that file but they could use some assistance in protecting them, A, in getting the information they need, making sure that they have a right to get the opinion of counsel, that the opinion matches, and also removes them from the difficult position of having to be exposed to liability if they're trying to do their job and question the propriety of the opinion or the issuance request.

**MR. BECKER:** Well, I think it goes beyond just the potential risk of loss of a customer. There's also a conflict between what we have to do in the eyes of the SEC in terms of monitoring the transaction that's coming in and what state law mandates. There's a conflict in that area because state law mandates that unless we see something overtly wrong, we're supposed to act on it and process that transaction. And that's not what the Commission and the industry expect from us. And that leads to a major issue.

**I know that came up in some of the comment letters that were sent in in response to the concept release.**

**MR. SALTZBURG:** I'd like to ask one follow-up question. Robert, you mentioned some of the issues that are attendant to control securities that are held by an affiliate, like volume limitations and the reporting status of the issuer and the holding period. I just wanted to focus a little bit more on where there's an affiliate and a controlled securities situation. Does that -- that's a more complex situation than when you have a nonaffiliate and the holding period is met.

Are there additional steps in your standard practice that you use to examine and address those issues?

**MR. FRANZ:** So we do have a policy procedure guide that outlines all the different scenarios for removing restrictions as it relates to affiliate versus nonaffiliate for 144 restrictions. The bigger difference, really the most material difference between the documentation requirements is the broker rep letter, what you need for the affiliate versus the nonaffiliate.

And that's where the broker attests to the fact that it's an ordinary brokerage transaction.

But I think that's the biggest difference. But the importance, of course, is on having the staff -- I think Andrea mentioned having a guide for the staff to follow that, you know, when something is called into question, most of it is addressed in the policy and issues can be escalated to counsel or internal compliance for review.

**MR. BECKER:** Yeah, I mean, along those lines, remember that our employees are not generally -- they're rarely registered individuals. They don't have extensive training in the federal securities laws and rules. They perform administrative tasks. So we have to give them outlines of what to look for.

But, of course, when an anomaly arises, it's going to raise questions. And that causes delays which can lead to further issues as we go down the road.

**MR. SABELLA:** I just wanted to drill into one topic that I think David unearthed initially, which is the ability to get the information in the first place.

So focusing on -- forget about like if you get all the information and you see some anomalies or something, but even the right to get information in the first place.

How important is that, do you think, for each of the panelists, to your ability to do the work you need to do in this area? In other words, recognizing UCC Article 8 does put pressure right on you from a state law perspective to move things quickly, you know, how helpful would it be if basically you had a firmer ability to get the information you needed sooner rather than later so you could move along. As opposed to, well, even if you get the information quickly, it's still going to be a complex facts and circumstances process?

**MR. FRANZ:** I think the first thing it does is it addresses kind of the headaches that arise between the agent and its client in pushing for the information. Or, you know, the shareholder and the issuer in being asked for the information. So a lot of times, you'll get pushback because they feel that the documentation they've supplied is sufficient and there's no reason to push further. And now, as I think all of us have mentioned, there's the conflict between needing to do the transaction timely and needing to ensure that it's done properly. And I think that having a regulation that specifically points to requirements in this case, it makes it easier for the transfer agent to push.

**MR. HARMON:** I think it would be incredibly helpful to have that. I cannot tell you the number of calls I get from disgruntled shareholders saying that XYZ transfer agent doesn't require that. And fortunately, many times, I also represent XYZ and I know that that's...
not true. But still, that's something that you hear all the time. "Why are you asking for this? Nobody else asks for this." And if there were some assistance in saying, this is what you need and the transfer agent has the right to ask for it, then they would have a much easier time doing their job and, in my view, most of these agents are trying to do their job.

MS. MANNING: Yeah, I agree. Because sometimes, you know, we'll get a legal opinion and it has absolutely no detail in it. You know, they'll just say, You know, fortunately, we do get a lot of agents -- for which transfer agents might be liable and moment addressing how much time and resources do you do in your legal review process and some of your policies. I'm sure, you've been referred to as an antifraud approach, if you will. To lay out you have to have A, B, C, D, E, F, G. But I think if it was to be set up in such a way that it acted more like a safe harbor, as was suggested in some of the comment letters, particularly the STA letter to the concept release, where as long as you have A, B, C, D, E, F and G, you have some protection against liability. That might be more helpful than a prescription that says you absolutely have to have and get A, B, C, D, E, F, G.

MR. SALTZBURG: One quick follow up before we get into those issues about potential policymaking solutions, David and Andrea and others, you mentioned your legal review process and some of your policies. I'm just wondering if you could just spend very quickly a moment addressing how much time and resources do you spend on the legal review and then, you know, beyond the legal review, of the opinions and other supporting documents, do you do independent due diligence, you know, outside the four corners of those documents?

MS. MANNING: Our process to kind of go outside is really when we're getting shareholder counsel opinions, rather than an opinion from the issuer's counsel. In those situations, we do take a closer look, is it a national law firm, is it a small solo practitioner who is giving the opinion? We will look into make sure they're licensed, make sure they don't have disciplinary history.

You know, fortunately, we do get a lot of opinions from, you know, a lot of the larger firms. So those don't, you know, usually have the same scrutiny. But certainly, if it's not coming directly from issuer's counsel, internal or external, we do take a closer look at those opinions.

MR. BECKER: Agreed. We try not to have to go outside the four corners if we don't have to, because that just opens us up to a greater amount of additional work, delay. But if we have to do it, we will do it, depending on the circumstances.

MR. ROTHMAN: Thank you for that. I think just sort of pivoting off of something that David mentioned in terms of the safe harbor and some of the other potential policy solutions, one of the -- as I think you all know, in the 2015 concept release, we discussed three potential policy solutions in this area with respect to transfer agents and their role in removing restrictive legends. The first approach would involve a standard that prohibits transfer agent negligence in facilitating illegal distributions, such as by removing legends while being aware of illegality and turning a blind eye, or being ignorant of apparent illegality. This has sort of been referred to as an antifraud approach, if you will. The second approach would be more flexible and principles based, creating a standard that would require transfer agents to adopt policies and procedures addressing how they process restricted securities. And the third approach is the one that you alluded to, David, with -- that would create a safe harbor for potential participant liability for illegal distributions if a transfer agent took certain steps in processing those restrictive legend removal requests. And another approach that has been discussed that we've seen in comments and talked to among industry participants is that the Commission might mandate legal opinions in all restrictive legend removal situations. I'd like to ask each of the panelists, just in your view, if you have a particular view about any of these approaches, if you think any of them have particular merit from a cost/benefit approach or a practicality approach. And specifically, how -- in light of that view, how do you understand that that particular approach would work in practice for how you guys do things?

