U.S. SECURITIES AND EXCHANGE COMMISSION

SBCF ADVISORY COMMITTEE

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U.S. Securities and Exchange Commission

100 F Street, N.E., Washington, D.C.

APPEARANCES:

ERICA DUIGNAN, Committee Chairman
GARY GENSLER, SEC Chairman
HESTER PEIRCE, SEC Commissioner
CAROLINE A. CRENSHAW, SEC Commissioner
MARK T. UYEDA, SEC Commissioner
JAIME E. LIZÁRRAGA, SEC Commissioner
STACEY BOWERS, Director, Office of the Advocate for Small Business
SUE WASHER
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C O N T E N T S

P R O C E E D I N G S

(Audio interference.)

MS. DUIGNAN: -- our discussions regarding potential changes to the accredited investor definition, building on ideas generated during our prior meetings to each consensus on each of the proposed options such that our Secretary, Jasmine, can draft a formal recommendation directly after this meeting.

This afternoon, we also have two exciting expert speakers joining us to help facilitate a discussion on the current state of the IPO market. Our speakers are prepared to share data and trends as well as their insights on what we might expect to see from the capital markets in the coming year. I expect the perspectives they share with us will provide a useful foundation for the committee's recommendations.

But before we get to all of that, we are so pleased to have Chair Gensler and the Commissioners join us today. We really appreciate you being with us this morning. Chair Gensler, would you like to start with your remarks?

CHAIRMAN GENSLER: Thank you so much. I'm pleased to be here with the Small Business Capital Formation Advisory Committee. As is customary, I'd like to note that my view is my own as Chair, and I'm not speaking on behalf of my fellow Commissioners or the Staff.

First, I'd like to note and hope all of you welcome Stacey Bowers, who joined us last month as the new Director of the Office of the Advocate for Small Business Capital Formation. We're excited to have her join the SEC's team in advancing the SEC's important work. Hope that you, as well, will welcome her and get to know her well. You'll hear, of course, from Stacey, who's presenting an update on her office's annual report, and amongst other things, it includes some interesting data on capital raising.

I understand that you'll be deliberating recommendations on the accredited investor definition, hear from experts on the IPO market. If I can just say a few words about that.

Since the 1930s, we've benefited from the basic bargain Congress embedded in the securities laws. What's that bargain? Of course, it's that required, if you want to raise money from the public, so-called "public offerings," be registered with the SEC, and includes specific disclosures to investors. Congress also recognized that there were certain transactions or issuers that would be exempt from such disclosure requirements, in essence, forming part of what could be considered the private markets. And so we have the two that live side by side.

We've seen continued development over the years of a robust public market as well as the private markets, and our economy has benefited from both.

But some things changed in the early 80s. A new policy was adopted called Regulation D, and it became one of the most important exemptions for companies looking to raise capital.

MS. DUIGNAN: It looks like Chairman Gensler's having some technical issues. I'd like to welcome Commissioner Peirce for remarks.

COMMISSIONER PEIRCE: Thank you, Erica and thanks to all the participants in today's Small Business Capital Formation Advisory Committee meeting. And congratulations to Stacey for her first committee meeting as Small Business Capital Formation Advocate. I'm sorry that I can't be there in person with you, but I am looking forward to today's discussion.

A company should succeed or fail based on how well it serves customers, not on whether its founder has a network of rich friends or whether it's located in Silicon Valley. On a recent trip to Pittsburgh, through the kind assistance of former committee member Catherine Mott, I met with early-stage regionally focused investors. Pittsburgh is a lot like my hometown of Cleveland, a city with a proud history of being at the center of the country's economic growth during the industrial era and a promising future being built on a new set of industries such as biotech and robotics. But getting capital flowing in places like Pittsburgh is key to that future. One important source of capital is local angel networks that fund founders in their communities. Changing the accredited investor definition to prevent more Americans from investing in private markets, as some suggest, could devastate these networks.

More fundamentally, protection that comes in the form of outright prohibitions runs headlong into the American commitment to a person's right to decide for herself. That conflict was on view in our Pittsburgh discussion. In response to a suggestion for limits on individual investors' access to the private markets, one audience member, an immigrant to the United States, passionately defended the right of people to invest their hard-earned money as they choose. Committee member Wemimo Abbey made a similar point at the last meeting, when he acknowledged the risks of investing in small companies but reminded us that, "this country is also all about the liberty and freedom for people to do what they want to do." As committee members also discussed at the last meeting, education for investors and founders is essential if we're to build a better capital-raising environment for small businesses. A takeaway from that meeting is that although investing in young companies is very risky -- Erica suggested factoring in an 85 percent failure rate -- I think empowering with education is better than taking away people's right to invest.

I appreciate that the committee is pairing this morning's discussion of the accredited investor definition with an afternoon discussion of the IPO market conditions. The topic deserves greater Commission attention. The U.S. ranks of listed companies dropped from around 8,000 in 1996, to roughly 4,200 in mid-2022. During the 1990s, the U.S. saw around 412 IPOs annually, compared to only about 248 during the last 10 years. I hope that the committee will help us identify the causes for this decline and productive solutions. Some causes, of course, are outside the Commission's control, but we have a role in others, such as the rising cost of being a public company and the newly adopted special purpose acquisition company rules. Extending reporting costs for public companies -- excuse me. External reporting costs for public companies have increased by 150 percent since the start of the century, far outstripping inflation of 71 percent, and could rise more if we move forward with the climate rule.

To aid in the discussion about what we can do to encourage companies to go public earlier so that all investors can share in their growth, I have the following question.

What are the most substantial regulatory cost drivers for public companies? What regulations on public companies are most likely to dissuade them from going public?

How can we better scale regulations to encourage companies to go public earlier in their lives?

Given that the Commission's recently adopted SPAC rules are likely to close off that avenue to going public, can we make changes to the traditional IPO process so that it works better for young companies, and thus makes it feasible for them to go public before they experience their greatest growth.

Thank you all for your participation today and your commitment to the work of this committee.

MS. DUIGNAN: And thank you, Commissioner Peirce. Does somebody have the live stream on? Somebody needs to turn off their mic. Okay. Thank you so much. That's better. Well, not 100 percent, but thank you so much, Commissioner Peirce, for those great remarks. We appreciate it. Next, I'd like to welcome Commissioner Crenshaw for remarks.

COMMISSIONER CRENSHAW: Good morning, and thank you, Erica and all the members of the committee, for your continued input on issues related to small business capital formation. I'd also would like to congratulate Stacey Bowers. Congratulations, Stacey, on your new role as director for the Office of the Advocate for Small Business Capital Formation. And welcome to your first meeting of this committee.

I think the issues impacting small businesses are crucial to maintaining the vibrancy of the American economy, and so you certainly have your work cut out for you. But the views of OASB are fundamentally important aspects of our policy priorities, and I really look forward to working with you in that capacity.

And the views of this committee are also critically important. And I've noticed the bulk of your agenda today will focus on the accredited investor definition. And so I'll just take a few minutes to discuss how each of the other items on your agenda today may impact that discussion. So first, Ms. Bowers is going to provide an update to you on OASB's annual report from fiscal year 2023.

The exemption for offerings to accredited investors is used by businesses of all sizes, as we know, from mom and pop shops to unicorns operating globally. But as the report also lays out, well over half of small businesses seeking capital need less than $50,000. And only 8 percent of businesses that sought external financing turned to equity investments. So I urge you to keep those statistics in mind as you consider the ultimate impact of the accredited investor definition on small businesses. Consider what is that real impact.

Second, you will hear an update from Allison Wise, the Acting Director of our Office of Minority and Women Inclusion. Opportunity is distributed inequitably across the economy, and OMWI's work is an important part of assessing and improving inclusivity across the community that we oversee. So that's where you come in.

Every year, OMWI invites firms to conduct a self-assessment of their diversity policies and practices. This work is an important part of monitoring our progress on diversity and inclusion goals. The last time we released the results of this survey, participation rates were low, to say the least. Though participation is voluntary, the low response rate means we lack these data on diversity and inclusion within the community we oversee, which does hamper our ability to undertake appropriate policy responses.

In 2024, OMNI will again invite regulated entities to participate in this collection, and I encourage you to participate and to invite others in your network to do the same. And if there's reasons not, I encourage you to have a dialogue on that as well. Help us figure out sort of how to get these important data.

And third and finally, you will hear thoughts on the state of the IPO market. Our public markets are, as we all know, the envy of the world, and registered offerings play a crucial role in maintaining that advantage. OASB has noted a decline in the number of IPOs over the past decade or so.

And I think it's important to note that one of the things they highlight is the decline is a result of several things, including, among other things, business dynamicism -- that's a hard word to say in a public remarks -- and shifting investment to intangibles; and importantly, abundant private equity financing enabled by private offering exemptions. These have all played a role in this decline.

So accordingly, you know, I worry that an undue focus on just the accredited investor definition as a solution for challenges faced by small businesses and for equity issues, is to the exclusion of other potentially more effective improvements that the SEC could work on in these areas.

And I urge you as you listen to speakers today, as you engage in these conversations, to think broadly and holistically about all of the issues that impact small business capital formation and where we can have sort of the biggest impact overall on all these issues.

Thank you very much for all your work. Thank you for your time. And I appreciate everything you do for the Commission and for the Committee. Thank you.

MS. DUIGNAN: Thank you so much, Commissioner Crenshaw. We really appreciate your remarks and I think they'll really help inform today's discussion.

Next, I am honored to invite Commissioner Uyeda. Thank you for joining us in person today. We'd love to hear your remarks as well.

COMMISSIONER UYEDA: Well, thank you, Erika, and good morning, everyone. And welcome to the first meeting of this committee for 2024. I'm excited for this year. I hope all of you are. And in particular, congratulations to Stacey Bowers for becoming the new Advocate for Small Business Capital Formation, and this being her very first meeting in that capacity.

I feel this is a bit like going to high school, where we're kind of in -- maybe going into the second month, we had a big group of new members join this committee. And so you kind of spent the first couple of meetings figuring out who's who, and then you've got some folks who were here before, and so they're almost like the more upper-level students.

But now you've gotten to see and observe everyone. And so you're starting to feel, okay, this is" -- I know -- I can start to understand the perspective of this other person. And so I think that's exciting, because I think that's the type of relationships on the committee where you can then start advancing. It's no longer introducing things or getting to know each other, but now let's work together and come up and think about ideas.

And you won't always reach consensus. Sometimes you're going to get multiple views, and that's okay as well. I mean, there's a reason why we have a diverse set of perspectives on this committee. And so I'm going to be really excited to see your work for 2024.

