THE BROOKINGS INSTITUTION

FALK AUDITORIUM

PERSPECTIVES ON SECURITIES REGULATION

FEATURING A CONVERSATION WITH
U.S. SECURITIES AND EXCHANGE COMMISSION
CHAIRMAN JAY CLAYTONAND ALTERNATIVE PAYMENTS MODELS

Washington, D.C.

Thursday, September 28, 2017

PARTICIPANTS:

A Conversation with SEC Chairman Jay Clayton:

MARTIN NEIL BAILY, Moderator
Bernard L. Schwartz Chair in Economic Policy Development
Senior Fellow, Economic Studies
The Brookings Institution

JAY CLAYTON
Chairman
U.S. Securities and Exchange Commission

Panel Discussion:

GINA CHON, Moderator
Washington Columnist, Breakingviews
Reuters

KENNETH E. BENTSEN, JR.
President and Chief Executive Officer
SIFMA

CHRISTOPHER BRUMMER
Agnes N. Williams Research Professor and Faculty Director,
Institute of International Economic Law
Professor of Law, Georgetown University

ANNETTE L. NAZARETH
Partner, Davis Polk & Wardell, LLP

THOMAS A. WITTMAN
Executive Vice President, Global Trading & Market Services, and Chief Executive Officer
NASDAQ

* * * * *

PROCEEDINGS

MR. BAILY: Welcome, everybody, to Brookings. We are very excited to be able to welcome the chairman of the SEC, Jay Clayton, and we're also going to have following my conversation with Mr. Clayton, we are going to have a panel. And there won't be a break between the two. So the panel will follow directly from the discussion we have.

I have a note that I need to read here. Per Brookings policy, we like to acknowledge that SIFMA and Nasdaq and Davis Polk all have provided support for the Economic Studies program and we'd like to reiterate Brookings's commitment to independence, as well as underscore that the views expressed today are solely those of the speakers.

Okay. Now, with --

MR. CLAYTON: Good disclosure.

MR. BAILY: -- that out of the way -- that's relevant for the panel since some of the folks on the panel have those connections.

Well, I was wondering as we were talking where exactly to start. I thought maybe I'd start on the issue of what can be done to help Mr. and Ms. 401(k) as you've described it. As we all know, people are now much more required to manage their own money, to make decisions about how much to save. So company pensions are gradually being phased out. And so what do you think you can do in the SEC to help Americans handle that, how to make those decisions in how to manage their money and where to put their money?

MR. CLAYTON: You know, it's a really broad question.

MR. BAILY: Narrow it down if you don't want to answer it that broadly.

MR. CLAYTON: No, I like that it's broad. And it may be cliché to say Mr. and Ms. 401(k). But in my four months at the commission or five months at the commission, I increasingly believe that's the lens through which we should look at virtually everything we do. And you hit on some of the stats. I mean, in the last four decades -- I was looking at -- as I told you, I was looking at a Brookings report so it must be right.

MR. BAILY: It must be right.

MR. CLAYTON: And for decades we've gone from 20 percent of retirement assets in

401(k)s to 60 percent of retirement assets in 401(k)s. And that trend is going in that direction, which means responsibility has gone up three times if you want to use that metric, and it's going to keep going. And it's on the individual. So there you go.

Then I've been looking, and I'm trying to get better data, and you guys can probably get me your data. But how much of our equity market is really retail money? And if you throw out the foreign investment -- there's a fair amount of foreign investment in our equity markets. I don't know, somebody in this audience probably knows it precisely, but it's, you know, like 25, 30 percent, something like that.

MR. BAILY: Right. Right.

MR. CLAYTON: And then you boil down what's left of the domestic assets, most of it, directly, or indirectly, is retail money.

MR. BAILY: Right.

MR. CLAYTON: So, you know, we're --

MR. BAILY: Channeled through mutual funds and stuff mostly.

MR. CLAYTON: Yeah. Actually, the direct retail money is small but, you know, channeling after mutual funds or other things, it's a lot. And so at the commission, we should be looking at that audience when we're making decisions. And that's how I'm looking at my job.

And what can we do for them?

MR. BAILY: Yep.

MR. CLAYTON: I think that, and I've made this -- I'm trying to make this as clear as possible -- the most inexpensive way for retail investors to participate in economic growth that we've devised to date is the public markets, the ability, the cost of investing. You know, the drag on your return is the lowest for a retail investor there. So that's the place to look to grow opportunities for retail investors to invest in my view.

MR. BAILY: Now, you --

MR. CLAYTON: Quality opportunities. And I want to be clear about that. They have to be high quality opportunities and, you know, there's a lot of high quality companies. There are some aspects of the market that the quality is not as good as it should be. So I gave you a long answer. Sorry.

MR. BAILY: No, but a good answer. And I want you to expand on it a little bit. So first of all, let's talk about the part that's not high quality. So there is some fraud going on. In your testimony you talked about the "pump and dump" in Long Island, and there are certainly other examples of that. So can the SEC deal with that kind of fraud? Is it dealing with that kind of fraud? How can we minimize that? Because, you know, a lot of older people are often somewhat easy marks for that kind of fraud. They may be concerned that they don't have enough money so someone comes along and says, oh, I can get you 10 percent or 15 percent rate of return. Just put your money with me. And then they end up with no money. So how can you deal with that kind of fraud? Is any of the new techniques of big data and so on better data collection? Any of those things that you think the SEC or other agencies can help deal with that?

MR. CLAYTON: So like people always say, hey, what are the things that have surprised you going into this job? The amount of garden variety retail fraud that is still going on surprises me and really bothers me. And so I've asked our Division of Enforcement, our Office of Compliance and Inspections to look at this from different angles. Enforcement is like what can we do better to root out the fraud? And also, our investor education. You know, using data. Compliance and inspections, I'm like, okay, what -- how do these frauds work? And what could we change?

MR. BAILY: Just tell the audience what is "pump and dump" for those who don't --

MR. CLAYTON: So "pump and dump" is usually a very small company, penny stock company, various actors, raise the price of the stock through buying activity. Hey, look at this stock. It's rising. Look at how the trades are going up. The stock must be doing well. Pump out research saying this is a great company. It could be fraudulent research, whatever, and then while the stock is risen, they've invested down here, they get, you know, unwitting, usually retail investors to buy up at the top their shares, they're getting out, and then it's game over. And this, you know, this is a garden variety type fraud. It's still going on. And they target affinity groups. They target the elderly. You know, actually, you know, even an affinity group of federal employees was targeted in a case like this which is kind of interesting. So we can do some -- let me put it this way. I want to do what we can to stop this nonsense.

MR. BAILY: Yeah.

MR. CLAYTON: Because the American people need to know that we have their back on that as well as the companies you read about in the newspaper.

MR. BAILY: Do you have access to the data you need to do that?

MR. CLAYTON: We have access to some data, but there are some things that I'm looking at changing, like custody and transfer agent so that, you know, if there is a problem we can better prove that it happened. Another area where I think data helps is we have databases and FINRA has databases for bad brokers and bad investment advisors. You know, people can look up who they're dealing with. There's actually not a great dataset out there for bad people who are not registered as brokers or investment advisors. We're trying to work on pulling together a dataset for those types of folks.

MR. BAILY: What about the fiduciary rule? So the previous administration felt that investment advisors were not always giving the best advice that was in the best interest of the clients that they had. As you know, obviously, the industry said no, that's not true. We are giving the best advice. So I don't want to come down either way here, but that debate sort of is still going on. There is a fiduciary rule that is now out there. Is there a sense -- is there a way in which the SEC can get involved with that and perhaps working with the Labor Department to have an appropriate fiduciary rule or best interest standard that covers everyone rather than just the IRA rollovers which were part of the Department of Labor's rule?

MR. CLAYTON: So you, I mean, I don't know, we didn't rehearse this so this may fall totally flat, but you --

MR. BAILY: We don't have to do everything rehearsed.

MR. CLAYTON: But you probably have retirement assets.

MR. BAILY: I do.

MR. CLAYTON: And you probably have nonretirement assets.

MR. BAILY: Yes. Yeah.

MR. CLAYTON: I hope so.

MR. BAILY: Well, I have real estate and financial assets that are actually primarily in retirement. Yes.

MR. CLAYTON: And when you -- when you deal across your different types of accounts, you might want to deal with the same person and have the same types of investment choices that kind of make sense. And there's a worry that where we are today that's not going to be the case. And let me say this, the motivations, some of the motivations for the Department of Labor's actions, they're real. We see cases where people were being charged absurd fees.

MR. BAILY: Right.

MR. CLAYTON: We see cases where there were conflicts that weren't disclosed. Those things need to be dealt with. But we shouldn't have a kind of, you know, two different standards, two different types of relationships for the same client. So I'm -- I call it -- I'm working on how I articulate the entire approach to this and I want to thank Secretary Acosta for reaching out to us and saying, is this something we can work on together? So I've kind of -- I call it the four Cs on this which is investors should have choice. We don't want a rule that narrows investor choice. We should have consistency across, you know, accounts. We should have clarity. You should know what duty is owed to you.

MR. BAILY: Yep.

MR. CLAYTON: And at the end of the day we should also have cooperation. So choice, consistency, clarity, and cooperation. That's what the ruleset should look like.

MR. BAILY: Now, for small investors, and so you mentioned that there is now really a vast pool of retirement assets, but it's fairly skewed. A lot of that is among, well, people at a certain stage of their life or people who are upper income have saved money, but there's quite a pool who are saving for retirement but really don't have much. Now, it's hard for the industry to serve that group, isn't it, because they don't, you know, maybe they have $50,000, $100,000. In some cases, $100,000 is a big amount for say some of the insurance companies that provide savings products. So how do you serve that group? And do you think robo advisors can be helpful in that regard?

MR. CLAYTON: Well, to the last part of your question, specific question, I'm all for financial innovation that helps investors. So if there are financial innovations that are going to help investors, that's great. And, you know, robo advising may be that way, although we can't say just because you're using a robo advisor doesn't mean you don't have an obligation to the investor.

MR. BAILY: Exactly.