MR. HARMON: So the first option, I would say, sounds like it's already covered by application of potential violations of Section 5, to which transfer agents -- for which transfer agents might be liable and
for which they've been held liable in various situations, and probably increasingly in the recent past. And I think that agents are already very aware of the potential for being charged with a Section 5 violation if they don't act in good faith. So I don't know that layering it on with a specific rule is going to make a lot of difference.

Having specific policies and procedures is difficult because of the myriad of options for legend removal or issuance free trading would make it virtually impossible to cover every area. And so you could have a generalized policy and procedure talking about due diligence but the specifics of it aren't going to work because it's something new every time.

So I -- you know, I think that those two probably are not good. I think it absolutely would be helpful to mandate that an opinion is required, whether it's a shareholder's opinion, which creates more problems, or issuer's opinion, but the requirement to have an opinion would at least give the transfer agents leverage when they go to somebody and say, we need an opinion that fully covers every aspect of this, so not just an opinion, as Andrea said, that said we think that this is okay, but an opinion that addresses tacking, that addresses affiliate status, shell status, everything that is on the checklist for what you need to do. So that, I think -- that, together with authorizing transfer agents or just recommending that transfer agents have the ability to get independent support for that would go a long way in assisting transfer agents in fulfilling the gatekeeper function that the SEC imposes on them.

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have to go back at someone and tell them you have to get the letter that you haven’t yet given us. And now they have to go out and get that letter. And the expense of it is something they should have borne from the beginning anyway. So I don’t think that’s a major concern as we look at it.

MR. HARMON: So the removal of a legend is a nonroutine item to begin with and doesn’t fall within the guidelines for the processing of routine items. So built into the concept that you’re removing a legend is that it’s going to take some time.

Putting the onus on the presenter and requiring an opinion that fully deals with all of the requirements for the exemption shifts the burden onto the shareholder and the potential fraudster and the fraudster's lawyer to do the work that you asked the transfer agent to do but without the transfer agent having the authority to do it.

So the transfer agent retains whatever due diligence it has in reviewing the presentment but now you've created a real burden for the presenter and the presenter's attorney to do that due diligence as well and not just make a presentment that superficially looks okay and then requires the transfer agent to dig down into it.

MS. MANNING: I definitely agree with the safe harbor. I'm not sure that I agree necessarily with mandating opinions in every scenario. Because I think -- I can't speak for the other agents here but there are certainly, I think, less risky transactions, a nonaffiliate that's held for a year, I can't speak to others' practices but there are certain transactions, gifting scenarios, that, you know, to require an opinion in some of those scenarios, you know, I'm not sure I'd want that mandated. You know, I think to Mark's point, you know, you are now creating an expense for a scenario that not every agent may decide they want to ask their client for or the clients are going to push back on.

And we all know opinions are extremely expensive, especially the law firms. A lot of them don’t even want to give opinions. We have certain major law firms that have essentially refused to give a legal opinion. They'll give us an instruction and an authorization to release a legend, but they will refuse to provide an actual legal opinion.

So I think mandating versus a safe harbor, I think there is a distinction there. And I -- you know, my view is I think the safe harbor is the better approach. It gives agents a little bit of discretion for those transactions where they feel it might not be necessary to get a legal opinion.

MR. COULSON: Just, you know, from my side as a market operator downstream, you know, we published a list of attorneys who didn’t do the work and, you know, part of it was we got them to sign a letter saying they'd indemnify us if they sued us. Which, you know, an attorney then who threatens to sue you after indemnifying you is probably -- that’s another tell that they’re not the greatest attorney. So we put that out to the market and turned on a bunch of things and actually John Palisi was running the micropack efforts back then and really turned on an underbelly that needed to be worked on where the work wasn’t being done by lawyers.

But, you know, from the market operator standpoint, the problem we see is both sides. You know, number one, it's a cost issue. You know, for JOBS Act, crowdfunding Reg A, you know, these are distributed offerings that need to have a cost-effective way to get into the regulated broker-dealer community. And, you know, a $1,000 opinion on a $200 investment is not going to work.

The other part though is we're seeing blunt force of brokers and clearing firms not accepting any shares that have had their restrictions lifted. These are fully SEC reporting issuers and, you know, right now they've done it to OTC securities. But since we've seen

the recent Honig case which the SEC brought, these take place in smaller exchange, NASDAQ and NYSE MKT securities, so the risks are going to be there for brokers and clearing firms as well.

And unless we figure out a way to create the transfer agents be trusted recordkeepers that give the information brokers need to be able to fulfill their duties, you know, this is all just wasting time. Because the brokers just aren’t going to accept it.

And, you know, it's been a little frustrating for us to watch, because we would think there should be differentiation between many transfer agents have really high-quality processes and some don't. So how do we get to a level that transfer agents are providing the level of information they need to brokers so they can do what they need to do? And then when it gets in the brokerage system, we've got other work to do. But that's another panel.

MR. SABELLA: Thanks for that. I'd like to thank all of you for your comments. I think, Cromwell, you've highlighted how complex this area is and how much thinking we have to do. So we really appreciate your time in contributing to that conversation.

I think we have just a few minutes left. So I would like to, if any of you have any closing comments or
final thoughts you’d like to share, I'd like to offer that opportunity and thank you for your time.

David, we'll start with you.

MR. BECKER: I want to thank the Staff for the opportunity to be heard on this issue. This is obviously a very significant issue for us as transfer agents. I think as you move forward, hopefully -- hopefully -- with the ideas that were raised in the concept release, this will lead to much more extensive discussion between all of us.

I think including Mark to get the perspective of the smaller transfer agent was really a very good idea. Because you normally just hear from the big guys, and it's good to get that other perspective. So thank you.

And, look, you all know that the STA and the individual members of the STA are all very interested in this topic and others and stand ready, willing and able to do what we can to help you get to where we all need to be as we go forward. So thank you.