Now, as for the two topics on the committee's agenda for today, the accredited investor definition and the declining number of initial public offerings -- especially among smaller public companies -- are important issues for capital formation.

I've been dealing with Regulation D and the accredited investor definition for nearly 29 years, as a securities lawyer in private practice doing Reg D offerings, as a state securities regulator in California, and here at the Commission. And I know we've discussed this topic at prior meetings and last month I gave some remarks at the Securities Law Conference on this very topic.

You know, I raised the question -- which I know you've heard me say before -- is whether we should think about moving away from the 'all or nothing' approach, where if you're an accredited investor, you can invest 100 percent of your assets in a single private offering. But if you're a dollar short of qualifying as a credit investor, you can't invest anything at all. Should we allow an individual to invest up to certain percentages of a personal financial metric, like the aggregate dollar value of his or her securities investments in private offerings?

For example, if a person's securities investments were less than $100,000, then perhaps the person could invest up to 5 percent of that amount in private offerings over a rolling 12-month period. If the securities investments were between $100,000 and $500,000, then that person might be able to invest in a higher percentage. And when the person's securities investments exceed a certain level, well, perhaps that limitation can be removed altogether.

As the committee deliberates the accredited investor definition, I encourage considering the following three themes. One, don't be restricted or tied to the past. Some have called for the net worth and annual income thresholds to be indexed to inflation from levels established in 1982, but this assumes that those levels were correct to begin with.

Moreover, it assumes that the net worth and annual income are the appropriate personal financial metrics to assess an individual's ability to invest in private offerings. So formulate your recommendations from a blank canvas and don't be tied to decisions made over 40 years ago.

Second, opportunity, not paternalism. Any regulatory approach to private offering should focus on opportunities rather than paternalism. The ability of more individuals to participate in private offerings should be viewed as a benefit, not a detriment or some negative externality on the capital markets. A paternalistic approach, where the government decides who can and who cannot invest, may in fact ultimately harm the exact persons which it seeks to try to protect.

Those harms include depriving individuals from accumulating wealth, reducing opportunities for risk diversification, and furthering economic inequality. And this harm may have a disproportionate impact on black and Hispanic investors, younger investors, and investors in rural areas. Reducing opportunities to invest in private offerings will may make it more difficult for entrepreneurs to obtain early-stage financing. So remember to consider the opportunities lost with a paternalistic approach.

Third, this is not a tool to prevent private companies from failing or committing fraud. Many startup companies fail because their business model simply does not produce the intended results. Other companies fail because of fraud in this management. However, failed business models and fraud committed by management are not limited to private companies and they often occur at public companies. Just look at the many enforcement actions brought by the SEC.

Yet the Commission's rules do not limit investments in public companies only to investors who meet certain wealth or income criteria. And investors have their own tools to protect themselves from the risks of private investments. They can diversify. And more importantly, if an issuer will not provide the information requested by an investor or answer their questions, investors have the power to walk away.

So develop your recommendations knowing that these other tools also exist. Our economy can have both vibrant public and private markets at the same time, and our regulatory regime should aim for that result.

That's the second topic on the agenda today.

The decline of IPOs, especially among smaller companies, is important. According to the most recent annual report prepared by the Commission's Staff and I see you all have copies of that on the table. It is really a terrific piece of work, I should add. There's a lot of data in there, and I know the Staff worked really hard on it, and I'm really proud of this publication that's been put out.

Smaller companies have accounted for the vast majority of the decline in exchange-listed companies in the last 25 years. Furthermore, acquisitions of smaller public companies account for a significant portion of that decline. Why are smaller companies leaving the public markets at a greater rate than larger companies? Are relatively higher compliance costs and relatively lower research coverage among the reasons? If so, how can the Commission's rules reverse this trend or perhaps mitigate the effects?

So, I look forward to hearing your findings and recommendations, as well as your discussions. So, thank you very much, and I hope you have a very productive meeting today.

MS. DUIGNAN: Thank you, Commissioner Uyeda. We really appreciate that. Now that our technical difficulties have been resolved, I'd like to invite Chair Gensler back to continue his remarks.

CHAIRMAN GENSLER: You're so kind, and I apologize. I had some technical issues. But I think you sort of heard some of my earlier thoughts on the two topics you're discussing, Reg D and IPO. Reg D, again; while, I think that those initiatives in the 1980s were important, and they still remain to be important, I do think that I might articulate it a little bit differently than my colleague.

I think of it as that the core is a basic bargain that we are protecting the American public, and they get to decide what investments they make, but they get protected by getting full, fair and truthful information. And I don't think of it as related to paternalism. I think about what helps promote capital markets. Then you can trust the capital markets as well, and it helps issuers.

So I think that basic bargain, where issuers give certain information to investors, is critical to our markets. But that both public markets and private markets are critical. And Congress has weighed in over the decades about what that threshold ought to be. But I look forward to your thoughts on the accredited investor definition, because it's such a cornerstone to Reg D.

I think that the IPO market, of course, ebbs and flows with different markets, as markets -- not just the capital markets, but our economy as well, and valuations in the public markets and private markets. But I, again, think that the public markets benefit from key information in the markets. And the Commission recently finalized rules to strengthen protections for investors in what's so-called "special-purpose acquisition companies." Those rules better align the protections for investors. They might receive investing in so-called SPACs and then at the DSPAC point of the capital raise as well. Because the DSPACs really are very similar to traditional IPOs. Just because a company uses an alternative method to go public, does not mean that investors are any less deserving of time-tested investor protections.

But I look forward to your comments and I apologize for having the technical glitches.

MS. DUIGNAN: All right, thank you so much, Chair Gensler. It happens to all of us, right? So we appreciate that. Next, I'd like to welcome Commissioner Lizárraga.

COMMISSIONER LIZÁRRAGA: Good morning, and thank you, Erika, as well as the other members of the committee for your time and input today.

And I especially want to extend a warm welcome to Stacey Bowers, the incoming director of the Commission's Small Business Advocate Office.

Director Bowers brings a unique combination of talents. She's a practitioner, a scholar, and also a former Commission staffer, so I look forward to working with her to elevate and advance the Commission's small business priorities.

As highlighted in the Small Business Advocates most recent annual report, much work remains to be done. Last year, 78 percent of small business owners expressed concerns about their ability to access capital. In 2022, compared to 2020, nearly 4 times more startups failed due to a lack of financing or investors.

Venture capital's reach into disadvantaged communities remains very limited. In 2022, Latino, African-American and women-only founders each received less than 2 percent of VC dollars. Rural small businesses fared no better.

Many of the small businesses included in these statistics lack access to traditional entrepreneurial ecosystems or to the friends and family networks that can provide access to the capital needed to grow successfully.

Because of the essential role these small businesses play in job creation, in our economy, and in the success of many communities throughout our country, it is essential that they, too, benefit from the Commission's capital formation tools and resources.

I look forward to continuing a dialogue with this committee and with a Small Business Advocate to learn from your insights about innovative ways of achieving this goal. Thank you again for your service and for your contribution to today's discussion.

MS. DUIGNAN: Thank you so much for your remarks, Commissioner. We very much appreciate the insight. And I want to thank all -- the Chair and the Commissioners for your very informative remarks today.

And next, the committee is so excited to extend a warm welcome to Stacey Bowers, who while not new to the committee, is joining us today in her new capacity as the recently appointed director of the SEC's Office of the Advocate for Small Business Capital Formation. Stacey, we know the office does important work for small businesses, and we are so grateful to have you on board.

MS. BOWERS: Thank you, Erica, and thanks to everyone for the warm welcome. I am thrilled to be here in my new role as Director of the Small Business Advocacy Office, and I'm looking forward to continuing to work with all of you, just from a different vantage point. Later this morning, you're going to hear from the team about some of the findings in the 2023 Annual Report. But now that I know a bit more about what goes into the report behind the scenes, I thought I would just set the stage a little bit.

So while our legislative mandate requires us to prepare an annual report for Congress every year, it means more to us than just simply meeting the legislative mandate. It's an opportunity to share a wealth of data regarding what is happening in capital raising and to do it in a user-friendly format.

So I hope everyone will take time to explore the entire report. You've got the beautiful color version in front of you, but I also want to point out the online version is amazing as well, and we now have a new interactive table of contents, which makes it much easier to navigate throughout the report and the sections.

We're so proud of the information that we're able to provide, but we're always looking for ways to expand and improve. So if any of you have suggestions or ideas, we'd really like to hear from you and appreciate it if you'd share it with us.

So I think you all know at its heart our office is about engaging with, and creating educational resources, for our stakeholders. And I think you know enough of us to know we're very passionate about that mission. And to that end, I just want to say during fiscal 2023, the office held over 30 events engaging with our stakeholders.

And I could sit here and I could keep raving about this incredible office and the mighty team that does so much on an annual basis, but I know we have a pretty full agenda today, so I don't want to take too much time. But I do want to say -- because I get to say it in public -- I want to thank Amy Reischauer for everything that she did while she was the acting interim director, as well as the support of the entire team who's helped my transition into this new role.

And then one final thing I want to note, that in my role as an advocate, I don't plan to vote on committee matters. My predecessor, Martha, she took the same approach as well and it stems from the fact that our office interacts externally with many stakeholders, as well as we are privy to rules and regulations that are happening internally, that are not yet public.

Because of that, and because I don't want to create any appearance of a potential conflict of interest, I won't vote on matters that come before the committee. However, I still plan to be an active participant. And with that, I'll turn it back over to Erika.

MS. DUIGNAN: Thank you. Thank you so much, Stacey. And I want to thank the whole team for this amazing report. I can't wait to dig into my printed copy on the train ride home today. So thank you, guys. And, you know, just once again, Stacey, welcome from all of us to have you joining us from a different side of the table. So that'll be fun.

So next, we'd love to take a few moments to leverage the expertise and experience around this table and hear from each of our members about what you're observing in your respective industries, fields, and markets with respect to capital raising for small businesses.

So as we did in our first meeting in June, I'd like to kick off our first meeting of 2024, asking you to share observations from your very unique vantage points about important issues you're seeing affect small business. We think that doing this not only helps us share our insights from across the country with the SEC, but it will helA p us identify important trends and challenges that this committee may consider exploring at future meetings.

So why don't we go around the room, and each member can take a couple of minutes to share your perspectives. I'd like to invite Sue Washer, committee vice chair, to kick us off.

MS. WASHER: Well, thank you, Erica, and I also extend my welcome to Stacey. She and I had an opportunity to meet some time ago while we were testifying on Capitol Hill, and so it's nice to circle back and have her expertise here in the committee.