MR. CLAYTON: Okay. You can't go there because that will drive probably too much activity to an asymmetrically regulated situation. Okay, so we can't have that. But this is why -- your question is the person that has $50,000 and is going to have to take care of their retirement and needs to keep adding to it, that's -- and the way our investing system works today, that's probably not enough money to make efficient private investments with all of it. I mean, you can have -- and believe me, I am all for funding small and medium-size businesses, finding out a way for people to invest $5,000, $1,000, $10,000 in an efficient way, but it is costly to make private investments as compared to investing in the public equity market. And that's a motivation for me to make sure we have enough public equity market choices so that the drag on that $50,000 is as low as possible or the investment opportunities.

MR. BAILY: Right. You have spoken a bit about the need for financial education. Now, that's a tough one because I think all of us would say, you know, it would be great if we could have a financial education. Maybe if people started in school. But it turns out to be quite hard to provide that financial education in a way that people then understand even basic concepts of compound interest or really understanding markets. Do you see a way to improve, or do you see the SEC, is that one of your remits to try to improve financial education or is that more or less the responsibility of the schools?

MR. CLAYTON: No, we have a responsibility to do it. We have an Office of Investor Education. I love those folks. They get bulletins out. They're doing videos. They're reaching out to affinity groups which are some of our most vulnerable and trying to help them. And I'll get a bit out of my lane here. That's what we should do. I think that financial literacy is something that needs to start at a way younger age. I mean, if you're going to be, like we just talked about, if you're going to be responsible -- I visited an air force base recently and talked to the airmen and women about saving and investment, and we all know that if you start at age 22, 23, 24, the delta when you're retiring is huge compared to starting at age 45. That should not have been the first time they heard that from me. They should have heard it at a younger age so you can get your mind around it so, you know, when you do get your first job, you think about putting 50 bucks a month into your tax-deferred, and if you're an airman, federally-matched retirement account. And if you get in the habit of doing that, you're going to be much better off.

MR. BAILY: One problem even with people who start saving early is that something happens. They have an illness and they're out of work for a while, they get divorced, or something happens in their family. They need money to put their kids through school. And so sometimes they pull the money out of that 401(k). How do we handle that? Is that something that we just have to sort of build in and save a little bit more in the beginning so that we can allow that or do you think we should try to fence it off?

MR. CLAYTON: Well, tax policy is easy; right?

MR. BAILY: Tax policy is easy. Okay.

MR. CLAYTON: No, I was just kidding.

MR. BAILY: I'll drink to that.

MR. CLAYTON: No, no, I think -- I think you raise a really good point which is tax advantaged investing is part of our system. Should it just be retirement? We do have it for education. Do we add health emergencies?

MR. BAILY: Right.

MR. CLAYTON: Particularly if this is the, you know, primary safety net vehicle is these self-directed vehicles. Those are good questions. They're not my questions but it does show to me how important it is that that pool of assets that we at the SEC think about, that pool of assets being one that's going to grow and one that has the appropriate amount of protection.

MR. BAILY: Right. Let me turn to the sort of other side of the market and that is the role of companies and access to capital and their ability to grow. So let me start with a fairly broad question. We have had a very slow recovery from the Great Recession. Low level of investment, low level of economic growth. Some of that obviously is due to the aging population and the slow growth of the labor force. But even there, after allowing for that we still have some concern about the level of productivity and the level of investment.

So can the SEC do anything do you think to try to increase the rate of capital formation in our economy or what would be the things you would look for to help that side of the growth picture?

MR. CLAYTON: Growth is really important. The difference between -- you guys do this all the time, but the difference between --

MR. BAILY: Compound interest --

MR. CLAYTON: The difference between two percent growth and three and a half percent growth for American 10 years from now is --

MR. BAILY: Is huge.

MR. CLAYTON: There's nothing that we could do that would have a greater impact --

MR. BAILY: Exactly.

MR. CLAYTON: -- than making that difference, especially -- and this is not just -- this is not just an in sort of domestic issue because America's place in the world depends on continued growth. What are we, 360 million people? Two and a half, three percent. You know, if we can get to three and a half percent, compare that to 1.7 billion people and six percent, those lines cross at some point. You guys do this, too.

MR. BAILY: Yes.

MR. CLAYTON: And that's something -- that's something that should be on all -- that's something on my mind and I think it should be on all policymakers' minds.

As far as what specific things we can do, I think our model, the model that people came up with in 1933 and 1934 is a great model and we should continue to be looking at how that -- how to modernize that model. I am troubled that a lot of companies do not choose to go public but we do have very robust private capital markets. They fuel growth. I think -- and everything that we do, I'm mindful of the difference down the road between something like two and two and a half and three and three and a half.

MR. BAILY: So you have expressed concern, as have others about the decline in the number of public companies and the decline in the rate of IPOs. You know, some people feel that's not a problem but others I think, and you, have expressed concern about that. Do you think IPOs are being discouraged because of regulatory barriers or because of our institutional structure in some way, the requirements we put on companies to go public?

MR. CLAYTON: Yeah. So I get asked this question a lot, and the question is, is it regulation? It is many, many factors.

MR. BAILY: Yep.

MR. CLAYTON: Many, many factors that have caused shrinkage, significant shrinkage in the number of public companies. It's not IPOs themselves. It's how many public companies do we have that are exchange listed, which means they have audit committees made up of really, you know, I mean, let me pause here because people say, oh, are you trying to get rid of regulation? No. Let me make a point that is, you know, very important. Sarbanes-Oxley. People can debate different things about

Sarbanes-Oxley. The creation of the independent audit committee with financial sophistication, you know, do you qualify as a financially sophisticated person to serve on this audit committee and the dialogue -- the mandatory dialogue between that audit committee and the auditors is probably one of the greatest enhancements to investor protection that we've had in the last 25 years, and it was actually a fairly low cost addition. Now, when you get in there and you see the kind of dialogue that audit committees have today with their auditors and, you know, the disclosure that comes out of that versus 20 years ago, you can't help but say this is a huge improvement. So things like that, you know, are best. And I would -- to be clear, I would never take away the independent audit committee from a public company setting.

Now, let's take a step back. The type of rules that we have for a public company, take the top five names in the S&P. Anybody can make a case that they're pretty much appropriate. There are some things that you need to look at. You say, are we getting anything? But as a package they're pretty much appropriate. If you take a step back and say, hey, would the same rules that apply to those companies apply to a company that's a regional company in a monoline business that's growing from a kind of enterprise value of $500 million to a billion dollars? If we were deciding the system from scratch, no one would say yes. No one would say yes. And so here we are, and I think we can figure out how to make our system reflect the fact that these companies got very big, are very important to our society. Disclosure is very valuable for investors, valuable just as a general matter versus what I would call the mid-market companies and smaller. I don't know. It's hard for me to believe that the same model makes sense.

MR. BAILY: So I infer from that that you think maybe the auditing requirements for smaller companies could be eased?

MR. CLAYTON: Well, auditing, the bedrock of our financial system is the audit. You know, that -- that is absolutely --

MR. BAILY: The gap accounting rules, I don't know. I spent six years on an audit committee. They're pretty tough to deal with.

MR. CLAYTON: They are.

MR. BAILY: And sometimes you sort of wonder why on earth do we have to do that? So just pushing, could we improve or streamline those rules a little bit?

MR. CLAYTON: I have, you know, I have a lot of faith in the folks that set those rules. And I think they are mindful of these issues. And look, you've got to be able to compare. If you have a smaller company, larger company but they're in the same industry, they have to be reported the same way.

MR. BAILY: Yeah. What about the idea of trying to do more to make capital a bit more patient? And I don't know whether you think that's an appropriate goal or not. So the argument as I'm sure you've heard it is that we have quarterly reporting, so that tends to make the CEO focus or have to focus on quarterly earnings. And a lot of CEOs will tell you that they are reluctant to make certain kinds of investment in technology and their work force because the payoff will be, you know, five, 10 years down the road, not in the next few quarters. Do you think that there's a role -- and that's one of the reason people sometimes cite for being a private company that you can be longer time.

MR. CLAYTON: You can take your pain today.

MR. BAILY: Do you think short termism is an actual problem for our companies? And if so, is there anything we could do about that?

MR. CLAYTON: So I think the issue you articulated is a real issue. You know, I think we've all seen it. On the other hand, people will tell you that the accountability that comes from quarterly reporting and the pressure on management to do better that comes from quarterly reporting is a huge benefit to the market and the ability of shareholders who are unhappy with management performance to push the buttons benefits us all. So finding the balance between those two is not easy. You can't try to address one without thinking about the other. This is on my mind because you do want long term. You do want, you know, planning for the long term -- actually, we were talking about Keynes earlier. Keynes I was always --

MR. BAILY: In the long term we're all dead.

MR. CLAYTON: In the long term we're all dead. And the long term is nothing but the sum of a bunch of short runs. All those things. But --

MR. BAILY: Even so.

MR. CLAYTON: -- I don't think he would have been in favor of quarterly decision-making.

MR. BAILY: And one of the things that's being proposed is having different classes of shares, and we have different classes of equities already, some of which have differences in their voting rights and so on. So one proposal is that you should have really more of a vote if you've held the share for five years than if you just bought the share yesterday. Do you think that's either feasible or could it be a good idea? Is it something worth looking at?

MR. CLAYTON: I do think -- in governance?

MR. BAILY: Yeah.

MR. CLAYTON: At a macro level, I don't think "one size fits all" is appropriate. Different types of companies, different investment objectives. So should we think about things like that? I think we should. Now, governance is not just an SEC issue. It's largely a state law issue.

MR. BAILY: Right.

MR. CLAYTON: And there's lots of -- I'm watching the literature in this area. There are people coming up with different types of exchanges and things like that. And it's interesting because the fundamental question is are we investing -- are companies -- does their strategy have the right length of time built into it?

MR. BAILY: Let me bring up one specific -- of course, a whole lot of changes in the rules that came about because of Dodd-Frank and as a result of the financial crisis. Let me ask you about one of those which is the Volcker Rule, which has been a sore point for a lot of financial companies who say it makes it difficult for them to make markets to whole inventories of securities and some of them, there's been some work at Goldman Sachs suggesting that this is disadvantaging smaller companies because there's not as much turnover in their bond listings. So do you see that possibility? Are you looking at possible reforms in Volcker? I know this is a multi-agency issue and it took a long time to put out there in the first place. Is this something that's sort of ripe for review and reexamination?