MR. FRANZ: I just want to echo David's sentiments. I mean, thank you for the opportunity for the dialogue and certainly look forward to future dialogue and all of those entities that David's mentioning all ready to talk about this openly, so look forward to making good changes where it's appropriate.

Mr. Harmon: Right. So, of course, thank you. And I appreciate the opportunity to be here. And, of course, I'm available for follow up. I would use my few minutes or few seconds left to make one final plug to help transfer agents or protect transfer agents from lawsuits when they are trying to do the right thing by rejecting a transfer because they don't think it's compliant with federal securities laws and are between that duty to the SEC and the securities laws and the state law obligation to process the transfer. And so they subject themselves to large liability, even if they win the case, having to pay lawyers to protect them, which can be an onerous burden on the smaller agent.

Ms. Manning: I also want to thank the Commission for inviting me to participate in this. It definitely is a very important topic for transfer agents. I have to say there's not a day that goes by that I don't get pulled into some restricted stock transfer issue at Computershare, whether it's pushback from clients, having to talk to clients to explain to them why we need an opinion, it's a problem that's not going away. So, you know, really appreciate the opportunity and hope that we'll have some rulemaking soon.

Mr. Becker: And I see Eric out there. It wouldn't be appropriate to have a meeting between the transfer agent community and the division without mentioning escrowment and loss shareholders, so I will just throw it out there. You guys know what I'm talking about. It's a topic that we raise at every meeting with you and I can say for the record it was raised today.

Mr. Sabella: Well, as everyone knows, there will be a public transcript of this roundtable, so that will be duly noted in the record, David. So thank you for that.

And the reference is to Eric Garvey, who heads up the OC transfer agent program, who is sitting over in the audience right there. Just raised his hand.

So I will thank Moshe and Mark for leading the panel through, I agree, a very fruitful discussion. In many ways, I think, you know, and we'll do a wrap up later, but, you know, familiar echoes of comment letters. But always helpful to dig down deeper and refresh on that.

I think without any further delay, I will now turn the mic over to Racquel Russell and ask her to launch us into the trading halt panel. Thank you, Racquel.

Ms. Russell: Thank you, Christian. I am pleased to be here discussing this important topic, a topic that is important for FINRA, investors and for our membership.

As part of FINRA's oversight responsibilities, we do have Rule 6440, which provides authority to impose trading halts in OTC equity securities under limited circumstances. The rule generally provides that, when it's necessary to protect investors and the public interest, FINRA is permitted to halt trading in three general buckets of cases. The first one is a foreign regulatory halt. This is where the stock is trading OTC here in the U.S. but it's listed overseas and subject to the regulation of a foreign jurisdiction, who then halts a security and we follow that there. The second one is a derivative halt. This is where the OTC equity security is a derivative or a component of a security that's listed and that listed security is halted. Then we, for reasons of price discovery, et cetera, we halt the related OTC equity security. And the final category is probably the one of most interest today, which is the extraordinary event halt. This is where FINRA determines that an extraordinary event has occurred or is ongoing that has had a material effect on the market for the security or has caused or has the potential to cause major disruption to the marketplace or a significant uncertainty in the settlement and clearance process. And
Once FINRA provides notice of a halt, quoting and trading by members is prohibited until FINRA provides notice that the halt no longer is in effect.

Some of the factors that FINRA considers under our rule to determine whether or not imposing a halt is appropriate are the nature of the event, whether the material facts surrounding the event are undisputed and not in conflict, whether or not the event has caused widespread confusion in the marketplace, whether there has been a material negative effect on the market for the security, whether the potential exists for a major disruption to the marketplace and whether there is significant uncertainty in the settlement and clearance process.

And in addition to halts declared for any of those first three prongs, we also halt whenever the SEC issues a trading suspension. Due to the fact that FINRA does not have a direct relationship with issuers, FINRA's halt authority historically has been used in limited circumstances.

To get into the discussion further today, I'm happy to introduce our panelists. We have a great representation, cross section of regulators and market participants here.

We have Chris Stone, vice president of Transparency Services at FINRA; Christy Oeth, chief compliance officer at Virtu Financial; Cromwell Coulson, president and CEO of OTC Markets; and Michael Paley, assistant regional director, Division of Enforcement at the SEC.

I would like to start off by asking each of you to just provide us a bit of an overview of your touchpoints in your role with trading halts and your high-level observations on this topic as it concerns retail investor fraud.

I'll start with you, Cromwell, if that's okay.

MR. COULSON: Great. So at OTC Markets, we despise fraud. I mean, fraud makes markets not work. It puts your thumb on the scale, fraud and manipulation. Most of the time, you can have markets handle that. But as the Chair said, in microcap securities on exchanges in the OTC market, there's less liquidity, there's less active trading. You know, there's also a lot less short selling. While Tesla can see 25 percent of its market cap sold short, the most sold short stocks OTC is 5 percent and the average illiquid OTC security is less than 1 percent of its shares sold short, and that's from Reg SHO. So there are -- there's more volatility here.

But our market serves an important role. We have ADRs. We have community banks. We're the largest creator of graduates to exchanges in the world. And, you know, we'd like to do more. I mean, I wish Facebook and Spotify traded on our market before. But a lot of these regulations to stop fraudsters have made it harder for there to be transparent trading in these securities earlier.

Now, we've taken a different view, is, you know, we want to make our markets data and disclosure driven. Put more information on the screen. Make it available to be used in a machine. And that's going to make markets more efficient over the long term.

But with transparency, not everything is great.

You turn on the lights and you see things, often things you don't want to see. You know, we live in a culture -- I went to see the movie Oceans 8 this summer with my wife this summer who works in a museum. And, you know, most people cheer. They think it's a great movie. But it's about robbing a museum and defrauding an insurance company. And we have that culture in the United States.

It's more widespread than we think.

So those people are going to be in markets all the time. You may think it's fun watching George Clooney or his sister. But they're trying to take advantage of every part of the system of our lives. And, you know, in our space, in the small company world, financing takes place in the PIPE space. It's the private market. It's unregulated. It's unregulated entities. It's opaque.

And it has very many bad effects on the public markets.

So when we went to see Jay Clayton, we came in and we said, you know, one of the things we need to think about is how do we act more like credit card issuers, to freeze things the second we see something wrong? The second we see George Clooney on the video cameras, let's freeze it. And let's also have a way to restart when we make a mistake. Let's have a rehabilitation process.