So what I've observed in the last year as I've transitioned out of a leadership position at a public company that was sold, and into advising smaller companies as they begin their journey possibly towards the public markets. And you have to understand this is all colored in the biotech market that I live in, which is a different kind of small business for sure because we have incredibly large capital needs to be able to even get to stage one. And so it's a very different kind of market.

But what I've seen is is that capital is very scarce for the entrepreneurs that want to start newer enterprises, because most of the biotech VCs and also the biotech public funds are saving their resources for their existing portfolio companies because capital is not flowing in the biotech markets. And so new companies, new entrepreneurs, they can't get a scratch of that pie because all of that money is being shepherded for existing companies to keep those existing companies going until the markets open up a bit.

So I do think it's really very much affecting new company formation, new company growth in the biotech sector. And all of us in this sector are looking at different avenues of how to solve this puzzle and be able to bridge companies forward through 2025, where we hope that the markets improve. So that's what I'm seeing.

MS. DUIGNAN: Thank you. So Jasmine, who's our committee secretary.

MS. SETHI: Thank you. One of the issues I've talked about before is this issue that we see in the private markets of decentralized information. And I think one of the hardest challenges is for investors and founders to find each other, whether it's anything

from looking for particular industries to wanting, say an investor wants to fund certain diverse founders. You know, finding where they are, finding what the stage is
that they're interested in.

And what I've been seeing, as I kind of get to know more entrepreneurs and people working in the space, is there is more efforts to kind of help the investors. Like people are working on sort of different databases, kind of from the investor perspective -- whether it's an angel investor or VCs -- to help them get to databases of companies and founders, as well as different programs, accelerators, incubators. There's different ways for kind of investors to seek out founders.

It's much harder, from what I've seen, to go the reverse. And so founders are often at the mercy of either, you know, what networks they already have or what networks kind of ad hoc come their way. It's not very easy for them to systematically say, "How do I find investors who might be interested in me?" whether it's my company, whether it's my socioeconomic profile. And so it --

(Audio interference.)

MR. COOK: -- population crowdfunding can open up a lot of opportunities for small businesses and startups, but also potential investors too.

MR. CORDERO: So over the past year, I would say that having an opportunity to review the report for 2023, I would say that many of the findings in there -- particularly with regards to the tightening of the capital flow into the private marketplace, particularly on the seed and Series A -- has borne out, as well as particularly with founders of color and emerging fund managers of color. Primarily, as you know, invest, advise, and operate in the early-stage private marketplace. And both -- whether it's on the media front, where I'm particularly involved in, or in the multi-sector tech front, including biotech and others --you see that really resonate.

But again, I would just -- as we are going to get into the conversation later today on looking at the accredited investor, I think seeing the data that reflects in 2023, the literal cliff fall in private market capital flow -- both into startups as well as into funds and particularly emerging fund managers -- and being able to myself, see that in the marketplace -- again, particularly for founders of color, both in the U.S. and Latin America, and emerging fund managers of color, particularly in the U.S. and Latin America, and particularly Latino -- I think that that's something for us to think about as we have the conversation later this afternoon.

MS. DAWOOD: Hello everyone, and welcome, Stacey. Definitely seeing a lot of scarcity as far as being able to get capital to these small businesses, to Sue's point. I've seen several companies who are trying to raise -- raise on the same valuation, even though they have made increases and improvements and hit the milestones that they needed in order to have a higher valuation. I haven't seen as many of those valuations actually increase as they try to fundraise.

They know that they have to get capital, so they're doing whatever they can. And in some cases, that means they have to raise at the same valuation and give away more of the company than they necessarily would have, just because the climate is so tough.

The other thing I'm seeing from and hearing from entrepreneurs and especially fund managers, is they're really struggling with this lack of education. You know, we have -- according to the Bureau of Labor Statistics -- something like 16 million people that would qualify as accredited investors, but we don't have that many people actually in the game. And as

I'm talking to more and more people, especially people who are trying to fundraise, they're saying, "Well, I'm just struggling getting people to know even what this is about."

So here, you know, I understand what we're talking about related to the accredited investor definition is very, very important. But we're talking about, you know, a very small subset of the actual U.S. population who would qualify as accredited investors, who even know that this is something that they can do.

So I think we have a real challenge and opportunity to be able to help people know more about the fact that they can get into this game, and there's ways to reduce the risk and diversify and all of the things that we talk about. But so many entrepreneurs have told me, "Well, I just" -- "I have to spend so much time educating my potential investors." This is, of course, all at mostly the individual investor level, not necessarily the institutional investor level.

But, you know, for very early stage companies, they don't have the opportunity to go to institutional investors. They have to go to, you know, friends and family or, you know, angel groups and -- or, you know, just people who could be angels, that they happen to know. And that education barrier, I think, is where we really could put some emphasis and there'd be some opportunity there.

MR. DILLASHAW: So I'm going to echo a lot of what you've heard before. As a little bit of background, my practice typically focuses on early-stage companies that are, you know, typically seeking either angel or small VC backing. So that's kind of where my perspective comes from.

But I'm seeing very much the same. There's been a -- it's much harder to get capital than it was, you know, a year ago. Many of the funds are, Sue, like you said, sort of reserving their dry powder for -- to support their existing investments, rather than deploying it to new ones. They're taking longer to deploy that capital. They are being more choosy about the investments and valuations are coming down.

So, you know, we talking to a lot of entrepreneurs, you hear the term, "The flat is the new up," in terms of, you know, valuations. You know, so it's a lot of insider-led flat rounds, even though the companies themselves are doing well on their fundamentals. They're executing according to the plan, but the funding environment is retrenched enough that that's not resulting in an increase in valuation.

Trying to break that down a little bit more, I see that more as a fund phenomenon, than particularly an angel phenomenon. I think individual angel investors are not quite subject to the same sort of tides that the funds are. And so at least from my perspective on angels, that's been a little bit more steady. Valuations are definitely coming down, but in terms of the individual investment market, you know, it doesn't seem like it's had the same dip that some of the VC funds have.

MR. DRAYTON: Good morning and Stacey, congratulations and welcome. Three things that I'm seeing. One is on the financial literacy side with the entrepreneurs that are seeking capital. So I would recommend that we take a look at the technical assistance available, via the SSBCI, resources and get those funds out faster so that we can educate that community.

Most folks -- most of the entrepreneurs I'm having conversations with, they struggle, let alone to understand what a balance sheet is, a cash flow statement, an income statement is, and how the three interact as you're beginning to invest in your company.

Governance is another area where I'm seeing some concerns. Most small businesses, they have what I call "vanity boards," folks who will tell them yes to everything. And as I'm educating entrepreneurs, I simply point out to them that you need a board that can fire you but not take away your company. If you're not managing the resources appropriately, it should be okay to bring in someone who could help the company hit velocity without taking away all of your company.

And the last thing I want to point out, that's stark contrast, is the due diligence process between an institutional investor versus a high-net-worth or ultra- high-net-worth investor. You know, I've got two institutional investors in -- as LPs in my fund. One has a pension, about $40.6 billion, and another institutional investor has global resources of $264 billion.

So their due diligence, it's much, much more granular than that high-net-worth or ultra-high-net-worth individual, who's really leveraging their social capital and reputational capital related to me. They're not going to dig as deep.

So maybe -- I'm not a fan of a certification process, because I think that's another false barrier that we're erecting for a high-net-worth and ultra-high-net-worth. I would ask the committee to possibly consider a checklist, because that's all the institutional investors provide. They sent me a checklist and they asked for everything except my two children. So I think it's appropriate that we provide those sort of tools for potential investors as well. Thank you.

MR. MARISCAL: Well, hello everyone. Just as a way of background, so my name is Diego Mariscal, and I lead an accelerator that focuses on high growth, high impact startups, particularly for founders with disabilities. My observation is I think quite unique, especially around the conversation on accredited investors because most entrepreneurs with disabilities
don't even have access to investment. There's very low data.

I haven't had the opportunity to look at the report, but I remember in the 2022 report, I was even quoted in the report saying that there wasn't even data around disability, right? And the lack of investment that goes into the disability community. So that's one piece that I think is important, not only in the disability community, but also how we think about underrepresented founders more broadly.

But then the second piece that I think is relevant for discussion, perhaps not today, but in another -- at another time, is really looking at what could we be doing to more systematically support underrepresented founders more broadly? What I mean by that is, I'll use us as an example.

So, we were part of a program called the Community Navigator Program that was started by the Small Business Administration, and I believe we had someone from the administration last meeting. And that program exceeded expectations in terms of funding, loan opportunities, et cetera, et cetera. It was a two-year program.

Unfortunately, it has sunsetted and there's no longer authorization from Congress to continue that program. And so -- and we started to collect data around disabled entrepreneurs, loan opportunities, investment opportunities, et cetera, et cetera.

But I want to raise that issue because while we can talk about the need to support underrepresented founders and come up with programs, if they are not done in a systematic way that actually has follow-up, there's actually risk of harming the ecosystem more than helping, because we create all these programs and stand up all these initiatives that later have to be dismantled because there's not a consistent level of effort.

And so I think that as we continue to discuss not only the accredited investor, but other important topics, particularly for underrepresented founders, really look at what is the continuation of support and services that we are both recommending and discussing. So thank you.

MR. SHARIFI: So, thank you everyone and congratulations, Stacey. I think 2023 was an interesting year. I think we're getting into some interesting territory in 2024.

So my background, as many of you know, I'm an attorney. I mean, I work mostly in M&A space, so my practice focuses mostly on mergers and acquisitions, but we also help with startups and starting the businesses, getting them through their initial funding and sometimes through exit.

So, what I've noticed in the past year, I've noticed the trends have been capital has just been more expensive. So, there's been this -- a little bit of cautious optimism. Everyone wants -- everyone has good hopes. You know, everyone has a feel that we're going up from here. But just with high interest rates and geopolitical uncertainty, I think there's been some hesitation.

And, you know, there's been a little bit of -- not –- we went through this phase in, you know, the early -– a couple of years ago, '20, you know, during the COVID times. We went through a phase where capital was very – it was flowing really a lot. So it's been a little bit tighter, I feel, for companies looking to exit, companies looking to fundraise.

So -- but I do see, in my practice, that we have more capital flowing in. Right now, I think, as we look forward to 2024, the way we're seeing it is there's more creative investment types. So I'm seeing a lot of hybrid deal structures. When we're looking at buyouts, we're looking at different structures that maybe weren't in place a few years ago.