MR. CLAYTON: So the policy behind the Volcker Rule that you shouldn't be speculating with depositors' money --

MR. BAILY: Right.

MR. CLAYTON: -- I think you've heard Secretary Mnuchin on this. You've heard the Fed on this. Good policy.

MR. BAILY: Right.

MR. CLAYTON: I don't think anyone says that's bad policy. I feel that way, good policy. The question is implementation. And we've now implemented it. And something that has that significant an effect potentially, we should look at whether we've implemented it correctly. I believe that.

MR. BAILY: Okay. So it may be something that's worth taking a second look?

MR. CLAYTON: Sure. Sure. Particularly if it's having -- if it's having impact where -- where the -- where there's really no systemic risk benefit. This has both elements of individual issuer risk and systemic risk. And if it's having no benefit on either one of those then you have to say, well, okay, let's think about that. But as a policy matter I think there's pretty much agreement that it's pretty good policy.

MR. BAILY: So let me turn that over and say, you know, obviously we're taking a look at the administration is taking a look at things -- capital requirements, Volcker Rule, various things. You know, were these necessary and should they be done in quite that way? But let me turn it back the other way. There are folks that say we haven't done enough to improve safety. That banks and other institutions are not as safe as they look. So from your position at the SEC, do you think enough has been done either with Dodd-Frank or subsequently to ensure the safety of the system or the safety of financial markets that you supervise? Or do you think there are places that more needs to be done.

MR. CLAYTON: So I'm not going to get into the Fed's area. They're very competent people. Or the OCC.

MR. BAILY: Right.

MR. CLAYTON: That's their area. And we all know they're very responsible people who are thinking about these issues on a daily basis. But as far as systemic risk goes, which I think is what --

MR. BAILY: Systemic risk is what I was talking about.

MR. CLAYTON: Can I transition to systemic risks that weren't addressed in Dodd-Frank?

MR. BAILY: Absolutely. Absolutely.

MR. CLAYTON: You know, I've been talking about this for a while. What are they? You know, that was -- that was the last thing that we faced. I think we've done a pretty good job of dealing with it. It's front of mind for the banking regulators. It's front of mind for me. But what else should be front of mine in terms of systemic risk? And I think cyber risk is a risk that we should be looking at with the same type of urgency and focus that we look at whether we have sufficient capital.

MR. BAILY: So let's turn to cyber risk which is something I wanted to ask you about. So it seems like every other day we get an announcement of a new break-in, a new hack. A lot of our financial information is being -- has been revealed. And by the way, since I'm going to turn it over to the audience in a minute, the chairman's not going to be able to talk about the Equifax situation so please leave aside questions on that and I'm not asking about that.

But cyber risk, are we doing enough? One of your former colleagues, Raj McCowen has suggested we need a separate new government agency to deal with cyber risk. It seems like it's a very scary thing that maybe we don't really have a handle on and certainly is impacting your agency. So tell us a bit about what you think we can be doing and should be doing to deal with some of those cyber risks.

MR. CLAYTON: So when Raj talks, people listen. Right?

MR. BAILY: Yes. Yes, they do. You know, I've heard other people say, oh, no, no, no. We don't want a separate agency. We want to do better within the existing agency. So you can argue that two ways.

MR. CLAYTON: Whether we have a separate agency or whether we have it in different agencies, having a coordinated --

MR. BAILY: Exactly.

MR. CLAYTON: -- approach to looking forward, but also being able to coordinate quickly if there's an event, is something very important. I'm not the only one saying this. There are very responsible people at the other agencies who are saying this and acting on it, but I do think people should understand that the risks are significant. You know, if we have denial of service in major markets or other critical parts of our economic infrastructure, that undermines confidence. And confidence being undermined will have -- will likely have, as history has shown, a significant effect on asset prices and the economy more generally. When asset prices drop, it's much more difficult to grow the economy after that. We've seen what happens.

MR. BAILY: So I mean, it sort of adds to a sense of, you know, some of us, particularly my age group, all the technical stuff is hard to understand but it just seems like, you know, as we say, it undermines confidence. Do you think we can make these systems secure?

MR. CLAYTON: Do I think you can make --

MR. BAILY: You know, your system at the SEC or trading systems?

MR. CLAYTON: Well, I think that's a loaded question; right? We had a problem.

MR. BAILY: Give me a loaded answer.

MR. CLAYTON: Yeah, we had a problem and rightfully, the Senate Banking Committee asked me about it. And people ask me, can you, you know, tell me? And I said, I can't tell you 100 percent. You know, and I don't think -- I don't think anybody is going to tell you --

MR. BAILY: Anybody can. Yeah.

MR. CLAYTON: -- 100 percent. That's the reality. And now we have to figure out how to deal with it.

MR. BAILY: Yeah. Yeah. All right. Let me turn the questions over.

So ground rules are wait for a microphone, please. Please ask a question. Don't make a long speech and keep it very short.

All right. We've got -- our first person had their hand up here. And identify yourself, please.

MR. HAGGERTY: Hi, Neil Haggerty with MLex Market Insight.

Obviously when you first joined the agency one of your priorities, big priorities was capital raising. With recent events, and you spoke about it a lot in your Senate Banking Hearing about cybersecurity risks, has capital raising had to take a -- has that had to take a back seat seeing these sort of risks that we're facing with the SEC hack and obviously with other issues?

MR. CLAYTON: Neil?

MR. HAGGERTY: Yes.

MR. CLAYTON: Thanks, Neil. No. Capital formation is not taking a backseat.

MR. BAILY: I think there was first a question there and then we'll come down to the front. Yes?

MS. OLSON: Hi, Susan Olson with Natixis Global Asset Management.

In the same vein as cybersecurity, how is the SEC approaching Fintech through new ways of lending, new ways of capital formation, robo investing, block chain? How are you approaching regulation in a way that is going to promote innovation and not stymie it?

MR. CLAYTON: So we have a working group that is monitoring those issues. And you rattled off a number of things. Some of them are more in the banking sector than they are in the security sector, our purview, but distributed ledger technology, we're seeing that -- unfortunately, we're seeing it in the Enforcement Division. We're seeing a lot of it in the Enforcement Division and trying to deal with it around initial coin offerings, which it would shock me if you don't see pump and dunk schemes in initial coin offering space.

In terms of the positive sides of Fintech, we're looking to embrace them, provided that there's the right amount of investor protection. I do think that there's -- I'm optimistic that there's a fair amount of value in distributed ledger technology from an accounting record keeping market tracing perspective. Probably we'll add efficiencies over time to help us better monitor the markets. I'm hopeful that we're going to evolve in that direction.

MR. BAILY: Yes? Question here.

MR. SHERRETTA: Robert Sherretta with International Investor.

We've been developing a story about foreign ownership of corporations here in the United States and we're starting to see a pattern where particularly Chinese cross-holding companies, state-owned enterprises, have been taking significant share positions, not always making it clear that they are developing minority and in some cases majority ownership. We've asked your offices about this and they really gave us a blank in terms of whether anybody even in the SEC is following this trend. So can you tell us --

MR. CLAYTON: What you're saying --

MR. SHREDDER: -- on foreign ownership of U.S. corporations publicly owned.

MR. CLAYTON: I understand. I just wanted to articulate it in terms of the ruleset that I think you're referring to which is are people filing their 13G and 13D reports on a group basis like we would expect them to do so. When you have two or more related persons who are aggregating a position for a common goal, are they letting the rest of the market know that that's what they're up to?

MR. SHREDDER: Yes.

MR. CLAYTON: I will tell you this, and we don't comment on whether we have investigations or not investigations. That's an issue that bothers me regardless of the source because we have what I think is a very good approach to this which is you don't have to disclose what you're doing. Other people don't get to free ride on your investment thesis until you reach a certain threshold. But that applies to everybody working together. And so if this is going on, I welcome your story.

MR. BAILY: So what bothers you about it? I can understand if a Chinese company is trying to take technology and violate intellectual property standards, but if a Chinese company is holding -- has holdings in a U.S. company, is that a problem in and of itself?

MR. CLAYTON: No, it's not a problem. We have free and open markets but we do have rules on when you've acquired a significant enough position where you are either going to try to will have influence over the company, that you have to tell people you have that position. And so if you have -- and we can pick the threshold, 5 percent or 10 percent, if you have one person who is acting alone who is at seven or at four. Let's go with the easy one at four. They don't have to tell you. When they go over the threshold they have to tell you. But if you have four people at four --

MR. BAILY: And they're all sort of proudly working together. Yes.

MR. CLAYTON: -- and they're all working together, they're supposed to tell us.

MR. BAILY: Okay. Do you think there's a different level of concern if this is coming from companies in China that are basically state-owned companies?

MR. CLAYTON: Yeah, let's not go with -- let's not be --

MR. BAILY: Okay.

MR. CLAYTON: -- jingoistic about this today.

MR. BAILY: I'm not trying to be.

MR. CLAYTON: I know. I like it. I just like using that word.

MR. BAILY: It's a good word. It's a good word.

Okay. Another question behind you there.

MR. BAKER: I'm John Baker from Stradley Ronon Stevens & Young.

There have been some suggestions that the SEC should look to third-party compliance audits of investment advisors or possibly set up a self-regulatory organization for investment advisors.

Are these ideas that you are thinking about?

MR. CLAYTON: You know, let me respond. The question is are we going -- for IAs, right? For investment advisors would we require a third party -- would we require a third party to come in and audit, make a report to us? It's not a bad idea but it's not in front of my mind right now. I'm very -- I'm very pleased that our Office of Compliance and Inspections has gone from kind of a 10 percent per year coverage rate to -- I don't know where it's going to come out this fiscal year but I think it's going to be at least 14. Maybe we'll get to 15. And they've done so using data. And doing a fair amount of risk-based examination. And I'm watching it but I'm comfortable with -- I'm comfortable that we're making progress in that space in terms of our coverage.