And Jay, you know, to his credit, we saw much more active SEC suspensions of frauds that we'd pointed out or others had and much faster. Mike's team -- Mike's team really sped up and it was a really -- you know, Jay Clayton is a law and order guy, and that was great.

But, you know, we need to see how the FINRA halt authority that can act quicker, how it fits in.

And, you know, when are the times we should use it?

And I'm very glad that we have everyone on the panel. Except -- you know, the only ones missing is the exchanges. Because, as I said earlier, there have been quite a few microcap cases, enforcement cases brought by the SEC shining a light on the fact that the problems that we're talking about today are not only on the OTC market. If you look -- you know, if you looked at the
Honig case, one was OTC, it's now on NASDAQ. Another one
NYSE MKT, it's now OTC. And then another one is still
NASDAQ. You know, and then there's another one, Riot
Blockchain, which they didn't -- which one of the
executives was named, and it's still on NASDAQ.

So what I'd like to see from one side is we'd
learn when do they decide to use their halt authority and
when do they not? When do they let the market function,
knowing the market will eventually correct itself?

Because long term, if we turn on the transparency,
eventually the market gets it right, no matter how
illiquid or inefficient the market is.

Thank you for having me.

MS. OETH: Thank you, Christy. Would you like to share your thoughts?

MS. RUSSELL: Thank you. Christy, would you like to share your thoughts?

MS. OETH: Sure, I'll be brief here. Just to
give you some context, I ended up on this panel by virtue
of the fact that Virtu serves as one of the largest
market makers in the U.S. equities markets.

Globally, we made markets by providing
competitive bids and offers in 19,000 securities in 235
trading venues in 36 different countries. Here in the
United States, we're one of the biggest market players in
the OTC securities space and we regularly interact with
OTC Markets as well as FINRA on issues of market
transparency, market stability and investor protection.

So we are thrilled to have this opportunity to share our
view as a market maker and a dealer in this space and to
provide some of our thoughts on what FINRA's role should
be when it's invoking its both trading halt rule and its
clearly erroneous rule.

Thank you.

MS. RUSSELL: Thank you, Christy. Michael.
MR. PALEY: Hi, I'm Michael Paley. I'm with
the Division of Enforcement of the SEC. And before I say
anything else, as a Staff member at the SEC, I need to
remind everyone that any opinions that I express are my
own, probably my own, but certainly do not represent the
opinion of anyone else at the Commission, much less the
commissioners themselves.

And with that, I just want to briefly introduce
why it is that I'm included in this panel. I am a
cochair of the Microcap Fraud Task Force, which is a
group within Enforcement that started in about 2013,
specifically in response to the need that many Staff felt
to do more to combat microcap fraud. And, you know,
largely what we were looking at at the time was OTC
Markets, which is the subject of this panel. But I agree
with Cromwell that many of the issues that we see are not
limited to OTC Markets.

What we focus on, among other things, is
coordinating and sharing intelligence in this, you know,
very massive area where there are huge webs of
participants. And, in particular, on gatekeepers such as
attorneys and auditors who facilitate these crimes and
serial violators and we are constantly trying to do our
job faster and more efficiently with better data analysis
and better communications with market participants.

In particular, I want to add that in addition
to the FINRA trading halts, the SEC has 12(k) authority
to get a trading suspension. And the trading suspensions
may be brought in situations where, you know, it is
"necessary in the public interest for the protection of
investors." And that's a very broad authority. The SEC,
however, generally applies a higher standard than that to
make sure that we are not sort of interfering more than
necessary in the market. But I would say that there are
-- you can look at the statistics that we have out there
on our trading suspension releases, about how often it is
that we do find it necessary to have a trading
suspension. And yet we -- it seems that we are not --
sometimes it feels as if we're not really making a dent.

And that's why I'm very glad that we're also
talking about FINRA trading halts because with the limit
on SEC resources and all of the other areas that we have
to focus on, to the extent that we can find a way for
FINRA or others to act in this area, it would be very
helpful in cleaning up the market.

MS. RUSSELL: Thank you, Michael. And Chris,
your thoughts from the FINRA perspective?

MR. STONE: Sure. Thanks, Raquel.
I'm Chris Stone, vice president in FINRA's
Transparency Services Department. And I am responsible
for the business units that run our fixed income and
equity markets systems, this is the TRFs that we run in
partnership with our exchange partners, the ORF, the OTC
BB, the ADF and our OTC volume dissemination product.

Specifically with respect to the ORF, I am part
of the team that in real time, intraday, analyzes
potential OTC equity U3 extraordinary market, market
halts. And I think one thing that's worth noting is I
think FINRA's general theme throughout the usage of 6480
and extraordinary market condition halts is that we're
not an exchange in this space. So we lack contractual
privity with issuers in the OTC equity space and we don't
have listing agreements in the same way that the
exchanges do. So for the 18,000-plus OTC equity symbols,
and that compares with over 8,000 national market system
symbols, it can be challenging to find in real time the
valid information that we need to execute a U3
extraordinary market halt in this space.

That said, we have a range of exchange-like tools that we use in the space. Yvonne spoke at length earlier about our 211 qualification process. We also have a Rule 6490, which has allowed us to declare certain corporate actions deficient and not process them if we believe they're related to fraud or would otherwise threaten the clearance at settlement system. And then, obviously, lastly is 6440, our halt provision.

So I think, you know, I know we're going to get into this a little bit later on the panel, some other ideas around things that people have talked about and things we've thought about in terms of changes to 6440 or ways we could use 6440. But I guess that's just one thing I would like to set the table with for FINRA is, I think, our difference from being an exchange is kind of critical in this space.

MS. RUSSELL: Thank you, Chris. And in a complex issue like deciding when to halt trading, you know, everyone has a role. So we'd like to kind of start the in-depth discussion with talking a bit about everyone's role in your space in the marketplace.

So Christy, if you don't mind, starting with just some thoughts on what you view your role as a dealer when you see activity in a security that may be problematic?

MS. OETH: Sure. So we really see our role as threefold, right? First, it's identification, then it's escalation and then there are reporting responsibilities. And we heard quite a bit about the SAR reporting responsibilities in the previous panel, so I won't really spend much time on that.