I'm seeing, in particular, real estate deals. I'm seeing sale lease-back transactions. Mezzanine debt is back on the table. We're seeing hybrid investment types, equity and cash. So it's been -- it's been interesting, because I think some of these concepts and deal structures maybe weren't around or weren't used as often when cash was cheaper.

So now that it's becoming more expensive, I think a lot of entrepreneurs are looking at interesting ways or creative ways to structure their deal to make sure they get the funds that they need. And we -- I think it proves, if nothing else, that we have -- there's a lot of tools. There's a lot of different tools available for these companies. And I think being creative is what 2024 is going to look like.

MR. SUGLINO: Hi, my name is Dennis Sugino. Again, congratulations, Stacey. I'm in the investment management business. I'm in a niche called the "Outsource Chief Investment Officer." It is a business that is quietly projected to reach $3 trillion by 2026.

And what we're looking at is essentially a governance structure change, where pension funds and a lot of foundations and endowments will be shifting their management of the assets from internally, into using sources that are outside of their own business. I'm involved in the consulting side of that.

I believe this is a conceptually sound concept of outsourcing the business. It has some execution issues and consultants can help in that. But this past year I helped four endowments and foundations transition a billion dollars in assets. I have retainer relationships with about another half billion dollars.

But essentially what we're seeing is, essentially, trustees of these endowments, foundations and pension plans are getting fatigued, essentially. Getting fatigued from the efforts of trying to make the right decisions and the lack of staff. And so they're empowering money managers to help them in their decision-making. And my job is to make sure the field is level when they're working with these outside managers.

This is a business that is maybe one of the most profitable right now in the asset management business. It's a tough business, as you know. And this is where the growth seems to be going. There are firms like BlackRock, the investment banks that are involved. But there are also entrepreneurial firms that you've maybe not heard of, like Cornerstone or Agility, that are also in this business that have done very well for themselves.

So it's a business that continues to grow, will grow into the future, maybe take an increasingly larger share of the business away from some public companies, and I hope to be involved in it. Thank you. Good morning.

MR. DEAN: Good morning. My name is Greg

Dean, I'm with FINRA. And Stacey, welcome on board. Congratulations. I look so forward to working with you in the coming year.

With FINRA, we have -- as we regulate and oversee the broker-dealer industry, we also look at the flip side of what we're talking about here, which is looking at the investors. Our FINRA Foundation has done a number of research over the years through the Financial Capability Study, looking at investors, how they invest, what they're investing in, and different demographics are coming out of that.

We noticed back in COVID there was a rise in retail self-directed investors, which was really novel at that particular time. There was a great interest in investing in different products, trying different methods, as well as where investors are getting their information in order to invest.

Last month, we actually released a really follow-on, but landmark report, on investors of color and how they are entering the market faster than their white counterpart investors and tend to be much younger. The report, Investors of Color, which I will distribute around -- the report shows that investors of color are entering the market at a faster pace than white investors. New investors, particularly black

African-American and Hispanic-Latino investors, tend to be
much younger than white investors.

New investors of color exhibit many of the same behavioral patterns as shown of much younger investors. But we also found that they also rely upon social media for their investment advice, and they are also willing to invest in more non-traditional type investment products. Some may be complex, some may be risky, and including some of the meme stocks.

So I think this is kind of an opening to show who the investors are. I know this might be more available information for public investing, maybe a crowdfunding or others, but it does give an insight into the changing demographics of investors, who's willing to make investments, and how they're investing.

Now, this does present a challenge for us and other regulators and stakeholders because how do we bring these new young investors into the markets, but provide them financial education to adapt and to find relatable, trustworthy resources on channels in order and for them to find reliable and good investments to make? So I think that's something we should consider as we're going forward and we're happy to provide any follow-up information, any questions anybody may have.

MR. SHARMA: Good morning, everyone and welcome, Stacey. Good to see you here. As a member of Staff, I'm going to invoke the disclaimer that my views are solely my own.

Coming from the Office of the Investor Advocate at the SEC, you know, we definitely see this tension when it comes to individual investors and the private markets, this tension between investor access and investor protection. And as we listen to our panels today, particularly the Accredited Investor Panel, you know, an issue we're very interested in is what is the appropriate equilibrium between investor access to the private markets and investor protection? And that's a question, you know, we grapple with every day and, you know, looking forward to your feedback and your thoughts on this issue. Thank you.

MS. DUIGNAN: Thank you. We'd love to invite those joining us virtually. We'll start with Davion.

Hello, everyone.

MR. ROSS: Hello, everyone. Sorry, I'm not there with you today. Congrats, Stacey. Just a few thoughts. I think one of the things that I'm seeing is similar to Sue, not only in the biotech world but in just the traditional, you know, angel investment from a technology perspective world.

We're seeing, you know, very, very, very similar things in regards to investors are making different decisions on where they want to place their capital. They're saving their capital for follow-on investments. We are seeing the angel community be active, but I think the valuations are much, much lower.

Another thing that we're seeing in my community is we've seen a couple -- because of the pressures that's going on from a capital perspective, we've seen different investors come in and try to not necessarily take over the company, but, you know, replace founders. There are a couple companies that I'm thinking about right now.

(Audio interference.)

MR. ROSS: -- one that was -- reflects just the very tight market. And -- having the replacement -- when there's -- the markets, I think you start seeing other, you know, symptoms or other trickle-down effects, which is going on in the market because people need to see more success in a shorter period of time, less capital. So that's one thing that I'm also seeing in our -- market.

The things that I also think is interesting is --

(Audio interference.)

MR. ROSS: in one of the committees that we had over the last couple of weeks, about IPOs are not -- IPOs are not being utilized as capital-raising, but it's being utilized as liquidity events. And, you know, there are a couple of situations where I'm seeing exactly that. You know, where -- and where others -- where, you know, companies are using it as a liquidation event versus a capital raise.

And really the only people that are benefiting are, you know, early-stage investors and potentially the founders. But then, you know, because of some of the increased valuations as you go to IPO, what happens is right after the IPO, it drops, you know, 60, 70, 80 percent and not able to recover.

So those are just a few of the things that I'm seeing. A lot of great comments from the rest of the crew, which I echo, thank you.

MS. DUIGNAN: Thank you. Wemimo?

MR. ABBEY: Thanks a lot for -- hi everyone. Hope everyone is well. Congratulations, Stacey. We're incredibly excited for you and the impacts you have at the SEC.

I'd just like to provide a quick overview of the 2023 State of Funding Particle Value Fund and our operators' perspective. There are three key points I want to highlight, especially as the report alluded to. We've seen a funding freefall. Funding has experienced a sharp decline, plummeting by over 42 percent year-over-year, really painting a challenging financial landscape.

We've seen the challenges of heightened interest rates. A lot of our clients, particularly in real estate, are struggling to navigate the high interest rates environment. But it's also welcome news to see that inflation is going considerably down.

To that end, we've also seen -- which brings me to my second point -- deal drought. Deals have hit a six-year low, indicating a cautious approach among investors and challenging conditions for startup. There's dry powder in the market, but investors are being urgently patient in their approach to deploying capital.

And I also think about the class of companies that we are situated in, which is largely the unicorn environment and the birth of unicorns -- which is companies valued at over a billion dollars --

at its lowest levels since 2016, underscoring a really turbulent climate and market volatility.

One positive notes amidst this challenge, was seeing notable increase in funding within the AI sector. This aligns with a broader trend of associating AI funding with the cloud movements earlier on. So although we might be in the middle of a storm, I fundamentally believe that, there's gonna be a rainbow after the storm and things will for sure get better.

And my last point is really what I am seeing my fellow founders do in the marketplace, from an operational standpoint, is really -- on the lesson of making sure that we are running the business in an operationally-efficient way. At our company and the advice I give to emergent founders is the DROOM rule, or the D-R-O-O-M rule, which is do not run out of money. You know, maintain a solid financial position, have enough capital to go through these headwinds, because there'll be a lot of opportunities, especially AI, coming out of this turbulent environment.

But this is some of the things you've seen in the marketplace: funding free fall; deal drought; unicorn retreats; and above all, you know, telling founders about the rule, do no run out of money.

Thank you.

MS. DUIGNAN: That's a great rule. I'm going to steal that for the future. Great. Donnel?-

MR. BAIRD: Congratulations to Stacey, and looking forward to the huge contribution that you will continue to make in the new role moving forward. I really think that accreditation has been a proxy, you know, for skill and expertise and risk management for retail investors. But I've really learned in time, raising capital as an operator over the last 10 years, that having a professional lead investor makes all the difference in the world in being able to successfully raise capital.

And I continue to be interested in finding ways to -- whether it's labeling deals that have used the crowdfunding exemption with a small "p" that says, "Hey, a professional investor has vetted this transaction and is, 'Leading this round.'" There's no evaluation of the quality of that professional investor, just that they exist and that they're leading that round. I think that kind of designation would provide potential new investors with more information. And that would certainly make me more comfortable encouraging more and more people to do crowdfunding.

We have launched our third equity crowd – project finance crowdfunding campaign as of 30 or 40 days ago. So far, we've raised about $4 million in aggregate over the last 2 to 3 years. This one is remarkably -- the pace is remarkably slower than prior campaigns, due to many of the market conditions that were Wemimo so expertly outlined. And with that, yeah, that's my comment on accredited data and professional investors. Thanks.

MS. DUIGNAN: Thank you. Bill?

MR. BEATTY: Well, thanks. Many of you, I'm sure, do not know me. My name is Bill Beatty, obviously, and I'm the -- I run the Washington State Securities Division as a securities administrator, and have been a regulator since almost the dawn of Regulation D. I started in 1986.

I don't have any really insights into the market but I will say, as to the discussions that are gonna occur later today on the accredited investor definition, it's been our experience as regulators that are primarily focused on protecting retail investors, that many of the victims in our -- in the cases that we bring are accredited investors.

And it's painfully obvious that those folks have done a tremendous job in, over the course of their lives, in saving money, building up accounts, getting ready for retirement, doing all the things they're supposed to do. But they are certainly not sophisticated in the sense -- generally in financial matters.

They've just done what we encourage everybody to do in terms of, you know, having -- you know, having retirement assets sufficient to fund their retirement. And it is very disheartening, certainly for them and for us who see it over and over again, to see these people having done everything they're supposed to do and then getting taken advantage of.

And having said that, I certainly acknowledge and have been involved in, you know, crowdfunding efforts, regulations, and those types of things down through the years, and small business capital formation is obviously tremendously important.