MR. BAILY: Question over there. And then there's someone at the back who's been very patient. So we'll do this one and then --

MR. SEABURG: Yeah, hi, Jared Seaburg with Cowen Group.

I wanted to follow up on something that you testified about the other day. Senator Warren was asking you, or suggesting that Mr. and Mrs. 401(k) is better off with fewer IPOs but larger companies going public, and you seemed to suggest that the opposite was true. And I was hoping you could elaborate on, you know, what you see as the benefit of more companies going public sooner and, you know, if you could maybe counter what she was discussing.

MR. BAILY: That's a leading question. Okay.

MR. CLAYTON: Really? There's like all sorts -- how long did that one take you to come up with?

I like this debate. I mean, the question is what type of public equity market is best for Mr. and Ms. 401(k)? And I think that's an issue we should be debating. Senator Warren is a very smart person and she has a view that bigger companies are safer, better investment. I like the number of large companies that we have to be able to invest in. I do believe that expanding the universe of opportunities available to Mr. and Ms. 401(k) on a portfolio basis, expanding the portfolio of stocks from 4,000 to 5,000 or 6,000 would have benefits.

MR. BAILY: So we sort of have -- there is at some level an optimal level of companies, right? And if that's being restricted because we've got two onerous rules on IPOs or for some other reason, then I think there’s a concern and we need to get more.

MR. CLAYTON: I’m a little concerned.

MR. BAILY: If it’s a natural product of the market then you sort of say, okay, well, that’s what it is.

MR. CLAYTON: And you have to have the protection. And I’m very clear on this. One benefit to companies going public is I’ve never gone through an IPO process where the company that emerged from the process wasn’t a better company than the company, the private company going into the process. I do think going through the IPO process and having to comply with the disclosure obligations, the public company audited financial statements, to think about your company and your ability to describe it to investors makes the company a better company.

MR. BAILY: Well, just to be a little provocative here, this was from Andrew Ross Sorkin. “It seems like a way of living in hell without dying. That was the way James Freeman, the founder of Blue Bottle Coffee, described the process of taking a company public in the modern era.”

MR. CLAYTON: You know what? That’s --

MR. BAILY: He ended up selling to Nestle.

MR. CLAYTON: No, that’s not the first time I’ve heard it. And if, you know, look, there’s -- lots of panelists here will give you their views and their numbers and I’d encourage you to ask them, but if you said to me, midmarket company, 1995, I’m going to adjust the dollars. I’m going to talk about today’s dollars.

MR. BAILY: Yes.

MR. CLAYTON: 1995, how much would it cost to go public and what would it cost a year to be a public company? I’d tell you it would probably be about a million and a half, two million bucks to go public, and somewhere south of a million bucks to be a public company. Those numbers in constant dollars today are multiples.

MR. BAILY: Yeah.

MR. CLAYTON: They’re multiples. So, you know --

MR. BAILY: That’s a lot.

MR. CLAYTON: That’s a lot. You guys are going to come up here. You can throw your numbers out there. Ken, I'm sure you have good data on this.

MR. BAILY: And we're going to get to the panel very soon. I think maybe a couple of questions. Maybe, in fact, can you collect about three questions? Please make them short and then I'll ask --

MS. RATNER: I'll be very quick. Anna Ratner from CFP Board.

For the past decade, a lot of SEC chair people have expressed some sort of interest for the fiduciary rule, and even with section 913 that has not come about but you are very hopeful for some sort of fiduciary standard for both retirement and nonretirement accounts. What has changed? What makes you think that is going to come out soon?

MR. CLAYTON: Well, the fact that the Department of Labor has entered the space. I don't think we have a choice but to try.

MR. BAILY: Okay. There's a question there. The gentleman in the glasses who's been very patient.

MR. GEST: Thank you. Justin, the assistant professor of Finance at George Mason University.

So on the public market, like recently, I mean, the trend now is like the U.S. public markets being more and more dominated by passive index investors and there's a lot of discussion in academia talking about the implications for the governance of the underlying portfolio firms. So I'm just curious about what the SEC thinks about these things and what is the current discussion about these aspects?

Another separate question is like since you mentioned ICO and you're talking about like a lot of them are currently being in the Enforcement department, which probably is not surprising given that it's such a new market, but are there also any other discussions or studies looking into any potential economic benefits of having these type of new financing practice? Thanks.

MR. CLAYTON: That's two questions. I'll go quick.

You know, from the academic community, please keep thinking about what the increased trend in index investing, particularly if we have a shrinking number of public companies and a larger number, larger amount of dollars going into indexes. Please keep thinking about what that means, not just for governance but what it means for market structure and trading because, look, we're in a different era than we were 20 years ago in terms of the amount of index investing, the amount of passive money, and what does that mean for our markets generally? I'm very interested in that and I hope that you and academia are interested in that as well and give us your views.

MR. CLAYTON: As far as ICOs, et cetera, we are looking at it. Anytime there's an innovation like this you should be looking at it. I think I've made my views pretty clear that this is an area where I'm concerned about what's going to happen to retail investors.

MR. BAILY: Well, we've been -- you've been extremely generous with your time and given us some really interesting answers. So thank you so much. I want the audience to thank Chairman Clayton. And I really appreciate your coming.

MR. CLAYTON: Glad to be with you.

(Applause)

MR. BAILY: So we're now going to have the panel. We're going straight into the panel, so please stick around.

(Panel discussion)

MS. CHON: Great. So thanks so much again to all of you for joining this morning. We have hopefully a great panel to react to some of the things that Chairman Clayton said and to also discuss other issues.

I'll just start off with introductions briefly, especially because I think you have all of their bios, and then just get into it.

I'm Gina Chon. I'm the Washington columnist for Reuters Breakingviews covering FinReg and a host of other issues.

To my immediate left is Ken Bentsen, CEO and president of SIFMA, which I think a lot of you know is one of the premier industry organizations in the finance world.

Next to him is Chris Brummer, the faculty director at the Institute of International Economics Law at George Washington University.

MR. BRUMMER: Georgetown.

MS. CHON: Or Georgetown, sorry.

MR. BRUMMER: Hoya Saxa.

MS. CHON: I should not have said that.

Next to her -- or next to him is Annette Nazareth, who is head of the D.C. Office for Davis Polk and has long-time experience at the SEC as a former commissioner and holding other senior roles at the agency.

And last but not least is Tom Wittman, executive vice president at Nasdaq and CEO of the Nasdaq Stock Exchange.

So I think we are going to kick it off with each of the panelists just giving sort of a brief overview of what they think are some of the more important issues that we should be looking at, especially as we are sort of 10 years or so after the crisis. There is a lot of obvious interest in what needed to be added to the financial regulatory system. Now the pendulum seems to be swinging a bit the other way and reflecting upon some of those rules and what actually needs to be reformed. So I would be interested in sort of getting a brief overview on what the panelists are interested in on that front.

MR. BENTSEN: Great.

MS. CHON: Yeah, go ahead, Kent.

MR. BENTSEN: Thank you, Gina. Thank you, Brookings, for having us here. And just to make sure we cover our bases, I went to graduate school at American, so now we've covered all the schools, or most of the schools in Washington, D.C.

But in any event, from SIFMA's perspective, and our members are banks, broker dealers, and asset managers focused on the capital markets business. It's a highly regulated business. The chairman talked about sort of the origins going back to the 33 and 34 acts, and there are multiple acts through that, all the way through the Dodd-Frank Act. And then just an ongoing amount of regulation. And much of that regulation, and the legal minds here can talk about sort of the evergreen nature of that regulation, but I think we have a confluence of new and existing laws. Evergreen regulation and then market evolution and economic evolution, it requires I think a constant review of our regulatory structure, where it needs to be updated, where things work or where things don't work. And as we look at our agenda going out, you know, I'll just sort of hit off a few areas of where the industry is focused.

Obviously, there's still some of Dodd-Frank to finish that the regulators have but much of it has been put into place. The SEC itself has a number of issues on its agenda, whether it has to do with regulation of asset managers, some of the swaps regulation, 913 gets lost in the whole DOL fiduciary debate, but if we step back we have to remember that really started in the Dodd-Frank Act some 10 years ago or longer. And then where we see things right now, and I think where the Trump Administration is going with the executive order, is here we are 10 years looking back. We had our heads down looking to respond to the financial crisis. We put through this really large piece of legislation with a number of rules and other rules on top of that, and perhaps time has come to step back and see what's working and what's not working and what's the impact on markets and markets' role in fueling economic growth. So we think that's an appropriate thing to do at this point in time and we think you're doing it from a position of strength. Because if you look at the balance sheet of the financial sector, at the level of capital, the quantity of capital, the quality of capital, we're in a period where this is the right time to look back. We're not alone in the U.S. in doing this. Europe had already started down this path a few years ago with the call for evidence. The UK now on its own is starting to take that look. And Asia was even ahead of that at this time, notwithstanding the different market structures there.

But then on top of that I would say is, and things that have been discussed for many, many years, but it's again going back to evergreen nature and evolution of markets, it's really the need to look at other issues out there and think about modernization. The chairman talked about capital formation rules. You know, where are we today looking past Sarbanes-Oxley which was 15 years ago, I think, and where are we in terms of things like equity market structure? Reg NMS was 11-12 years ago and those markets have evolved and changed tremendously over that period of time. And so we think those are areas that need to take a look.

Questions came up from the audience around not just fiduciary duty but regulation of investment advisors, and I would step back and say should we take a look at our whole SRO structure that we have today? More has been put on SROs. Are SROs really SROs anymore, or are they self-regulators, or are they really independent regulatory entities, and how does that structure work?

And then I won't get into capital formation, but I think in this instance, we're talking about later, the chairman talked about cyber market infrastructure. Cyber is really the top priority, the corporate suite priority within the industry. That's the thing that the CEOs that I work for care the most about, I believe, because that's where the next risk is coming from and that's where the most monetary and labor investment is being put in many of the institutions.

And then, of course, on the international side, because it is -- we do have global markets and it's a global business, issues around response to Brexit, what is that going to mean? Again, global integration of the rule set and global integration of markets and market access. And that gets into not just US-EU, US-UK, but things like NAFTA, which NAFTA was actually very market opening for the financial services sector in the U.S. going into other markets. And then obviously China, which talked a little bit about where again market access is an important issue.