But, you know, our business model is a bit unique in the sense that we're a large market maker, we're largely automated. But when it comes to OTC securities, we have a cash trading desk, we've got human traders who have been trading these same securities for numerous years. So these individuals who sit on the trading desk have a vast amount of experience in how these securities trade and what's atypical trading and what looks atypical in order flow from our broker-dealer clients.

So that's one thing that we really try to do, is when we see something that is problematic, there is investor confusion about the security, there is a misprocessed corporate action or there's asymmetric information disseminated about a corporate action, or we just otherwise see indicia of potential fraudulent activity, we're escalating that to FINRA. We try to have a direct line of communication and we try to do it in real time and then follow up with, obviously, our SAR reporting responsibilities. So that's our general proposition.

Our experience has been -- and obviously, it's contextualized in what Chris has shared and what Racquel shared in her overview, is that this market doesn't operate the same way as an exchange does because there isn't the same privity between the issuers and the regulator that there is in the exchange context. And we fully appreciate, because we have very robust and comprehensive dialogue with FINRA, how challenging these situations become.

So I think that where the real hard work needs to be done between the industry and FINRA and with SEC as sort of, you know, an interested party in this whole conversation is if we want to view trading halts in OTC securities as a tool to prevent or minimize or mitigate this type of fraud, then we need to find a tool that's effective. Because right now, it's a very limited tool that has limited applicability in its current context.

And we just need to, I think, find some rules of the road that are more comfortable for the broker-dealers who are escalating this and who are at the end of the day, their client base is getting impacted by it and our business is getting impacted by these securities that don't trade efficiently and the price discovery process is not as efficient as it should be. So that would be our perspective.

MS. RUSSELL: Thank you. And Cromwell, in your position, how do you view your role in terms of, you know, if you see something you think is problematic?

MR. COULSON: So our mission is to create better informed and more efficient markets. So we lean into transparency and market efficiency. And, you know, I'm always a little cynical of someone who says they believe in free markets. And then when a free market is doing something whacky, they say, you need to stop that. Because usually the market fixes it. But I also understand in this space we need to freeze things. It gets broken. And there's things because of how Reg SHO works, clearing works, how limited liquidity in microcap and how people try and hide.

So we see our role, because we have contractual privity with a lot of issuers, and we also deal with issuers in getting better disclosure out of issuers we do not have contractual privity with.

You know, one of the things I think we did most innovatively was we started segmenting our market based on disclosure and data and then making that machine readable. And, you know, that part where we started out
was creating

-- it's a two-part process. Providing services for

companies that are doing the right thing and having them

see a benefit of doing that. And also exposing when

something icky is happening.

And we have been very successful, you know, and

we probably use more behavioral economics than we do

standard economics, but getting that to move along. And

our top market is recognized by, you know, 30-plus states

for blue sky disclosure, which is a pretty incredible

invention in 10 years if you understand the development

of state securities law speed.

So where we see in this role is, you know, we

think we can provide a very good side of feeding

information in as part of it, who's going to the SEC, if

going to FINRA. When FINRA has done a halt, ourselves

and the market makers have been very much in the

collection.

I also see a value for companies where we have

contractual privity for them to be able to do news halts

when they see something not happening right in the

market. And because we -- you know, we brought out last

year a disclosure product around tracking promotion. And

we did two parts of it. We flagged promotion that was

occurring and we made it machine readable to the

brokerage industry, and available on the screen to

investors.

But a second part is we require companies to

issue a press release and correct any misinformation,

disclose if they've been doing any financing and disclose

if any of the insiders or affiliates are selling. And

that part is I really think issuers have a requirement in

this real-time world, it's an old rule that the New York

Stock Exchange used to have, that companies have a duty

to immediately release material information, as well as

correct any misleading information that's affecting the

market. And so we should be able to freeze the market

and then get the companies to come back and say, this is

what is here, this is here, if there's something breaking

it.

I mean, we live in a world where, you know, the

Kardashians took a billion dollars' worth of Snap's

market cap out with one tweet. And, you know, we're

going to have these things happening. That one gets

fixed by the market. Bomb at the White House gets fixed.

Other things in these less liquid securities don't get

fixed as quickly as market forces. So I think we need to

think like credit card issuers and, you know, work

together as a team, each feeding them in and then putting

them to a regulator.

And the final part is, after FINRA does a halt

or the SEC does one, it does a suspension, it would be

very good to quickly publish to investors what they

found. And, you know, FINRA has SRO immunity, we don't,

so we're a little more careful about what we can put out

there. But it would be really good for investors, saying

these are the reasons we did it and then let the market

have a rehabilitation process to bring something in, how

it gets cured, what are the things we need to do.

Because, you know, at the end of the day, the way you

stop the Oceans 8 guys and girls is you bankrupt them.

You stop them in the middle when they've got their

investment and they can't get the money.

And, you know, if we're suspending things, if

it's taking too much time or there's not enough capacity,

we want to be able to do it. You know, I think we can

probably hire some small-cap analysts because there

wasn't a hiring boom after the tick pilot. So, you know,

put some smart analysts' look on these things and, you

know, start to, you know, make our markets safer in real

time to build confidence. And that way, we don't have

the cost on the honest issuers who are compliant and

doing the right thing.

MS. RUSSELL: Thank you. Those are great

points and you both mentioned escalating these issues in

kind of interaction with the regulators. And I think it

would be a great segue to hear more from Chris and

Michael about, you know, your thoughts on what Christy

and Cromwell just said and what you think of in terms of

the relationship between the front-line kind of folks

that oftentimes may notice something kind of in real time

and what the communication escalation to the regulators

should be.

Chris, can we start with you?

MR. STONE: Sure. Yeah, I would like to echo

what both Christy and Cromwell said in terms of the

benefits of market participant, market maker and ATS

involvement in funneling the information we need to the

regulator. You know, I wouldn't say there's a lot of

magic to how we get information in connection with U3

extraordinary market halt declarations. It's Bloomberg,

it's blogs, it's talking to investors, issuers, issuers'

counsel and market participants.

So I know one of the questions that I saw on

the agenda was, you know, what are the additional sources

of information that might help FINRA? And I'm not sure

there's a magic bullet for that. It's still we just need

better information quicker that's more granular in

connection with issuers.