But I just would encourage everyone to keep in mind that what we're talking about here, and what Chairman Gensler said, resonated with me. These laws exist to protect investors and I don't think it's necessarily paternalistic. But I would just encourage everyone to keep that in mind. And thank you for the opportunity to share my views.

MS. DUIGNAN: Thank you, Bill. And thank you to everyone on the committee for these great insights. You know, after all of that, I don't know if there's much less to say.

One of the things, you know, that I just want to point out that I'd love to guide our discussion this morning is that, you know, as a general partner at a venture capital firm with a variety of LPs that are both institutional and individuals accredited investors, all I'm thinking about every day is how I can get these people their money back, and hopefully in multiples.

And, you know, I think that's one of the things that we really need to focus on in the discussion as well, is that a lot of folks are very focused on how to, you know, get money into the system, right? So from the investors into the companies. But we also need to pay attention to the ways in which that money can actually come back to those people in the form of, you know, cash they can use to fund their retirements, their children's college, you know, their living expenses.

So I think that, you know, that's going to be an area that we can be very thoughtful about in the conversation today. So thank you, everyone.

I also just want to make a note, as Sue so kindly pointed out, we are probably going to start lunch a little bit late today. So if anyone wants to grab a quick snack, feel free to nourish yourselves as we continue to work through probably the first half of lunch.

But next up, we are really excited to welcome Julie Davis and Jenny Riegel from the SEC's Office of the Advocate for Small Business Capital Formation, also known as OASB. Julie and Jenny are going to provide an overview of the fabulous Fiscal Year 2023 Annual Report, which includes an in-depth data on the state of capital raising activity, along with the Office's policy recommendations.

I think that we're all going to find the data and information they share today to be particularly relevant to our ongoing discussion of the accredited investor definition, for which we hope to come to a consensus today. It will also provide an important context for this afternoon's IPO market discussion. So welcome, Julie and Jenny.

MS. DAVIS: Thank you, Erica. As you all know, I'm Julie Davis. I'm a senior advisor in our office, and Jenny is our policy manager, and we are super proud of our baby. And I will say it's really more Jenny's baby than anybody else's, but the whole team works for a long time throughout the year on this annual report.

And everyone should have a copy at their desk if you're here in the room. If you're not here in the room and you're a committee member on WebEx, I think Jenny's going to drop a link in the chat to the online version. And for those folks watching on the webcast, you can access it on our office's website, which is sec.gov/slash OASB. There's a prominent link to the report. So we hope folks will download it, bookmark it, so you can use it over and over.

But I'm just -- I think -- we don't have a lot of time. We want to just kind of go through the report and give a few highlights, let folks kind of get familiar with the layout of it and with hopes that you'll go back and use it time and again, whether online or the hard copy.

Just turning first to page 3, there's a little chart that shows how we think about capital formation in our office, and it's also how the report is laid out, by life cycle. Meaning by small and emerging businesses is the first section of the report, and that would be businesses that are just getting off the ground, maybe self-funding or grants, non-dilutive funding, angel investing, crowdfunding, you know, potentially pre-seed seed rounds, or those early checks that are, you know, tend to be smaller.

The next section is mature and later stage businesses. That would be like venture capital funding, you know, bigger checks from larger maybe funds. And then finally small public companies. And this is a big part of what our office does. I know we spend a lot of time here talking about different phases of the life cycle, but smaller public companies is definitely something we're focused on as well.

And it's important to keep in mind that those companies don't just raise through an IPO or through the registered markets. They're also using exemptions, you know, such as Reg D, to raise in the private markets. So that's just to kind of give you the overview of the cycles.

Going to page 7, this is a stat that Commissioner Crenshaw brought up, and we think it's really important to keep in mind. You know, where do small and emerging companies turn for capital? And those first two bars across the top that are blue, personal funds and cash reserves, those are far and away the most common places folks will seek.

And of course, if you don't have personal funds, that is not an option for you. We fully recognize that. But our office and the SEC, of course, is focused on external financing, that red bar, where only 42 percent of companies seek that external financing, and 8 percent of that 42 percent seek equity investments. So it's -- we just -- I think as you're thinking about this from the SEC's perspective, 8 percent of companies seek, you know, investment capital. It's a very important piece of the pie, but it is not a large piece of the pie.

So, flipping the page to page 8, this is a page on angel investors. They're obviously a significant source of early-stage capital. I'm just going to point out there's lots of stats here. And -- sure. You need to turn on your mic though.

MALE SPEAKER: Sorry, sorry, I was just saying we can ask questions. So personal funds and cash reserves, are you saying cash reserves from companies or can you explain the difference?

MS. DAVIS: Jenny's going to correct me if this is wrong, but I think it's revenues. It's money that the company --

MALE SPEAKER: Got it.

MS. DAVIS: -- has brought in its own self.

MALE SPEAKER: Got it. Okay, great.

MS. DAVIS: So, on page eight, you'll see we have a lot of stats on angel investing. Each stat in the report, not just on this page but throughout the report, has an end note. And if you -- especially if you're using the online version, you can click right to the end note, you can go right into the end note, and each end note has, hopefully, a link to that report.

So, you know, to the extent you find something that's of interest to you, you can go and dig in and learn a little more from the -- from the source.

So flipping to page 12, I just want to point out one of -- I think one of the most interesting stats at this early stage, just in terms of -- I've been in the office since 2019, and this is a stat that we're always watching, and that's changed a lot. There in the middle of the page, the median distance between company and lead investor in a seed deal.

And if you see how that number has skyrocketed since 2019, you know, we think of these early stage companies, especially in parts of the country that may not have a robust ecosystem, you know, it's harder for them to find investment. And seeing that now it's gone from under 100 miles, as you know, from where your lead investor is -- to almost 600 miles, that's a big change.

And obviously, I mean, of course, a lot of that happened over COVID as folks got more comfortable on Zoom. I'm sure you all have seen in your own experiences, a lot of things that would help explain this. Or maybe you've seen something that's different and we welcome to hear that.

But I think that's a really interesting number to watch. So with that, I'm going to turn it over to Jenny to talk about a little bit more of some context.

MS. RIEGEL: Excellent. Well, thank you again for having us. So one of my favorite pages is page 16. And so one of the things that I think this page helps do, is it looks at specifically what are U.S. companies doing and what does that mean in the market, right? So looking at both U.S. public companies and U.S. private companies, and then looking at kind of whether they're doing registered offerings or exempt offerings and aggregating that all together.

And the big thing that jumps out to me in this first graph in the upper left page, the green bar graph, is that you can really see that registered offerings continue to raise the largest amount of capital in the markets. So that is one point that's often discussed, so I wanted to flag that.

The other -- diving down on this page in the blue graph in the bottom right-hand corner, the other takeaway from this page that I have is for U.S. private companies, while you can see the amounts raised under Reg D pale in comparison to what's raised in those registered offerings, 17,000 offerings happened under Regulation D during that time period. So that is a large number of offerings that are raising smaller amounts of capital for companies to be able to grow and go into the market. So that is one thing that I kind of wanted to flag there.

The other thing, I'm going to jump straight to mature and later stage companies. For those who are following online, you can see our beautiful interactive version. For those following along, the next page is actually going to be page 23. And I think this stat is very relevant to our conversation, your conversation later today. And that -- it shows the link between an active VC investor and the higher probability of an IPO. And that is something that's often discussed, so I wanted to flag that, what we're seeing in the data there.

The next flag I want to do in this section actually relates to funds, so turning from companies to funds, so page 27. And this is something that was echoed -- I believe, Vincent made it in his remarks this morning -- talking about kind of what we're seeing both in fundraising overall, but also fundraising by funds.

And this graph really highlights the fact that fundraising by funds continues to concentrate in those large and established funds, and that the emerging manager's share of what funds are raising is really continuing to decline. And it's not surprising, you'll see later on that page, and this echoes feedback that are often here -- that our office hears frequently -- that emerging managers are having a difficult time fundraising in this environment.

With that, let me turn to IPOs and smaller public companies. The page is page 31. And one reoccurring -- as we're flipping -- theme in this section is that smaller public companies are facing considerable challenges. And the thing I want to highlight in this graph on the top of the page is, when you look at the red graph, IPOs by small public companies, you really see that there is a consistent - - that small public companies are a consistently small share of that IPO market. And it's really stark in comparison to the other graphs on this page.

The other point I want to make is on page 33. And this is something that Commissioner Uyeda mentioned in his remarks this morning. And we often hear about kind of the decline and the number of companies in the public market. And this graph really highlights the fact that small exchange-listed companies are basically responsible for that decline. When you actually look at the number of large exchange listed companies over time, the number has actually grown. So it really does show you kind of where the companies are that are declining in the markets.

The other point I just wanted to make before we -- I turn it back to Julie, is that obviously the number of public companies is just one measure of how market growth is. The other thing that we're seeing is the exponential growth in the aggregate market cap of public companies. And that is something we hear about. But again, the small public company share of that is declining decade over decade substantially. With that, let me turn it back to Julie.

MS. DAVIS: All right. So flying on

through, because I know you all have a lot to do today. But the Women Founders and Investors section, page 39. The statute that set out our office, along with our many responsibilities, requires us to report on the unique challenges faced by women-owned businesses, minority-owned businesses, and businesses impacted by natural disasters. So this is a -- this is a key part of what is in our hearts as well. So we have those sections in this report.

Page 41 -- well, actually, the women's section starts on page 39, but I'm going to look first at page 30 -- or sorry, 41. And when we're looking through this section, you'll see there's a lot of different data. Just on that gray dot at the top, why seek financing? There's differences for women-owned companies, both in why they're seeking financing and the ways they're receiving that financing. So just pointing that out to take a look, you know, as you scroll through.

So if you turn the page, there's a pretty dismal graph at the top of page 42, comparing -- if you look on the, is it the right hand side? Yeah. Is the green graph that shows deals with men founders and how much venture capital funds they're getting, versus on the other side, the little red bars that barely probably show up on the screen, that's what women-only founders are getting. And then in the middle is deals with -- that are co-founded teams with men and women.

So you can really see the discrepancy here and the stat right below that graph calls it out. Only 2 percent of venture funding raised in 2022 was invested in startups led by all-women founders. So pretty small. And then the call out of the pie, of course, only 5 percent of that 2 percent piece of the pie went to women founders that were black or Latina.

So having said that very depressing stat, on the next page, there's a little more less depressing, you know, more positive. And that is that women-founded companies are doing more with less. So the median time to exit -- to return that money to those investors, as Erika was just talking about -- is, you know, consistently over these years has been faster for women-owned companies. And then just below that, women-founded companies manage their cash and burn rate, maybe out of necessity, using 25 percent less capital per month.