And then lastly, again with evolution would be questions, and this comes back to cyber, it comes back to international, is data, data protection, and in the international space, concerns about data localization and the negative consequences for that.

So a broad agenda that starts, obviously, with Dodd-Frank, which is always a headline item, but also goes well, not just looking back at Dodd-Frank, which we think is entirely appropriate, but really looking at the whole structure and modernization and do our rules match where the markets are today, where customer demand is today so markets can meet that demand?

MS. CHON: Thank you.

Chris?

MR. BRUMMER: Well, I think my initial response is going to be very brief because I think that was an excellent overview really of the agenda that appears to be crystalizing certainly for the SEC and other administrative and regulatory agencies, and even on the hill. I would maybe add along with the other international issues, the method two issue and what exactly that will mean for the SEC and for the American business community.

But because I think those issues have been very well encapsulated and summarized, I'll just add one very brief remark before passing the baton on to Annette, which is when you listen to this sort of array of issues on the to-do list of the chairman's desk, that list is really extensive because on the one hand it involves consolidating and finishing to the extent possible and practicable the SEC's Dodd-Frank agenda. There are some issues that are still really important, certainly for investors, certainly for investor confidence. There could also be potentially a revisiting of some issues relating to credit rating agencies I know. But we're also in a world in which folks are looking at the radical changes in the financial markets infrastructure and the question on Fintech I think was an enormously important one because we're seeing not only changes in the way in which investors invest and market participants participate, but you're seeing literally the disintermediation of lots of intermediaries upon which normal folks have long depended. And there are certain real advantages I think that are available with the increasing advances in technology, but as the chairman identified, there are also some risks. And making sure that the agency really is a 21st century regulatory agency, which in part involves being a data agency and figuring out both how to access that data, how to properly interpret that data, and I think we'll get into that briefly, is going to be one of the critical -- it will be a critical part of that to-do list for the chairman. And I think that will also tend to inform exactly how that to-do list is ultimately executed.

MS. CHON: Annette?

MS. NAZARETH: Thank you. Well, I very much agree with what Ken and Chris have said. This is a very interesting moment I think at the SEC. I mean, looking back over the last several years, new chairmen coming in really had their agenda pretty much set for them. As much as they came in with great enthusiasm about issues that they were concerned about, an awful lot of the agenda was set by Congress. And we always like to say when I was at the commission that don't worry, we can multitask. But there is some limit to how much you can undertake. And so going back even as far as Sarbanes-Oxley, the commission was very much engaged in implementation. And Dodd-Frank certainly was that in spades. Right? So I agree with Ken that there are some items that are still on the agenda left to do and we hear the chairman talking about them but it's not clear from what he says exactly what the agenda per se will be. And I think that's partly because he doesn't have his commission yet and he probably, as we know from Chairman White's experience, you need to have consensus among the group. You need to have enough votes. And so, you know, he's got some very interesting things that he could be looking at. I mean, not only looking at fiduciary rule and can they do something really impactful? Can the commission finally step up and at least take the lead or at the very least be at the table in determining what is the standard that should apply broadly across financial products and services and intermediaries? You know, can they come up with some change perhaps to what was initially proposed by the Department of Labor? There is an opportunity to do that. But will that happen? We'll see. Again, we need consensus on that, not just between the agencies but within the agencies as well. So those kinds of things are very important. But as you say, there are things that are now on the chairman's plate, again, that he may not have anticipated just a few weeks ago. The cyber issues are now critical. Always very important but now are going to be very much front and center. And that effects not just the SEC as sort of an operating agency; it very much impacts the way they regulate, the people they regulate. I mean, they've been very outspoken about expecting firms to disclose when they have issues. Now they are in the position of having to disclose what their own issues are. They've had some pushback, as you know, either in the CAT process or through mutual fund modernization when there was a lot of concern about the vast amounts of data that are going to be in possession of the agency and what does that mean for regulated entities? What does that mean for issuers or broker dealers? They've having that issue come up now in the examination process where they have examiners who want to take down off the premises of the regulated entities to assess it internally, partly sometimes for convenience reasons. But that raises the issues of, again, the protection of the data that's leaving that venue. So he's going to have a number of issues like that to address.

And again, all of this will be in the context as Ken said of the Trump Administration's core principles. So obviously, I think the chairman is coming at this from the perspective that he's looking for efficient regulation, effective regulation, regulation that is not overly burdensome. And that is going to also color the review of what was done before. And so looking back at things like implementation of the Volcker Rule and other rulemakings that they've done. Also looking ahead and finishing some of the agenda such as security-based swaps which, really, there's quite a bit left on that agenda to complete. He's not going to, I assume, take a look at what was currently the proposal internally and just accept that without careful review. So I think his review of what's there will be colored both by the core principles and by his desire, I suspect, to coordinate with the CFTC on those types of matters.

So there's a lot of uncertainty, some of it, again, having to do with the fact that he's waiting for the new commissioners to come in. Some of it having to do with needing to prioritize, but there could potentially be a great deal on the agenda.

MS. CHON: Tom?

MR. WITTMAN: My name is Tom Wittman. I just want to give you a little bit of background to kind of frame my comments and how I view because it's probably quite a bit different than my fellow panelists.

My background is technology software development, and I run the U.S. equity changes, six option exchanges in the U.S., two ATSs in Canada, and then multiple exchanges, derivatives, and equity exchanges in Europe, along with fixed income and futures. So I have a little bit of a different perspective on European regulation and U.S. regulation and how those cause and effects are. But the top of mine is method two in Europe as Ken pointed out. As well in the U.S., we are extremely focused on the IPO process and companies going public. And I have some specific ideas that we put forth earlier this year that we'll get into if asked. And then as it relates to the regulation changes in the Volcker Rule, maybe more specifically, where I sit, and I think the effect of the Volcker Rule on our liquidity provision in the U.S. around equity and options markets, and maybe more around the options markets, we saw banks who were really good market makers in the options markets exit. So I think there's constraint on capital for those banks and I think it has affected the display liquidity and the U.S. options markets at a minimum from the Volcker. So specifically, I wanted to share that, capital formation and constraint of capital.

MS. CHON: Okay, great.

So trying to stay at this high level for a bit, with the executive orders from the White House reviewing a whole host of issues and focusing a lot on how regulations affect economic growth, how it affects competition for U.S. companies, whether it's in the United States or globally. What do you think, in given (inaudible) points about prioritization and seeing some of the bottlenecks that occurred in some of the past commissions, what do you think are the most important things that the SEC should be tackling in terms of addressing those issues? And on the flip side, are there worries that they could go too far? I mean, one of the problems that seemed to come to light in light of the crisis was this sort of deregulatory, almost laisse faire mood among regulators before the crisis and some people thinking that is what contributed to the crunch that happened in '07 and '08. And you know, are we in danger of also having short-term memories as we embark upon this process?

Ken, I throw that over to you.

MR. BENTSEN: Sure. So I guess I would say, I mean, I think, first of all, I'll say SIFMA has filed a number of papers with the Treasury Department in anticipation of their work on this and those are posted on our website. And people can look at them. I think they're pretty interesting, others may not. But I think if you look at, first of all, maybe to your last question, if you look at what the Treasury Department put out in their first report, and obviously, this is the Treasury Department, so it's really incumbent upon, you know, the administration has to decide what's official administration policy once they get all these reports and what they want to do with it and then how that filters out to the various agencies including the SEC. But I think if you look at the first report, in my view, and everybody will have their own perception, it's a pretty much down the middle of the road report. It doesn't call for ripping Dodd-Frank out by its roots. Far from it. It talks really more about recalibrating Dodd-Frank, looking at where their conflicts in certain rules, where some of the capital rules conflict with -- a great example is the treatment of margin for cleared derivatives, which on the one hand is official government policy, and yet the capital rules conflict with that. The treatment of Treasuries, whatever it may be. And so I don't frankly see a situation, at least how the initial report has come out where there's a risk of reversing, dramatically reversing rules that were put in place in the post-crisis response. Rather, I think that this administration has taken the approach that, you know, it's time to step back and take a look and see are there things where we can make these rules more efficient so we can get more capital in to the system? Volcker is a very good example that was raised because we do see evidence of liquidity impact, direct evidence of liquidity impact in certain markets. The options market was discussed. Parts of the fixed income market. Parts of the derivatives market. Issues around -- there was a lot of discussion today in talking about capital formation and IPOs. What we hear from our members, particularly our members who bank middle market companies, that their options for growth have been narrowed because the marketplace -- and these are for companies with less than a billion dollars in revenues -- their options for raising capital or credit are less today than they were before. And government policy makers need to think about, is that the policy you want? Or do you want to look and see if you can affect that policy in a positive way?

So rather than having middle market companies' only option for growth to merge themselves into a larger company because they can't do it, either a secondary offering or they can't do a debt offering, whatever it be because the marketplace is not there to support it. The secondary market is not there to support them. And the primary market, those are things that we really should be taking a look at.

MS. CHON: Okay.

And Chris, especially from an academic perspective, from Georgetown, what are your thoughts?

MR. BRUMMER: Well, first, anything I say is not to be attributed to Georgetown University.

Financial regulation is a very technocratic exercise and the question is a difficult one to answer because even when you look at the kinds of regulatory changes that were made prior to the financial crisis, well, you know in large measure they were sort of changes that were made on the margins of different regulatory policies. And there was a tendency at times perhaps with hubris, both the regulatory hubris and also market hubris that it tended to accelerate into a kind of bit of a snowball that ended up, unfortunately, wiping out trillions of dollars of wealth to the U.S. economy. And so any changes that need to be taken, and I'm a technocrat myself. I'm an academic. I like data. I like information. I like looking at the facts on the ground. And I like trying to decide, well, you know, what, if any, changes are or are not needed? And again, I want to emphasize that it's not just data but it's also interpreting that data to see just what kinds of technical adjustments or mid-course adjustments need to be implemented. But I do want to emphasize that even technical adjustments can have very profound implications for financial stability or capital formation. And the changes have to be watched carefully in order to make sure that those changes are executed in a helping manner.