You know, sometimes we'll have cases, fairly
recently within the last two weeks, where a price will move dramatically such that we'll get calls from Christy or Cromwell, saying, you know, the price moved at a point where clearly this needs to be halted. Then when we look back at our kind of precedent around U3 usage, there's so many illiquid stocks that can be so volatile in the space that we tend to want to see that price spike tied to a huge share volume move as well, to indicate that there's clear investor confusion around what they're even trading.

So the Twitter tweeter example was a good one, GM Liquidation Trust was another good one, and those were U3s.

But again, the way the rules are written, they're rare. And we've done three U3s year to date.

MR. PALEY: Yeah, I would add to that. You know, first, I would be remiss if I didn't note how much of the trading suspension work that we're able to do and the reason we can do it in a timely manner is often because of information that FINRA provides to us. And, you know, so FINRA has been really, you know, terrific and we've been working with them in terms of the information that we need and how we need it, how we need to get it, so that it can be sort of incorporated as quickly as possible into our own process.

But I would love to hear sort of more specifics, you know, to the extent that there is time from everybody about, you know, what exactly we can do to define what is an extraordinary event and if there are some particular parameters, you know, whether it is an asset, certain asset to market value ratio, whether there are certain types of disclosure deficiencies or other red flags or particular trading patterns or, you know, a particular level of volatility. I do think that we could probably come up with some, you know, standards.

I also just want to remark on that I thought it was fantastic that there was that panel on suspicious activity reporting. As Christy mentioned, that is hugely important to us in this area. It's also really important to the extent that anyone that maybe is working on something like that, because acting on a trading suspension is only effective if it happens immediately. The harm to investors can happen while you're writing a report to the SEC. So if you can give us a heads up, that is hugely valuable.

And finally, I just want to refer to something that Cromwell said about providing reasons for the trading suspensions. Of course, there are limits, there are various reasons why we can't, you know, always provide detailed reasons. But if you look at trading suspension orders over time, we have actually been making a concerted effort to provide additional detail in our orders about the underlying reasons, maybe referring to specific press releases, for example, that we believe to have false statements or suspicious trading or more specific guidance to investors.

MR. COULSON: And that's been very helpful. My comment was more when FINRA does it to have the same -- you know, we go back and look when we're talking to an issuer that's been suspended and very quickly know the level of concern at the SEC.

MS. RUSSELL: Thank you for that, Michael. And it's a great segue into exploring kind of how do you get at solutions. Part of that is to explore the challenges and look at the challenges kind of head on.

In this space, as folks have noted, it's difficult to get definitive and reliable information.

You also have to consider the needs of, you know, all of the investors. Which I'm sure Gerri will kind of talk about. Sometimes you get calls on both sides when there's a halt. And then balancing, Michael, you mentioned interfering with the market, you know, kind of restricting how much regulators do that and balancing kind of when that's appropriate.

So, Chris, if you don't mind, you know, what's your view kind of on the challenges? And then everyone, you know, kind of provide your thoughts on that quickly.

MR. STONE: Yeah, I think you hit the nail on the head with your question. There's a tension between the market integrity, investor protection side versus letting market forces take effect and making sure you're not preventing buyers and sellers from buying and selling securities when they need to, probably when they most want to in those cases.

So we're always open for looking at our rules and thinking about ways to improve them and enhance them. I mean, I know there's been conversations around what Cromwell just said. We ask issuers for information directly. If they're not responsive, you know, maybe there's room there for a halt. I mean, again, some of these things would require rule changes. Drastic or extreme corporate actions, maybe you could halt around those. You know, again, those aren't in the rule currently.

And then finally, Cromwell, I know we've talked over the years about the reopen. It's been -- because there's not a book to build on like on an exchange, the way our rule reads now, it talks about allowing closed quote periods. You know, are there ways we can improve that reopening process to make it smoother intraday?
Those are the kind of things we'd be willing to continue to talk about for sure.

MS. RUSSELL: Thank you. And Cromwell, Christy, your thoughts on that or on the challenges and potential solutions overall?

MR. COULSON: So the challenges part I would say, you know, I think a good example where a FINRA halt would have been better was the crypto company about a year ago. Which was -- you know, it was one of the companies where a name changed. They were engaging in some crypto-type businesses. SEC-registered company. But the market just broke. And this happens when some market makers get short and then the Reg SHO buy-ins start to come in. And once that happens, the price stops reflecting any market forces. It's just a real -- the system breaks really badly.

Now, that company has still tried being reporting. It was a broken market rather than this is a fraud going on. And, you know, it was a bit more aggressive because I think the other parts to get in the conversation is, you know, the people have histories doing this much better as the exchanges. And, you know, why does LongFin Financial get halted by the exchanges and then other kind of crypto names don't? And with other questionable actors in it. And what's the call to action? Because I don't think we want to go like suddenly, this area gets harsher.

And, you know, I'm a big believer in bringing in the companies. Because when we have panels like this, we focus on, you know, the characters George Clooney plays that exist in our markets. But we don't have, you know, the people trying to do the right thing. And, you know, securities law is all about companies being completely truthful with high-quality information. There's other practices of law.

Matrimonial law, I mean, I’ve heard cynically said, everybody is a liar. And juvenile law, which I think for smaller companies is more important to use, is where early intervention and understanding that maybe they didn't know the full rule, the laws. And a third is a rehabilitation process for the deserving. And how do we make the halt process be able to do that, to bring things in, so we make it not as -- you know, if a pump and dump, because sometimes companies are involved with pump and dumps. Otherwise, just companies ran into bad financing players. And the longer those goes on, the more stuck the company gets.

So that's my like, is -- if we want to move this forward and make this safer place for capital formation, because this is not -- these problems are not unique to our markets. We see it in every market around the world that has successful small company markets.

MS. RUSSELL: Thank you. As everyone can tell, we could probably continue to explore these issues at length. And we thank you, Christian, for having us here.

We at FINRA look forward to continuing this dialogue with our members and with the SEC.

MR. SABELLA: Thanks so much, Racquel, and thank you to the panelists.

So I'm mindful of the clock and I know folks have come from near and far to get here and have traveling schedules to adhere to, so I will pass the mic now to Owen to bring us home on, last but certainly by no means least, investor education issues.

Thanks, Owen.