So in another bright spot in the women's section, page 48, we're talking about angel investors again. And as a percentage of active angels, women angels now have reached a new high in 2022 of almost

40 percent of active angel investors. And that was an increase from 2021 of almost, you know, 34 percent. So that is rising.

And I won't make Jenny flip back around in the report but earlier in this section, you know, I think probably a related point is that it was -- it was a good year, or at least in terms of the numbers with the number of women seeking angel capital went up. And also the number of those pitches that were made were successful, and so the number that did -- that angels decided to invest in.

So, you know, this is a trend that we see not just with women-owned companies, but, you know, women investors and investors of color are more likely to invest in businesses with women and diverse founders. So it's just an important thing that we're always keeping in mind as who's writing the checks makes a difference. Herbert?

MR. DRAYTON: Julie, what page is she displaying on the screen?

MS. DAVIS: Oh, I'm sorry. We are on --

MR. DRAYTON: No, this page, it was different.

What is she displaying?

MS. RIEGEL: So page 41 was the stat that

Julie was talking about that shows the angel investment in the founders themselves. The prior page, page 48, talks about the makeup, the gender of those angel investors themselves.

MS. DAVIS: All right, moving on to the diverse founders section, page 50. Again, this section has a lot of data that we have. I could spend all day on any one of these sections, but we'll not do that to you. So the proportion of diverse business owners is growing. And over the last 10 years, diverse businesses accounted for over 50 percent of new businesses. So a lot of activity in this space.

But then if you flip the page, you know, kind of what we were speaking about earlier about, you know, family wealth being such an important point of your starting line, here we show the share of U.S. net worth versus the share of households. You know, and obviously a lot of demographic groups start at a disadvantaged starting line because of that lack of family wealth. So it's a hurdle that we're very much aware of.

Page 56. Similarly depressing stat, as we talked about with women founders, at the bottom of the page here for minority founders. You know, 1.5 percent of VC dollars went to Latino founders in 2022 and 1.1 percent of VC dollars to black founders. Yes.

MR. DRAYTON: And, Julie, can I just say on that point, just to put this -- and, again, it speaks to kind of what I've seen in the marketplace personally But that 1.5 percent is against Latinos representing 25 percent of all millennials and Gen Z'ers in the United States today. So there's no greater cohort of Americans than U.S. Latinos that are underinvested, both from founders of color, but also emerging fund managers of color.

And I believe when Fairview Capital came two sessions ago, they spoke to that point. So as we think about this 1.5 percent list, let's just contrast that versus 25 percent of all millennials in Gen Z'ers in the US today are Latino. Or that 50 percent of population growth in America over the last 10, 20 years has been Latino.

MS. DAVIS: Thank you.

MALE VOICE: Question.

MS. DAVIS: Sure.

MALE VOICE: So I'm looking on page 50 and just looking at sort of how you're looking at diverse founders and the definition, which is very comprehensive. But I'm curious if when you're pulling -- and obviously I have to look at the report more in detail -- when you're pulling all these stats of diverse founders, do the -- do the definitions match? Because yeah, that's an issue, right?

MS. RIEGEL: Yes. I mean, this is an excellent question and this is a problem over different sources. No, we pull from whatever sources we can.

MALE VOICE: Right.

MS. RIEGEL: We think it's best to provide as much data about the market even if there's inconsistencies in how someone defines, you know, diverse founders or if it goes to black founders, Latino founders.

MALE VOICE: Right.

MS. RIEGEL: We think providing as much information about the market is really important to kind of be able to stand back, even if there's the downside of the definitions don't always match up. We do our best in the footnotes to clarify how diversity is defined within each particular source.

MS. RIEGEL: So, I always like to say that the devil's in the details.

MALE VOICE: Yeah. If I --

MS. RIEGEL: But the definition, we do our best. But we do welcome feedback on this if there's ways to improve. But we are -- often, our goal is to provide as much information about the market, with the downside being that there's inconsistency.

MALE VOICE: Right, right. Makes sense. Thank you.

MALE VOICE: Yeah. Just on that -- Jennifer and Julie both -- I would tell you, having gone through the report, I thought it was a phenomenal report, and they do do a good job of listing everything. And they make some new additions based off the feedback from last year, including with disabilities that you'll be getting.

MS. DAVIS: Do you want to go ahead and just skip right to the --

MS. RIEGEL: Yep. And I encourage you to dive in. I mean, we really do our best to try to provide as much information to the market. I'm going to scroll as quickly as humanly possible because I know we are past time. But we really do try to address all different areas and how diversity is captured, as well as other data.

I'm going to just quickly highlight our recommendations. These really come together from the feedback that we hear throughout all of our engagements, all of our conversations, and are informed by the data in this report. We really try to step back and think about how do these conversations that we're having in one-on-one scenarios across the country really aligning with what we're seeing with the data in the markets and does it make sense, right?

And so stepping back, I'm going to just fly through these. The five recommendations of our office -- and you can see them here. First is expanding educational resources. Thank you. Page 69 starts the recommendations. And the first, again, expanding educational resources. The second goes into private offering changes, and this refers to Regulation D, accredited investor, that you're discussing today, as well as regulation crowdfunding that George Cook mentioned earlier.

The third recommendation goes to regulatory clarity on the role of finders in facilitating introductions between founders and investors. The fourth recommendation goes to changes to support emerging fund managers. And the fifth recommendation goes to scaling and harmonizing the small public company requirements. The other sections of the report are a little bit of information about our office, the events that we engage in, and our educational resources. That's on page 87.

And then, last but certainly not least, and importantly, is a highlight of this committee's wonderful work, and that's on page 95 of the report. So thank you again for your service. Sorry to fly through this, but I know you have quite a full agenda. Happy to answer any other questions, but I know you have many, many things to discuss this morning.

MS. DUIGNAN: Yeah, thank you so much. And, you know, hopefully between now and the next meeting, we can all dig into this wonderful document and maybe we'll make some time on the agenda next meeting to, you know, say our favorite parts and what we were inspired by it. I'm sure there'll be a lot.

So thank you for the helpful background. We'd like to move into our discussion about potential changes to the accredited investor definition that we may include in our formal recommendation to the Commission.

MS. DUIGNAN: So as I mentioned at the outset, this topic is a continuation of our previous meetings where we explored a number of potential changes to the definition that could address challenges that we're seeing in the market. We think this is a particularly timely topic in light of the report that recently published on the accredited investor definition, as well as the fact that changes to Regulation D and Form D are on the Commission's regulatory agenda.

We really appreciate the importance of a balanced approach to the accredited investor definition and what qualifies an individual as an accredited investor. Our challenge is to arrive at a recommendation for a definition that is neither over-inclusive, nor excludes people from opportunity. And the views and ideas expressed by committee members at the prior meeting were wide-ranging.

The ideas that we discussed previously fell into five broad categories that seemed to generate interest from the committee's members. So, today, we're hoping we can drill down into those five categories in order to get a formal recommendation that we can put in writing. We'll take them one at a time, and when folks are ready, we can take votes on the possible recommendations along the way.

So, to facilitate this, Sue has prepared a flowchart in PowerPoint, which we circulated, that hopefully will serve as a visual guide. I will lead the discussion and Sue will continue to take notes and amend the PowerPoint. I think they said you can't share your screen. Okay, but she'll be. Yeah, so we hope that we can complete the discussion prior to lunch.

So, I'm really excited to get started. The first of the five possible changes that we would like to attack, and probably one of the most important ones, is how or if we should adjust the income and net worth thresholds for inflation.

We previously came up with three general options: A, adjust for inflation since the definition's adoption date. The SEC Staff review released in December of 2023, looks at levels if the adjustments were made back to the definition's adoption in 1983. The threshold for individual income would increase to -- from $200,000 to $607,568. For joint income of 300,000 would increase to $911,352. Net worth, 1 million would increase to $3,037,840.

And as far as the impact on the U.S. population, the current percentage of households that qualify as accredited, just using these thresholds, is 18.5 percent. However, when the thresholds were adopted in 1989, just 3 percent of households qualified. If the thresholds are adjusted for inflation, the percentage of households that qualify would decrease from 18.5 percent to roughly 5.7 percent, which is still approximately double what the initial percentage that qualified were.

The second option we have is to leave these thresholds and adjust them on a going-forward basis. So for example, the JOBS Act requires regulation crowdfunding thresholds to be adjusted every five years. So, you know, we can adjust now and say, adjust on a certain interval of time.

Or of course, option number three, do not adjust for inflation. And if we allow the thresholds to remain as they are due to inflation, the percentage of qualifying households could increase to 30 percent by 2032, 47 percent by 2042, and 63 percent by 2052.

So I know you've all received sort of a summary of this in writing, and hopefully have had some chance to think about it prior to the meeting, but would love to open the floor to get feedback and ideas from folks so that we can see where we're going towards a consensus.

MR. CORDERO: I'll start. Thank you for the prep materials. They were great. And in reviewing them, I -- to start just contextually, the statement from the first Commissioner, who spoke with regards to her travels in Pittsburgh and hearing directly from people, and then that being echoed by the comments that Commissioner Uyeda shared as well and that concept of paternalism, they echo one another.

You know, for me, when I had the opportunity to join, it was to -- from my standpoint, you know, one -- definitely appreciate the SEC and the entire ecosystem of regulation around it. And I approach it from a standpoint that, you know, something that was important to me was to really kind of advocate for the democratization of the private marketplace and, you know, more accessibility, more openness, more access.

And when I was reviewing all the materials, those were the things that were in mind. Are we looking to close access or open access? And I would say, particularly now more than ever, that the private marketplace -- while I appreciate it's not the only marketplace -- it's a very important one. And it's really, at the end of the day, you know, I would say one of the foundational pillars of kind of American prosperity, both as a nation and a community, but also on an individual and family level.

And to the extent that we want to help create more access to that, you know, I think we want to broaden, not restrict those investors that can participate in that American dream. And with the comments that I shared that I agree with from a standpoint of looking to support individuals making those decisions for themselves, as opposed to being restricted from making those decisions.

In many other places, you know, we don't restrict. We could all -- we might have our individual questions or people might have different perspectives
on what people should invest their money in or not or what they should spend their money on or not, credit cards, et cetera. You know, we give a lot of allowance to people to make those decisions for themselves.

And I would say from my standpoint, as I thought about this, the entirety of it, the framework I think should be to trust people to make those decisions for themselves, try and create more access to the private marketplace, to democratize that wealth creation both for founders and for investors both.