Let me just sort of identify a couple of those changes, and this is very extemporaneous. I didn't really have a list per se but just in light of our conversation, certainly, there's still a lot of work to do on the one end, and there's a spectrum of changes. Right? So if you look at securities based swaps, and that's an example here. I think there really hasn't been very much work done as compared to say the CFTC on securities-based swaps. And there was always the sense that when you look at sort of the weapons of mass destruction that helped to create the financial crisis, that you wanted to make or to ensure some kind of trade transparency for those -- any kind of derivatives product that could ultimately end up unsettling financial markets. There's still some work to be done there. I think how that will be integrated will be important. What kind of coherence there is with the CFTC's approach will be critical. And that's a world in which there's a little bit more work to be done than say a purely technical fix on the

Volcker Rule. But as Chairman Clayton himself embraced and acknowledge, you know, a principle, a bedrock principle is that you don't want to have a bank, a deposit-taking institution making bets, particularly bets with their own depositors, but if they're making bets in an environment where there's not very much transparency, it ends up making and putting taxpayers at risk. And so when you go about looking at the Volcker Rule and trying to improve it and to prove its effectiveness, you want to make sure that those bedrock principles remain in place.

The cleared margining issue is more of a CFTC issue but to the extent to which the SEC gets involved, certainly, the SEC would have to think about it. How the SEC gets involved in the FSOC and what the FSOC sees itself doing will be something that I think journalists, academics, and industry should take a close look at. You know, the FSOC was geared towards making sure that you identify problems that arise in the interstices, in the gaps of the financial situation that are arising in the gaps of different established financial sectors.

To the extent to which anyone, including the administration, tends to view the purpose of a regulatory agency as drifting towards one part of its mandate as opposed to the other, to the extent to which there is an disagreement between the regulators at the FSOC as to the appropriate course, you may see certain kinds of problem arising, and I think there needs to be vigilance on the part of the administration to make sure that the FSOC remains focused on stability in carrying out its mission in order to prevent taxpayers from getting stuck with a bill that frankly isn't heir making.

MS. CHON: So Annette, especially from your perspective, having been on the commission, if you were on the commission now dealing with maybe people like Ken coming to you and saying, you know, these rules should be changed or tweaked but also if something happens, you know, it's the commission that gets blamed as well. So where do you sit on this in terms of priorities and worries about going too far?

MS. NAZARETH: Well, you know, I was going to start by saying that the big swings in financial regulation usually occur through legislative changes and I don't think that we have to fear that the regulators will swing wildly partly for that reason. I mean, they are very mission focused. They are looking for effective regulation but they're not going to dismiss out of hand some of the benefits of regulation. But that said, of course, Ken is a very reasonable man so I would listen carefully, but I do think that there are, in some of the regulations that were issued, they may have swung a bit too far. And so I think, I suspect that there is some open mindedness to review some of the regulations. The Volcker Rule is the clearest example of that where the regulations, and perhaps it was because it was done by five agencies and it took a tremendous amount of effort to reach consensus, but I think that was certainly in its implementation a rule that I think could have been implemented much more effectively and achieved the same goals. And so that is one where I think there is some hope that given that even those who seem to have been in favor of the Volcker Rule, such as Dan Tarullo, in some of his valedictory remarks was very clear that even he thought that changes could be made.

I thought Ken raised very good issues on things like -- on issues like the swaps margin and the fact that it doesn't sort of marry well with the capital rules. I think there is more that, frankly, internationally should be focused on in clearing because I think we have -- clearing is terribly important and the fact that we now clear swaps is obviously a great import. I mean, the whole regulation of the swaps market I think in general people would agree has been very beneficial. I mean, a multi trillion dollar market that was previously largely unregulated, I don't think we want to go back there. But on the other hand, we've got a lot of swaps products now that are subject and will be subject to mandatory clearing across the globe and having more of a recognition of the registrations of a number of these non-U.S. clearinghouses and recognizing them and not requiring them to go through full registration here I think is something that perhaps again could be considered, particularly since there's been a recognition and adoption of sort of international principles, like the principles for financial market infrastructure. So given the progress that has been made, I think we need to sort of reflect on how we regulate those markets both domestically and abroad.

But again, I think there are, you know, I agree very much with what Chris said. I mean, having been quite responsible for a lot of what was done in reg NMS, you know, when you look at the impact that that regulation had, and I happen to think it was mostly positive, but clearly ripe for review, it doesn't take a lot of changes to really make potentially a profound and hopefully beneficial impact of the markets. You don't have to affect vast change. So I do think that for the commission to consider what kind of modest modifications would have a potentially positive impact would be very important.

MR. WITTMAN: Are you going to give us your reg NMS ideas then?

MS. NAZARETH: Not right now.

MR. WITTMAN: So being in the equity markets for 25-ish years, and I'm only 35, and picking up the fixed income, I think there's really just two areas that kind of resonate with me. You know, the equity market's super regulated and we do talk about reg NMS and access fees and trade-throughs, so a lot there. Walking into the fixed income area and looking at our treasuries markets and the swaps markets, I think there's two things that resonate with me. One is the extreme lack of transparency in how those products trade, and then the lack of central clearing I think creates maybe risk down the road into another asset class. I know that we're really focused on equity markets because that's where most of us, you know, that's where the investing public is, but I think in the fixed income areas those two points for us, and we've written a letter to the Treasury when we reviewed the treasury markets, that those two areas stick out to us.

MS. CHON: Well, so sticking with that, and broader market structure issues, Chairman Clayton didn't talk about it as much here but he has suggested in looking at market structure that fixed income is a place where the SEC also wants to look at. You know, what advice would you have for him? And do you get a sense that the broader market structure review that had started under Chair White, where that is now in terms of, you know, I think when she first gave that big speech people thought, oh, there's going to be major changes to reg NMS and all these things and there hadn't been as much coming out on that front and, you know, where you see the progress on that, or lack thereof.

Tom?

MR. WITTMAN: I'll take a stab at that first. So a couple questions. When it comes to the fixed income area I think those two areas I pointed out, I think we really do need to look at those two areas because it's so different than our cash equity markets. In the cash equity markets, as I testified a couple of weeks ago, what our focus has been in the cash equity markets, and we talk about access fees and rebates, it's not as much -- it's a one size fits all paradigm and you've got all these different companies from the very highly liquid penny ticks constrained companies that have a rebate of 30 or 31, 32, 34 mils. And we're focused on the access fee or the remove fee. I'm focused more on what do we need to do with rebates and market maker incentives to liquefy the small and mid-size companies as a whole list of things we think we need to do to get companies to want to go public, to be listed on the exchange and have a viable displayed market. So we've tried to change the conversation from just pure access fees because the remove fees are too high to why do we actually have access fees to begin with? It's to give incentives to market makers, to liquefy securities.

And I think the other thing that the general public and others get confused about, there are rebates and access fees to both retail flow and to market maker flow. I'm really focused on the market maker flow because it's not the retail flow and those access fees or rebates that drive liquidity, it's the market makers. So we're focused on that. I testified around those points and it's around mid and small size companies and getting them liquefied.

MS. CHON: Ken?

MR. BENTSEN: Go ahead first.

MR. BRUMMER: Okay. So one of the challenges with particularly when one looks to change, and I'm all for improvement to fixed income markets, is that people are going to have to understand that fixed income is not right in equity market. In essence, there will be trade-offs inherent to the kinds of decisions that will be made even when one tries to do very simple things like introducing a crossing forum that disintermediates dealers. Well, you know, when you think about what a dealer does and a dealer is trying to sort of -- has to not just -- you're not just issuing a security in one off transaction, you're trying to locate or place a security somewhere along a yield curve, there's a little bit more arguably value added but at the same time the electronification of fixed income markets can certainly provide a number of very important benefits, particularly if you can introduce transparency and some kind of clearing process. But it is a different kind of exercise, right, and just from an intellectual standpoint and from a policy standpoint, and for the value of the people who are depending on those fixed income products, many of whom are sort of folks who are entering into retirement, there has to be some kind of sensitivity taken when you undertake those particular reforms.

MR. BENTSEN: I guess couple things. I think that's right, and we all know this, I mean, equities and fixed income are different animals; right? And I think the other thing we need to look at and probably shame on me for not saying this speaking for the industry, but when you step back and you look at the U.S. capital market structure, both the equity markets and the fixed income markets, and then in the fixed income I would include treasuries, corporates, munis, and even the MBS market, it's pretty impressive. And while we were constantly saying there are changes that need to be made in regulation to create more efficiency, more investor protection perhaps, whatever it may be, nonetheless, it is the envy of the world. And I have the opportunity to travel to Europe, work with our colleagues there, our colleagues in Asia, and the Europeans and the Asians look to the U.S. market structure and say that's the market structure we want, because they're a very bank-dependent market structure. In Europe, I think Europe is something like 70/30 bank balance sheet to markets for funding the commercial sector. The U.S. is the opposite of that, which gives us a tremendous amount of leverage and opportunity for capital market growth.

If you look at the difference between -- and Tom probably can correct me on this, but I think we have about 7,000 listed equities, give or take, in the U.S. We have about 40,000 CUSIPs just in the corporate debt sector. So that means that particularly regular issuers, like an IBM or whomever, can go to market when they need to go to market to manage their cash flow, their plant and capital investment that they want to do. So, I mean, we talk about investors are hugely important. Our job is to match investors and issuers. It's pretty good for the issuers, too, and that has great benefit for the U.S. economy. Issuers decide whether equity or debt is better for them, and obviously, you can't sell more than 100 percent of equity; right? And so that's the positive side.

At the same time we see markets develop. So reg NMS, and I think the tension, and Annette probably, and Chris, can probably speak to this from the agency standpoint, your time there. I think the tension on why we haven't seen -- even though we think there should be an update of NMS on a lot of fronts, when I've talked to people at the commission over the last several years is, yeah, we're concerned about fragmentation. Yes, we're concerned about investor confidence when they look at high-speed trading and trying to figure out is somebody getting in front of me or not? And the electronification of the markets. But at the same time, spreads have come down so rapidly historically for the retail investor, how do we balance that with making a change? Policymakers should, I think, balance those things out. We think investor confidence is hugely important in this process, and likewise, as we've seen electronification in the equity markets, we are seeing more, not as much, and I don't think we necessarily will, at least at the same pace in the fixed income markets because of those differentials that we talked about. It's just you have so many, you know, there's just not one IBM 2017 CUSIP out there. There are

100 or whatever. So certainly, the industry, Nasdaq, the Exchanges, others, have looked at how you can do more electronification of those markets, but it's going to be -- I think it's going to be fewer and farer between.