MR. DONLEY: Thanks, Christian. And I do know our panelists have a hard 3:30 stop, so I'm going to talk for about 30 seconds about what we're doing here at the SEC in investor education and turn it over to our esteemed panelists.

Very briefly, very briefly, we have a robust investor education platform here at the SEC. We spend a great deal of time creating public-facing content for retail investors, much of which is in the retail space.

In the last year or so, we've spent a lot of time on this area getting harsher.

MR. COULSON: So the challenges part I would

background checks. I know this morning one of the panelists noted that a significant portion if not a majority of retail-facing fraud is committed by persons who are not licensed with a state, with FINRA or with the SEC and that has been a key focus of our -- including a public service campaign.

We similarly create dozens of investor alerts and bulletins a year, many of them focused on retail-facing fraud.

In terms of distribution, our primary platform is our website, our award-winning website, investor.gov. A little plug.

In addition, we are using new digital and social channels from RSS feeds to content marketing, spam email lists -- I would not spam email lists -- as well as social channels. We have a fairly prolific Twitter account.

I would be remiss not to mention we are engaging in some interesting digital strategies in the ICO space. Maybe we will get a chance to talk about those. And, of course, we participate in 100-plus in-person events, often in partnership with the states and FINRA, everything from military bases to schools to libraries to senior centers. So that is sort of the gamut of what the SEC is doing.
Gerri, Chris, can I ask you guys to introduce yourself, describe your investor education programs, especially how they are focused on retail fraud?

MR. GEROLD: Sure, thank you, Christopher Gerold. I am the chief of the New Jersey Bureau of Securities.

Certainly part of our mission is investor education and we are doing many of the same things that the SEC does but at the state level. We have a number of initiatives. We do put out investor alerts from time to time. We are going out into the community. In New Jersey, if you walk into any public library, there's one of our posters in it. But it's challenging.

And so one of the examples I always give to our investor ed people is that broker-dealers and investment advisers are inviting the public in to a nice restaurant, giving them a free dinner and then soliciting money from them. And how are we supposed to compete with that? We can't give away nice dinners.

You know, the good thing is that many of those programs, you know, they're getting decent information from good people. I'm not going to knock all of them.

But too often, they're not.

So, you know, the challenge for investor ed is how do we get people in the seats? How do we get them to listen? And how do we do that? And the only way to really do it is creatively.

I mean, we're doing what we can now. We are exploring other avenues to do that. And some of the ones we're looking at, and I just came from NASA's annual event, fraud bingo. Keep it interesting. Videos, kind of like American Greed. We've gone out to one of the local colleges to have them build out the video for us and they're doing it for free.

But at the end of the day, I think our focus has started to be, and we're shifting a little, is to getting to investors before they're investors, getting to them while they're younger. I recently went to a -- I was doing an investor ed presentation to teachers and the -- it was eye opening, unfortunately. Not to knock teachers by any means, but one of the participants there was telling me how her local bartender was giving out investment advice and selling securities. And my head almost exploded. And it was eye opening because the level of financial literacy, I think, in the country is pretty poor. And unfortunately, people aren't paying attention to investing until maybe they have some money to invest, at which point they're not sure where to go.

So there are certainly a lot of challenges in this area that we're trying to focus on. And one of our strategic priorities, including benchmarking financial wellness and financial health and financial knowledge in the United States. And, Chris, you're spot on. It is low. And people are financially fragile.

The truth is, most Americans are not investing. Only about 30 percent of people have taxable brokerage accounts. About half of Americans are investing through the workplace, so the workplace is a really important platform that we should all be thinking about.

But there is no doubt that if you start young, if you get people even before they're investing, then they're more likely to contribute to a workplace retirement plan and to get into the markets that way, which is probably, you know, a less risky onramp to investing.

There are other things that we do, as Chris was -- similar to what Chris was saying. We try to get out into the community. We're a small shop, so the foundation does it through intermediaries. We work in partnership with United Way Worldwide, with the American Library Association, Catholic Charities, AARP, AARP Foundation, Better Business Bureau, others. The list goes on. But we really work hard to train those who then train the community, like military service members, like Native Americans.

When it comes to fraud, we do have a robust investor protection campaign. It has multifaceted components. There's a big research component that looks at why those who become targets of fraud and fall prey to that fraud do that. Why are they targeted? Why are they falling for the scams? How can we help them recover?

Are there differences between people that report frauds, for example, to the Better Business Bureau, which is a huge repository of fraud information. They've got a terrific scam tracker tool. We're trying to tease that out to inform the field, not just for our own programming but so we can share it with others and everyone else can
benefit.

We are also looking at the psychology of scams. What are the behavioral biases that people have generally when it comes to investing? And then are there differences between victims and nonvictims? And again, we're seeing that there are.

We do outreach. We work with partners, as I alluded to. But we really think about three things when it comes to fraud. We focus on the types, we focus on the targets and we focus on the tactics that the cons use. And while we often hear the really good advice that if something sounds too good to be true it probably is, the reality is that for most investors that's very difficult advice to implement. Because to paraphrase an SEC colleague who -- I don't even know who said it first. But if something doesn't sound too good to be true, then you're probably dealing with an amateur. Fraudsters are super smart, they're super slick. And they cause people who fall prey to fraud to buy that dream. You're invested before you even pull out your checkbook.

And so that's what we're combatting when we're combatting fraud. It's a very emotional reality. And that's hard to overcome and so that's part of what we're trying to tease out.

MR. DONLEY: Thanks, Gerri. That's fantastic.

You mentioned types. And, you know, today we're focused on trading and markets issues. We've discussed the microcap space, some trading scams this morning. What are the, say, top two or three types of fraud that's focused on retail? You know, putting aside -- you know, you look at the Commission's docket. You know, half the docket is retail facing, not the FCP and not the accounting but the core retail issues. What are you seeing in the last 12 months?

MS. WALSH: Absolutely. And it's already been alluded to by this panel and by previous panels. Pump and dumps. Pump and dumps of thinly traded securities, especially securities that used to be mining companies and gambling companies in China and clean air and now, all of a sudden, they're crypto. And I'm not entirely sure that there's any one company that meets that five-part test that I just laid out but that's pretty much the path that a lot of these thinly traded securities follow.