So my vote would be, and my perspective was, to not increase the threshold with regards to having any adjustment for inflation, either past or present or future?

MS. DAWOOD: I would totally agree with that. I'd also like to say that, you know, I feel like as we're talking about this, it's a little bit in a vacuum because I'm just not a fan of having a threshold that has to do with wealth or income when we're not talking about education and letting people know about what the risks are and all the things that we've talked about in the past.

But I did just want to make a point about that historically in 1989, 3 percent of the households qualified. Well, okay, but back in 1989, it was a completely different environment. You couldn't find anything to invest in in a private market that was like $5,000. If you really wanted to do something in 1989, you had to have 250,000 or a million dollars or, you know, big, big money to invest in these institutional types of things that were private. It was very exclusive. It was just for the rich, the well-connected.

Now, it's a completely different system. So when I see something that says, "Well, hey, it could go up to 30 percent," and back in 1989, it was 3 percent, that doesn't really mean anything to me, other than to say that the market has changed.

So I don't know that we want to say that in 1989, they had it all together and they were right that 3 percent is where we should be because that, to me, doesn't really fit in with what we're dealing with in the current environment.

MS. DUIGNAN: And I just to mention that we will be discussing the other points, including education and limits, you know, so that we can make a holistic decision. So, we'll just start with this one. Thank you. George?

MR. COOK: From the perspective of an operator, Honeycomb actually just closed a funding round last week. Of that round, two of our investors were small funds that are largely made up of individual investors. Two of our investors are angel groups. And if we thought about inflation adjusting back to the 1980s, this round would not have happened. It would be completely catastrophic for the startup community.

MR. DRAYTON: I'll add in some testimony about the same time last year, Ami from Black Girl Ventures, she said something that struck me. She said that a lot of the rules changes that are being proposed or being considered are to the benefit of those who are already at the front of the line. So I am in favor of leaving the definition where it is right now.

MR. SHARIFI: So I can appreciate -- I definitely can appreciate the impact it would have if we, you know, indexed all the way back to the 1980s. But I do think we should consider, you know, indexing starting now. I'm in favor of the second option, because I do think it's important that, you know, every year that we're not changing those numbers, not keeping up with inflation. We're exposing more and more people to risks that they might not be able to absorb.

And I think, as some of the Commissioners mentioned, these rules were initially for investor protections. I think that there's -- this accredited investor, when it was first kind of put out there, the idea was if someone has the wherewithal, if they meet these requirements, they'll be able to afford counsel, they'll be able to afford guidance. They can reach -- even if they don't know the industry or the investment themselves, they can -- they have the resources to learn more about it.

So when we start looking at the statistics that if we don't change it, I think it's 50 percent by 2050, was that right? By 2052, it'll be 64 percent of people. Yeah, which is -- which is staggering; to think that 64 percent of people should have -- be exposed to these risks that they do not have the financial ability to absorb.

MS. SETHI: I want to add on to that. Yeah, I think -- it sounds like some committee members are concerned about the thresholds at all. And I could see, you know, an argument -- we don't have it on the table here, but an argument for getting rid of them. I think over time, if you don't adjust for inflation, they become meaningless. So I do think kind of, you know, right now, yes, the market has come a long way, but there are still concerns about such a large percentage getting exposure. So kind of indexing forward allows for some time to kind of see how that progresses. You do, you know, continue to have -- you know, you don't take away anything from the past, which is, you know, pretty difficult to take something away from people that have had it for some time. That's administratively also very difficult.

So if you index it forward, you keep it from expanding a huge amount, and you can kind of see how the market and the different populations kind of adjust to that market and the information. And, you know, maybe one day there will be time to take away the thresholds,
but, you know, perhaps that's sort of a compromise approach.

MS. WASHER: But can I ask, what would be --

let's say, 60 percent of people qualify and people are worried about someone with lesser income being able to absorb the risk of a company failing. What can we -- to Marcia's point, what can we provide in the way of education that might balance that? Because people take individual risk all the time, you know, on credit cards, on mortgages, on playing the lottery, et cetera. And we assume, I guess, that they have information that they can make that for themselves.

So is there a way to say that, "Yeah, everybody should be able to make the decision themselves, as long as they have 'X' information or 'X' education or, you know, they have a Ph.D. in finance. Maybe they only earn $20,000 a year, but they have a Ph.D. in finance. They certainly should be able to make a good decision.

MR. CORDERO: I thought we were going to wait to talk on education until a little bit later, but I was just going to – so I'll assume that you want to wait for that. The thing I would say is in terms of risk exposure, you know, it's opportunity exposure for me. So, you know, there is no upside without that risk. And we empower people every day to make all types of decisions for their family, for themselves, from a financial standpoint.

And, you know, at the end of the day, you know, there are different groups within different industries that advocate for more exposure, right? That's okay in those groups. I would say we should be advocating for more exposure for opportunity for a greater piece of the American public to participate in the opportunity to create wealth.

And from a standpoint of empowering them with information -- which also Chairman Gensler, I think, spoke to as well and so you were speaking to -- I think that's a good thing. But from a -- you know, it shouldn't be a bifurcated decision. I think that at the end of the day, it's about opening the doors of opportunity and access and then doing so with information. And at the end of the day, empowering people to make those decisions for themselves.

MR. MARSICAL: Yeah --

MS. DUIGNAN: And -- sorry. Go ahead.

MR. MARISCAL: Sorry, I just wanted to echo that. Yeah, I agree with that and I think that there is a part of the discussion that can be had around what are ways to mitigate, right? Because the risk is real. And I'm thinking about specifically, again, from the disability perspective, there's certainly a need for education, right?

But I do agree that reducing the barriers allows everybody, or more people, to have an equitable playing field, more equitable playing field. And frankly, it puts the burdens on many organizations like ours to better educate those communities. And I think we should be up to the challenge to do that, right? So that would be my contribution to this discussion?

MS. SETHI: Then there's the -- I mean, the different mitigating factors. I mean, yeah, education is one of them. But one of the things, you know, people should remember is currently accredited investor, the net worth requirement does exempt your primary residence, but it doesn't exempt your 401(k) plan. So a lot of these people who would potentially qualify as you get to 2030, 2040, 2050, it's going to be through their retirement accounts.

And it may be very reasonable to put, you know, whatever, 5 to 10 percent of your retirement assets in, you know, these kinds of alternatives. That's what a lot of financial advisors would, you know, potentially recommend. But there is a risk that seniors could get preyed on to put sort of disproportionate amounts, and I think that's where some of that concern of not indexing for inflation comes from.

MS. DUIGNAN: Can I -- can I give the remote joiners an opportunity? Wemimo?

MR. ABBEY: Yeah, thanks a lot for the opportunity. I want to really acknowledge the hard work that -- has done to put this recommendation forward.

Just looking back from an operator season, going down memory lane a little bit, when we started, you know, Esusu, the company I'm a co-founder of, we had a lot of unaccredited investors, not to our knowledge, join us on that journey. And some of them invested $5,000, some of them $10,000, and as little as $3,000. And these are people that wanted to, you know, vote with their dollars and really take a bet on us because we just saw the stats. It's staggering. Less than 2 percent of capital goes to people of color and even an infinitesimal amount for black and Latino founders and even women.

So my vote is for option C, do not adjust for inflation, because we ought to employ different strategies, which I'm sure we're going to talk about throughout the course of this conversation, particularly on education. We need to have the right caveat emptor in place, so folks know the risks they're exposing themselves to. But we should not limit the ability for folks to get opportunities to companies like ours.

The folks that invested early have now gone on to invest and now have millions of dollars in their portfolio. A classic example is a gentleman called Isaac, one of our early investors. We're the first person, first company to ever invest in, and now he has a portfolio of 32 companies with multiple exits.

So although I really understand the risk, especially with seniors, I think we're going to have a more robust conversation on the right disclosures we should have in place. But my vote remains, do not adjust for inflation and really give people opportunities to participate in the American financial system, because the rising tide lifts all boats here.

MS. DUIGNAN: Herbert?

MR. DRAYTON: I think if we make any adjustments we're perpetuating that paternalistic scaffolding that we've had so much conversation about. And I do want to point out two things that we've heard today, and this comes from my colleague Mark Sharma. He mentioned that investors of color are the fastest entrance into the space today. Any adjustments, I would ask the group, how will that impact the velocity of those folks entering the space?

And then the last thing you said that resonated with me was that a lot of these folks are getting their education via social media. I will admit that there's a fine distinction between gambling and investing, and I've seen it have an impact with some folks that are closely linked to me. But we can't discount the data, if you will, that our colleague Mark shared with us earlier.

MR. DILLASHAW: I just want to point out one other thing and Marcia sort of alluded to it as well. Notwithstanding sort of the increase of eligible accredited investors, if you look at the number that are actually participating as angels, it is -- it has not exploded. So I think some of the worry is if you open the floodgates, make everyone accredited, everybody's going to start investing. That has not been the case with the rise in eligibility since 1980.

So I think that's sort of an important thing to point out. That there -- in the market, there do seem to be mitigating factors against sort of the floodgates of everyone all of a sudden in investing.

MS. DUIGNAN: Okay, thank you. All right. Let's move on to our second point of discussion: Allow natural persons who do not meet -- I think that we might want to see what all of our levers are before we decide on any particular one, because they, you know, they just have something to do with each other, so if that's okay.

So allow natural persons who do not meet the wealth income thresholds to invest up to 5 percent of the greater of their net income or net worth. What do you guys think about that idea? George?

MR. COOK: More of a question on enforcement. What happens today if a non-accredited investor invests in a private asset? I know like I, as an operator, have some risk. Do we know like whose obligation it is to track that? And you know --

MS. DUIGNAN: I'm not an expert, but I believe that it's the issuer's obligation to get verification under the circumstances of their offering. But would any of the lawyers or other more qualified people like to properly answer the question? qualified people like to properly answer the question?

MS. SETHI: One thing I would say is that one of the biggest implications is that the issue of the issuer having kind of a de minimis allowance would be that it may allow for more general solicitation. So right now, a lot of lawyers advise their startup clients to not speak broadly to, you know, public audiences. I think there's some exceptions for pitch competitions and that kind of thing, but it's very tricky to reach out to a lot of people.

So even if you're allowed to have a certain number of non-accredited investors, to get that, you have --- you know, you want to publicize, you want to speak to a lot of people, you may want to reach out in different ways. And that makes lawyers very concerned. So if there was a de minimis exemption, that may facilitate a broader just exposure for founders.