In the Treasury market, you know, I think everyone agrees that there is a need for more data with respect to the official sector. But the other thing that's unique about the Treasury market is that it's not just another product that's out there, although as a product it's incredibly important. But it's also very important to the government's conduct of monetary policy and perhaps most importantly the government's funding of its daily cash flow operations. And so in many respects, the Treasury market is the most unique of the markets because of the multiple roles it plays. And again, it's gone through changes in much of the secondary market trading. I think a majority of the secondary market trading now is done electronically and you have different players in there, including beyond broker dealers, but our view has been we should be, and Treasury, I think particularly is interested in this, we need to think long and hard about our approaches with respect to the Treasury market because it serves, you know, the issuer there is a very important issuer.

MS. CHON: Well, and Annette, he's just given your history with this.

MS. NAZARETH: Sure. Look, I couldn't agree more on the Treasury issues. I mean, it was really a wakeup call after the Treasury flash crashed to realize that it was taking the regulators so long to reconstruct the data because, in fact, the collection of data was not the same as it was on the equity side, you know, and that basically, the Treasury activities weren't picked up when reg ATS was done in the '90s and it sort of never got revisited. So I think the Treasury Department has done a very important job now of trying to figure out where the gaps are and to sort of bring the transparency in that market more up to speed.

I agree with what Ken said on fixed income electronic trading, although I do recall, and I thought it was a very good point that Chair White made, which was that she wanted to be sure that there was nothing in the regulations that was impeding the ability of the fixed income markets to move more towards electronic trading, and I think there have been, you know, some ATSs in the fixed income side that actually are seeing some pretty good level of activity now that both dealer systems and systems that interact with institutional investors and, you know, as was the theory behind reg NMS, if you let them build it sometimes they will come, and I think that, you know, looking, and I think it would be helpful for the SEC to consider whether some of their rules around asset managers and their duties, that there aren't any rules that sort of impede the asset managers from thinking that they should be perhaps even be price makers in some of those systems. So, but I generally agree with much of what's been said.

MS. CHON: Okay. And so moving on, sticking with the markets but talking a bit about what Chair Clayton has as one of his top priorities is access to the capital markets and companies going public.

Tom, I was interested in your perspective, especially from where you're sitting, what you think the issues are. I mean, we're seeing now it's not even, you know, a matter of small companies. I mean, huge companies, like Uber, that have $60 billion valuations that are still private but to have access to private placements and other forms of capital where, you know, especially for them having some of these disclosure issues and that sort of thing, they have been, you know, somewhat good for them. Where do you sit on that? And also, in terms of the U.S. being globally competitive as well. We have Saudi Aramco and a host of other big possible events coming up where a lot of exchanges are competing, and how do you see where the U.S. fits in that?

MR. WITTMAN: So I'll first say why I think and why we think it's important. We think it's important for the general public to be able to get in early when these companies go public and be with them and be part of that growth and be able to buy a house, put their kids through school, retire, and get that growth. And I think the more companies stay private and that money is in a few hands and those investments, I think it's worse for just the general public that's got $50,000, $100,000 in an account and they're trying to retire and invest.

If you look at a company like Amazon, who was -- I think it was a $400 million market cap company when they IPO'd, where are they at today? But there were a lot of people that were able to invest in that and believe in their growth and enjoy that. So there are a couple of specific things that we think are hurdles, and I think Chair Clayton said there's going to be a lot of different things that keep companies from wanting to go public, and there are some very important aspects in it and there are some other things that we think we can maybe look at lightening the load.

We look really in three areas -- legislative reform, market structure, and then promote long termism. So as part of that, you hear companies when they go public, they file and then there are these frivolous lawsuits. So is there anything we can do to try to keep that at a minimum or get those thrown out so the companies don't have to litigate and spend their time litigating and can go public? When it comes to the proxy access, I think there is probably a pretty low entry point into an individual being able to kick off a proxy vote based on their ownership. So is there something that we can do with that? And maybe it's how long you hold a security or the amount of security that you own. I think it's maybe $2,000 in value of a security to launch that.

Corporate disclosure was talked about a little bit by the chair, and I think we believe that if you can decrease that a bit, maybe when it comes to the Ks and Qs, doing filings twice a year -- and I'm talking about small and mid-size companies -- to get them into the market and get them to grow.

And then probably tax reform, and that was also talked about a bit. And wherever there is double taxation, taxation of dividends, or whatever else we can do to help promote that.

And when it comes to the market structure, I mean, one idea that we've thrown out there, which looks self-serving, but there's so much fragmentation in the equity markets. There's 40 dark pools, there's the exchanges. If you can concentrate that liquidity on a listed exchange until the company gets to a certain size, then open it up, I think that would help facilitate a good screen market, good liquidity for the investing public to get in on that security.

And then long termism, try to promote long termism. I think when it comes to disclosure of long positions, we believe short positions should be disclosed, too, and try to equalize that for listed companies.

MR. BRUMMER: Can I just jump in on a couple things? Your last remark was actually quite interesting. As I said, you have to get the data and then you also have to be able to interpret the data. And I think Chairman Clayton had acknowledged that there are lots of different causes as to the reduction of IPOs and public companies. And I think that it's important to be a little bit of a regulatory historian. And you don't have to be very much of one to see that many of the changes that have arisen over the last couple of years were really focused on improving the attractiveness of our private markets. Right? So if you spend an entire regulatory cycle, let's say Jobs Act and the add-ons of regulation crowd funding, regulation A+ and the like, and then you see more people opting into the private market, obviously there are other causes as well but you can't immediately, without looking a little bit deeper, figure out, well, to what extent have our improvements or the added value or the attractiveness of the private markets somehow impacted the attractiveness of the public markets? And I say this because you don't want to end up sort of outbidding yourself or somehow undermining one another just by looking at the interplay between those two markets. And there is, you know, a tension between sort of statements talking about how vital your public markets are where both democratic and republican policymakers have tried to improve access precisely to those private markets. And some of the ways in which that access has been generated has been through this idea of trying to think through how do we allow investors to access early stage companies?

I also want to say that from an enforcement standpoint, you know, there's always a tradeoff, and it's a difficult, it's a tough tradeoff between sort of what kind of regulatory intensity, what kind of supervision do you want to apply to an early and mid-stage company? Because on the one hand you don't want to burden them with requirements that don't allow them to add to the U.S. economy, but at the same time, smaller and mid-size companies tend to be the ones that people know the least about and therefore, it's precisely where it's sometimes easier to, you know, getting back to Chairman Clayton's remarks, defraud investors who may be sometimes a little bit more susceptible to gimmicks and tricks.

And so coming up with the appropriate regulatory strategy is one that always has to be revisited, always has to be refined, but there is a reason, if one will, why we are at a certain place. And again, it's not just about data gathering; it's about looking at the data, and I'd be very interested to learn more even from the industry people here, you know, as to how do they see that relationship. Because it's not just a simple relationship of, well, do we want the public to be able to invest earlier? But we're not living in a regulatory vacuum either, and we're living with a certain regulatory landscape that's not just Dodd-Frank but also a series of initiatives that were at least designed to address the very problem that the current regulatory, or the agenda in making seems to be designed to address.

MR. BENTSEN: I guess I'd just add, I mean, those are fair points. I think you also want to look at the whole; right? Are you increasing the pie or are you keeping the pie the same size but you're just substituting within it? And so I think that's something that you have to look at. You have to look at business formation numbers which have been trending downward. You know, is there a correlation between that and IPOs which have definitely been trending downward pretty steadily since the 1990s. You know, there was discussion about the Senate hearing but yet you were seeing large IPOs being done and those tend to be in some cases more established companies or even in the case of the Jobs Act where companies, the emerging growth companies are merging pretty fast. Right? You know, in some respects. We think there are some things that you can do, take some of the things from the Jobs Act, apply those more broadly, that we think don't upend the core principles of Sarbanes-Oxley necessarily. And that should be looked at to encourage more public offerings. And there is also a tradeoff because, you're right, on the private market, the private market is a limited market, and perhaps appropriately so to more qualified investors as compared to the public market. So these are things that, again, all the more reason that regulators should be looking at this.

Look, I mean, I worked on Sarbanes-Oxley from a congressional standpoint, you all were at the commission at that time. I'm confident we probably didn't get it right. I think we made great progress in what we did but it's something that we should be willing to go back and take a look and say -- and I agree, look at the data. And some of the data is very troubling. And so but I take your point. At the same time we're encouraging the private market, are we robbing Peter to pay Paul in the process?

MR. BRUMMER: And when you brought up that notion of regulatory competition, you know, I always say when we compete, number one, you know, how do we define competition? Should it be about the size of our market participants and the rigor and the competitiveness to make sure that investors get the best value for their products? That's something. But you know, you don't want the different markets, the different very vital pieces of our capital structure to be inadvertently competing with one another in our own sort of race to the bottom. And I'm not trying to say that this is; it's just something that has to be -- people have to be aware of. And I'm sure that leadership is but, you know, we have to be vigilant that you're not undermining one another with every set of rules.

MR. WITTMAN: I was going to say we launched this Nasdaq private markets years ago. And so some of our input and feedback comes through seeing certain companies come into this, and it's more of a shared distribution through a company through to employees. So it's not a liquid market but it's shared distribution. So some of our comments and opinions come from talking to these companies that are doing this and why are they doing this.