You know, going out in the field, talking to investors, you know, people want to get in on the next big thing. And I happened to be out in Hawaii -- don't feel sorry for me but it was my first time -- and there were a number of investors there who were saying, you know, these sugar plantations are now going fallow and we're hearing that cannabis might be coming in. How can we get into legitimate cannabis investing?

And so there is this array of opportunities that people see and they glom on to these companies that are being pumped inappropriately. So that's one of the areas that I'm most concerned about.

MR. DONLEY: Chris, anything in particular to New Jersey that you're seeing at the NASAA level?

MR. GEROLD: Yeah. Well, certainly a few items. Unregistered promissory notes, they continue to be an issue. How they package those keeps changing but it's usually some promissory note attached to it. Specifically and most recently, real estate schemes. We mentioned Woodbridge earlier. There are others, there are more local ones in New Jersey that we've brought in the last year. Real estate continues to be popular, I guess.

Pre-IPO type of offerings where a unicorn is identified, whether it's Uber or Facebook before it went public. We've seen a number of frauds where individuals say they have access to pre-IPO shares from either former employees or employees at the time. So really forward contracts and they're marketing them. Whether or not they're enforceable contracts is a question but most times they are a fraud. And it just so happens everyone has heard of Uber and it's a private company, how do I

get in on that. We've certainly seen that.

And then you touched upon cannabis. New Jersey, it does appear, is working on some cannabis legislation. We're trying to get out ahead of it on the securities side to warn people because we're sure that's going to be the next area where we'll see some fraudsters promoting companies that would be trying to get into that area and certainly over-promising. So there are some areas we're looking at.

MR. DONLEY: Yeah, I'll note, we just put out an alert on marijuana fraud companies last week, so we're on the same page.

So this week, many of you may know, is World Investor Week. And I know, Gerri, this is a coordinated effort between international regulators, state regulators, FINRA, the CFTC and other federal regulators. So it brings to mind how we can work better together. This is a question. We seem to all identify a common sort of suite of fraud. It does change every year. We sort of know the messages.

How can we work better or what channels should we be using to more narrowly target these particular frauds?

MS. WALSH: We could learn a lot from our international colleagues. And I know Chris knows that...
from his involvement with NASAA, with the Canadian
regulators and the Mexican regulators. And you and I
have had the opportunity to be part of IOSCO, the
International Organization of Securities Commissions,
Standing Committee on Retail Investor Education.
And, you know, in Brazil, in Australia, in the
U.K., in Canada right now, there's a big focus on how we
can harness the power of behavioral insights and
behavioral economics, which Cromwell just mentioned
earlier, to better inform investor education and retail
protection. Some of that comes in the form of message
testing. Some of it comes in the form of data gathering,
understanding who's at risk, you know, how big the
problem is. That's one of the big bugaboos is that we
really don't have a good handle on -- we don't quantify
the harm caused by retail investment fraud and how many
people are actually subjected to that. We're actually
working with the Department of Justice to try to tease
out some of those statistics in the National Crime
Victimization Survey.
But those kinds of lessons, where we can learn
from one another and leverage one another's really
terrific tools. At FINRA, there was a team of us that
connected with the authorities in the Netherlands because
they've been doing a lot in using behavioral insights,
not only for education but also for regulation. And what
are the implications for FINRA, for the SEC, for state
securities regulators here in the United States? So
there's a great deal that we can do together.
And one of the things that I love is that when
we go out into the field, you know, virtually every time
we're doing any of our law enforcement trainings, we
connect with our state security regulator colleagues, the
SEC comes along. When you go to military installations,
you invite us to come along. That kind of collaboration
is key, because resources are so limited. And we're
always encouraging the financial services industry to get
on the bandwagon as well, and many of them have actually
been key innovators in terms of developing games, making
things interesting for investors, along the line of
investment fraud bingo.
We really have to deliver so many messages so
many different ways and we're competing with all the
commercial messages as well as the out and out scams.
MR. DONLEY: I know both of you have
exceptionally hard deadlines so, Chris, and thank you so
much, just because the conversation is a little short, I
know that the NASAA website, the FINRA education website
and investor.gov have far more on all these subjects,
especially related to the content thing today.

Thank you so much. Apologies for the short
panel.
MR. SABELLA: Yeah, thanks very much, Owen.
And thanks to everyone. And again, appreciate the shout
out for World Investor Week, which I think hopefully will
continue the important themes of this panel or this
discussion at the end of the panel.
So with that, I know we're at time. So I would
just like to close out by thanking -- expressing very
deep gratitude to all the panelists for, you know, taking
time out of your busy schedules to come down here in
Washington on the only sunny day in September to visit
with us as we sit in this windowless room. So, thank
you.
I think it's interesting. I mean, certainly
from the Staff, we're absorbing a lot. There will
obviously be a comment file made available for this
roundtable for folks to submit further information. But
a lot to absorb across the board.
Interesting, just from a personal perspective,
and like Michael, I take the disclaimer as well, just a
personal view. A lot of ecosystem challenges, it sounds
like, across the different areas, where the institutions
you represent are in the middle of a larger dynamic and
trying to maximize communication, decisionmaking, who
holds the responsibility at which stage of the process,
all for the benefit of the retail investor. It sounds
like it's something that you're all thinking about and
that you're also thinking about ways this organization
can be more involved in that process, so we thank you for
your thoughts on that.
As I said, we will have a public comment file
for this roundtable. It will be available on the
website. And there will be instructions, as there always
are, for public comment files the SEC puts out in terms
of submitting that, so we look forward to further
thoughts from you or others and folks who have been
listening in, either through the webcast or otherwise.
Thank you all very much for your interest. We
will continue this going forward. And have a great
afternoon. Thanks again.
(Whereupon, at 3:31 p.m., the roundtable was
concluded.)

* * * * *

53 (Pages 206 to 209)
PROOFREADER'S CERTIFICATE

In the Matter of: ROUNDTABLE - COMBATING RETAIL INVESTOR FRAUD

File Number: OS-0926

Date: Wednesday, September 26, 2018

Location: Washington, D.C.

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

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REPORTER'S CERTIFICATE

I, JEMIMA EUELL, reporter, hereby certify that the foregoing transcript is a complete, true and accurate transcript of the matter indicated, held on __9/26/2018__________, at Washington, D.C., in the matter of: ROUNDTABLE - COMBATING RETAIL INVESTOR FRAUD.

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

Date: 9/26/2018

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