MS. NAZARETH: I was going to say Chris raises a great point that, you know, people forget. I mean, the Jobs Act did obviously encourage more private offerings but that said, there are some things that have been learned from that experience. I think the fact that -- and I think the chairman has grabbed onto some of this, the fact that companies could make confidential filings has been very well received and I think he's now had the staff announce that they will take confidential filings from larger companies. So there is some learning from it as well where I think we can look at some of the experience and say, you know, some of the premarketing, some of the types of research, perhaps the kinds of things that were permitted under the Jobs Act, perhaps we can take a look and see whether in the IPO markets as well there should be some changes in order to be a little more flexible. But I agree that we sort of created a greater arbitrage and now are acting quite surprised that people are finding using the Jobs Act to be this advantageous.

MS. CHON: Yeah. Be careful what you wish for sometimes.

MS. NAZARETH: Right.

MS. CHON: So I just want to get to one last topic that I'm interested in and hasn't been talked about as much and I think we should throw it over to questions. The asset management industry, how to regulate that industry has been of pretty intense debate since an OFR report came out a few years ago and related to whether FSOC should be designating any asset managers as systemically important financial institutions touched off sort of a bit of a firestorm of how much of a risk they really pose and whether it's size or activities and that sort of thing. The Treasury Department, as part of its broader review, is also going to be issuing a report on the industry I think next month. So I'm curious as to where you think this debate should be heading now that it seems it's pulled back a bit from some of these more burdensome possibilities but still in focus in particular internationally as well.

MS. NAZARETH: I'll take a stab at that.

Look, I think Mary Jo White approached this very responsibly. I think the FSOC, I believe, got a little ahead of themselves on the asset management issues in that the SEC really was the regulator with not just the primary authority but with the expertise to deal with these issues.

As Chris mentioned, I mean, there's nothing quite like having data in order to assess a situation and determine what regulation is appropriate. I don't think the SEC even itself had sufficient data to convince some of the FSOC members that they understood the risk and that to the extent that more needed to be done they would be able to assess what needed to be done and to implement regulations. So I think the SEC very smartly, and in a quite impressive way, did their Modernization Act which called for vast amounts of data to be provided to them in order to be able to assess where the risks were in that industry, what the positions were, where the concentrations were, what the, you know, strength of the asset management industry was. And I think through that they've really been able to make great progress. Now, they've got some rulemakings that were not completed but that were proposed, but some were also done just before Chair White left, including I believe the one on liquidity.

So I think they're in a good position. I think the FSOC has now sort of backed away a bit. I think there was also, as you know, a bit of an issue with the FSOC of wanting to designate, you know, and being sort of equalizing who they were designating for systemic importance. So having looked at the insurance industry, then they thought they should look at the asset management industry. And it's not necessarily clear that you needed to designate that whole industry. In fact, to designate an industry before you know what needs to be done really didn't make very much sense. It's one thing to say we know what the risk is and therefore there is some additional regulation that the primary regulator can't put in place that should be implemented, but they weren't even at that point. So I think we're in a better place now of assessing what needs to be done.

MR. WITTMAN: I think, look, I think that the FSOC, and we saw this at the FSB as well, came into this look at asset managers like they were just another form of a commercial bank and they're not. And it's taken them a long time to actually figure out. And frankly, the OFR study in our view was not very well done and I think it came at it through that bank lens as well. And I think over time I think there's been a recognition that these are different structures. In many respects they're acting as agents. They are acting as agents. Not in many, but they are acting as agents. In some cases a custodian, in some cases not. And that you can't put bank-like regulation on them. So we're glad to see that this has shifted back in the U.S. and at the FSB and IOSCO. I think actually this led -- all of this effort led to the bank regulators beginning to listen to the market regulators, not just in the U.S. but at the IOSCO where all of a sudden they were brought to the table. And realizing that you can -- and kind of pushing back on this, what was it called, macro prudential? Macro prudential regulation -- market prudential regulation, which we thought didn't make a lot of sense. So we're in a better -- I mean, I think there's a better understanding today that this is a totally different business model.

MR. BRUMMER: So I would like to add two things, and I'm very glad that you brought the international because it also connects to something that Annette had said about CCPs just to sort of spice things up a little bit. Certainly an asset manager in the mix -- an asset manager is very different from a bank, and banks are very fragile because of their balance sheet and asset liability mismatches which cause problems. But there are certain kinds of overall principles that we saw from the financial crisis where, and I'm not trying to put this necessarily on the asset management industry, and indeed, often it's more of a, you know, I think regulators -- as law professors, we talk about judicial hunches. They're also sort of regulatory hunches, and you sort of think to yourself, well, what are the kinds of nightmare scenarios that could arise in any particular industry and what I'm guessing is that some of the folks said, well, you know, if you had a highly leveraged, particularly when you look at the finished rules, not just in terms of the liquidity but also their derivatives' positions, if you had some kind of asset manager that was really, really super large and was found to be out there and exposed in some kind of derivatives transaction or series of transactions to counterparties, you know, what then happens, not just from a systemic risk angle but also from the SEC's perspective from an investor protection question? And I'm guessing that that's what they were working with. But I think that the overall question, which is really interesting, right, is that some of the drama that we see that plays itself out domestically, say between the SEC and Treasury or the banking regulators also can play themselves out between the international standard setting bodies like IOSCO in this particular case and the FSB. And so there are two different dimensions to almost all of our regulatory decisions, particularly in systemically important areas, and I would want to say though, which is not related directly to this but I did want to get it in, is that when you think about technical changes and glitches, you know, one of those kinds of technical changes gets to questions of equivalence. And if anyone knows me, and I am very much an internationally-minded person. I talk to international regulators all the time and I'm all for cross-border coordination and cooperation, but these kinds of decisions, even though they're very technical and you go through lots of different kinds of standards, they're very important. So if you decide to do, say, a CCP equivalent, I mean, when you think about what we did after the financial crisis where we locate, effectively try to locate all of our risk in one institution, and if we're going to rely on somebody else in terms of providing their oversight, then we want to really make sure and kick the tires to make sure that those are jurisdictions that we can trust. I mean, we have other jurisdictions. I mean, right now China, you know, trying to launch their own derivatives market, lots of their contracts aren't even ISDA compliant, you know, what would happen there when we move towards a kind of CCP equivalent? Are we importing fragility from other sectors into our own sector in a way that could undermine our own financial market health? These are the kinds of questions that need to be asked. And they are technical questions and they are boring questions that I will force my students to have to learn, but they're the kinds of questions that ultimately when they go to work for the people on this stage, you know, are the kinds of things that help to maintain the financial health of this country and I doubt, unless there's a financial crisis, that you're going to see the kinds of headlines coming out of the SEC that you've seen lately. But even though they may not be on the front page and instead maybe on the back pages of the paper, they can have extremely important consequences for financial stability.

MS. CHON: Well, I think that's a great place to wrap up. I want to thank our panelists again and also we do have time for one or two questions if there's any in the audience. I guess, Aaron?

MR. KLEIN: Hi, Aaron Klein, Brookings.

I want to get to a point that was made with Chairman Clayton earlier and get the panel's take but move in a slightly different direction, which is the question of the difficulty in getting into IPO and public. The example that was used had to do with kind of like a competitive drink maker who was then bought by Nestle. There's been a lot and growing concern about market concentration and the lack of competition in general markets potentially having negatively adverse consequences for consumers, growth, innovation, et cetera. Lots of market concentration in tech and other firms. One of the important benefits of the capital markets is the ability to raise capital to go to scale, right, the alternative being bought by a larger company and being subsumed. Hence, less competition. Have any of you had similar thought or been involved in looking at the negative ramifications of IPOs and the consequences of that on market competition?

MR. BENTSEN: We have not looked at it but a point I mentioned earlier, and not just related to the equity market but also the fixed income market is we do have members who bank middle market in smaller companies who say the lack of a sufficient secondary market can preclude the ability of smaller and mid-size companies to either do an IPO or a secondary offering or do a debt offering if the marketplace is not -- if the secondary market is not there to support it, then it's hard to do the offering in and of itself. And in that case then they're advising clients to find a merger partner. And so there's some growing evidence, something we've been looking at in others, but this is something that's been reported perhaps anecdotally at this point in time. That should be, you know, that's certainly not something how our system has worked before where you've had the opportunity to choose maybe a merger partner is the way you want to go. Maybe you want to be acquired. Maybe you don't. Maybe you want to acquire somebody else and gross scale it that way. But if the avenues are closed off then that to us would be a problem that should be looked at.

MS. CHON: Just one more quick one. Yep, in the back.

MR. SCHOEFF: I'm Mark Schoeff with Investment News. This question is specifically for Ken but anyone else who wants to jump in.

Ken, you mentioned at the beginning that you have questions about SROs. What is your reaction to Chairman Clayton's statement that he's really not interested in a third-party exam rule for investment advisors? Does that give you some relief or did you actually want a rule like that? And in your SRO statement, are you implying some concerns about FINRA?

MR. BENTSEN: Yeah, our SRO, my SRO comments are more looking at just the construct that we have today, so be it FINRA, MSRB, NFA, where you know, Congress over the years established a mechanism by which you can set up self-regulatory organizations to supplement or in some cases augment I guess or extend the reach of the primary federal regulator. Those entities' roles have changed over time, their relationship with their "members" has changed over time. In many cases they've taken on almost more state actor roles even though they're not state actors. And so in our view, and to be fair, Robert Cook, the new head of FINRA, has been looking at these issues in some respects through his FINRA 360 review is that that's just an area ripe for taking a look. Are they still structured properly? Are they really self-regulator or are they -- I mean, actually, I think -- I think Dodd-Frank actually changed MSRB to an independent regulatory organization. They all have majority public boards now so that's really more where the focus of my comments were.

MS. CHON: Great. Well, thank you again to our panelists for a great conversation.

(Applause)

MS. CHON: Is there anything you want to say in closing or we're good?

MR. BAILY: Well, I'll just say thank you to Gina, as well, for doing such a good job. Thank you everybody for coming.

* * * * *

CERTIFICATE OF NOTARY PUBLIC

I, Carleton J. Anderson, III do hereby certify that the forgoing electronic file when originally transmitted was reduced to text at my direction; that said transcript is a true record of the proceedings therein referenced; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and, furthermore, that I am neither a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Carleton J. Anderson, III

(Signature and Seal on File)

Notary Public in and for the Commonwealth of Virginia

Commission No. 351998

Expires: November 30, 2020