MS. WASHER: We were talking about this a little bit at dinner last night, about that it really is the issuer. And they can't even get the certification or demonstration of them being accredited from the investor themselves.
They have to reach out to a bank or the accountant and et cetera.

MR. DILLASHAW: It depends on -- and the SEC can correct me if I get this wrong. I feel like I'm in law school again. It depends on the exemption that you're trying to operate under. So 506c is the one that allows for general solicitation, but has heightened requirements for then validating that someone meets this accredited investor status. Versus 506b, which does not allow for general solicitations, but you can self-certify on the accredited investor status.

For the Reg CF, I believe it is a self-certification standard. So you do have a -- the platform does have a duty to ask the question, but doesn't have to verify -- I'm looking over at the side of the table to make sure I don't get it wrong -- doesn't have to verify with like tax returns.

MS. DAVIS: That was -- that would get an 'A' in a law school class, as far as I know. No, the only thing I'll say is that self-certification isn't something that's in the rules. It's that the issuer, the company, has to have a reasonable belief that the person is accredited.

So, you know, if someone checks the box and you have no reason to not believe it, perhaps that is how self-certification been -- has gone on. If however, even if they check a box and you know they're not accredited, then that, you don't. But generally -- and definitely the whole idea of having to have 00 taking reasonable steps to verify under 506c is a heightened standard.

MR. DEAN: And are the penalties, if they don't, aren't accredited, very severe for the company in terms of liabilities and other.

MS. DAVIS: Yeah, Greg, that's a great point. And, you know, I would also think, too, the reality is that in the cases in which it goes bad and, you know, they would like their money back, their recourse against the failed company is probably going to be limited because there's nothing there really to go after. So something to be thoughtful as well. Like, we can say the issue is liable, but if, you know, they're out of assets, it would be hard to compensate folks.

FEMALE VOICE: I have a quick question, especially for George. So this 5 percent is something that's in the REG CF already? How do they police and monitor it?

MR. COOK: Right. So the standard within regulation crowdfunding is self-reported, income and net worth. So there is a baseline. Everyone is allowed to invest up to $2,500 annually into regulation crowdfunding assets across the board. And then there is a calculator, based on your income and net worth, that many people are able to invest more than that. And then it becomes uncapped for accredited investors.

So, it's a sliding scale. And in principle, I really like this sliding scale. I think the implications could be quite good as we're talking about the accredited definition. But having this conversation here, I think enforcement, and putting the burden on issuers scares me quite a bit.

MS. DUIGNAN: Other thoughts on the sliding scale?

MR. DILLASHAW: It's more of a question. But I think as we sort of evaluate these types of limitations, I think it's important to ask the question of what is -- what are we trying to protect against? You know, because everybody's talked about this tension between sort of open access and paternalism.

And if we are capping the number of the amount that anyone can invest, I think it sort of begs the question of what are we trying to protect against? And is it an anti-fraud? Is it a non-financial sophistication? Is it -- are we trying to prevent people from investing more than what we perceive as the appropriate amount of their net worth.

And I think that -- I think that's just an important question to ask because I think it does get into this sort of paternalism versus opportunity to access question.

MS. SETHI: I think the 5 percent that would allow -- and so it would be less paternalistic up to that. So I mean, I guess, it's being picked from sort of kind of general financial recommendations of 5 percent alternatives being, you know, often considered reasonable by most financial advisors. So for that 5 percent, there would be no -- you know, no need to be a credit investor or the inflation. It doesn't matter.

Basically, no questions asked.

MS. DUIGNAN: Yeah. I think that, you know, what we are trying to do is establish recommendations and regulations that will help sort of the average person who's maybe not very educated on, you know, portfolio theory and asset allocation so that they can get a sense of, you know, what would be reasonable, right?

So otherwise, you know, I could be a startup founder and go to somebody who has no idea about the asset class and be like, "Oh, it's perfectly fine to give me 25 percent of your money," right? So if the regulations, you know, are sort of giving guidelines as to what's appropriate, but then letting people operate freely within those guidelines, I think we've achieved something that is both protective and empowering for people. And I think that's part of our goal for today.

MS. WASHER: I just wanted to add, one of the things to think about with these two things we've just -- The two levers, the levers of the definition and the lever of allowing people under whatever threshold we set having these tiers and a sliding scale. You know, what are people's thoughts about the interplay between those two? And are having both levers maybe more inclusive than having one and not the other? And just thoughts on that.

MALE VOICE: Yeah. I don't think they're mutually exclusive.

MS. DUIGNAN: Yeah. And I think before we get to that, let's also do the third lever, because I think we are going to have to have a discussion on the interplay of all the levers. So maybe with that, we move on to the third lever, which is education. And some component as an alternative to the –– or as an alternative or addition to the wealth and income thresholds, they could demonstrate sophistication through some sort of an exam or test. Would love to get folks' thoughts and ideas there.

MR. CORDERO: You talked about it a little bit from a standpoint of issuer and have an additional burden. I would say also on the companies as well, they're looking to do fundraising when they're soliciting money as well. What's a way to accomplish this with the lowest amount of tension added to the various parties, right? That would be the goal. And I would say that on both sides, as an investor and also as an operator within startups.

I think instead of it being -- my recommendation would be instead of it being some kind of a test, that it just be informational material that's shared and that in the same way we have self-certification with regards to individuals saying that they are accredited. That, you know, on all these -- any form that somebody has to submit for an investment, particularly early stage, you know, there's a variety of things you have to check.

And if you're -- you know, whether you're accredited or unaccredited, whatever we're assuming the educational component is for, that in the same way there's, you know, a link. It could be something that the SEC hopefully could put together in terms of information with regards to these types of investments, some disclaimers and information and whatnot.

And I believe that there is, you know, all types of -- I've seen them -- participating programs where, you know, it tracks what you are doing, so you have to make sure that you watch the whole video or review the whole material. And then once you are done, you are done and, you know, you certify that you did it and you are able to invest. So from that standpoint, I would say that educational component I think is a good thing, whether it's for accredited investors or non-accredited investors or whatever threshold the committee recommends to propose or recommend.

I think education is a good thing. I would just say don't make it an additional -- take -- as we push forward this education/disclosure, if that's what we do, just to try and not make it additionally burdensome to the company or issuer or whomever. And I think a lot of this could be accomplished online.

MR. DRAYTON: I like what we have on this chart, but what I don't like, it says, "Risk warning. " I'd like to recommend "Risk awareness," instead of warning. That doesn't sound as burdensome.

And to Vince's point, whether you're an accredited investor or non-accredited, you know, there are no new fundamentals in terms of what you should know, right? And I like the idea of providing access via a link so that we can make folks aware of the risk going forward when they engage.

And the final thing I will say, you know, when I've gotten investments from colleagues in the past, I've never asked them for a copy of their tax returns to certify that they're actually an accredited investor. So we've got to make sure that we don't create the burden on founders who are seeking capital from their community.

MALE VOICE: One thing I just want to clarify. When you're talking about the disclosures and the – I assume you sort of are envisioning sort of a generic set, one size fits all.

MR. CORDERO: Yeah. It would be something -- I mean, that's why I said -- I mean, you have so many -- the SEC has put together some great resources. I assume that it's something -- not to add a burden to the SEC -- but from just a standpoint of some kind of paragraph, one-pager, whatever it is, or a little video that just walks people through it, you know, in terms of the private marketplace, early stage investments, you know, whatever the case is. Something very generic, but that's applicable to investors that are investing in early-stage companies.

MR. MARISCAL: I just have a question, particularly for George. I'm curious because, a lot of the things that we're discussing, I feel like in some ways you have a microcosm of those things already, right? Because you're accepting both people who are accredited investors, people who are not accredited investors, and you're taking them through these journeys.

So I'm wondering if you can walk us through like how do you educate them? What's the completion rate? How do you certify if there -- if there's a calculation that goes beyond their 5 percent or whatever the threshold is, what's the calculator look like? I think giving us an example of the mechanics of it would be useful for the discussion.

MR. COOK: Yeah, certainly. So within regulation crowdfunding, there's certain FINRA and SEC rules that we have to follow in terms of investor education. So there's, you know, quite a bit of investor education materials available within our site. We kind of go above and beyond, as do many funding portals, and have things in our blog and elsewhere in our website.

As soon as you register for Honeycomb or any other funding portal, you receive into your inbox a full set of investor documents, education materials to kind of get you up to speed. And then throughout the checkout experience, there's certain safeguards and checks in place. So as you're going through the process of investing, the cap is kind of built in. We don't let people invest more than $2,500 unless they update their profile and self-certify income and net worth. And then the site kind of automatically updates the calculations to say what their maximum investment cap is.

And then throughout the checkout experience as well, those investor education materials are presented throughout, so they can access them at several different points of the checkout. And then each individual offering also has a Form C, which is basically a lightweight investment prospectus that's filed with EDGAR. That's available on the site, and it's also available throughout the checkout experience.

So investors can pull that up and understand the investment they're participating in or potentially participating in. That includes financial materials and risk factors of each individual investment.

MR. MARISCAL: Great. And have you found, do people, when they self-certify, are they typically accurate in the numbers that they disclose? Has there been -- like, what has been the experience from the investor's side throughout the experience that you've seen? Have there been any major losses or things that we need to be concerned about or consider? Or has it all worked pretty seamlessly?

MR. COOK: Yeah. We haven't seen any cases -- and it's hard for us to know, right, because it is self-certified. I don't know if someone's income really is $100,000 or not, right? So don't really have the counterfactual. I will say we very rarely get suspicious data. Every once in a while we'll have someone that puts in, my net worth is a trillion dollars, right? And we'll obviously call that into question. But that happens pretty rarely on the site.

It's also, I think, worth considering, you know, the average investment within regulation crowdfunding and on Honeycomb is about $1,000, the mean. Our mode, our most common investment is $100. So the magnitude of the risk that people are taking on is quite different than in most private capital markets. And so there's certainly, I think, some learnings from Reg CF, but it is a little bit apples to oranges.

MS. DUIGNAN: All right, thank you. So we kind of covered the idea of some sort of a certification or test. And the fourth was some sort of a risk warning or risk awareness form. Does anyone else have comments on the risk awareness labeling? No? Okay, great. Oh, sorry. Go ahead, Aren.

MR. SHARIFI: Oh, sorry. Are we just talking about education in general or just the risk? Got it. Got it. I think we talked about it. We touched on this a bit in the last meeting, but I think education is -- it's tricky because it's so broad. Every investment is different. Industries are different. So I think we, I would like to drill down a little bit on what that means and what that looks like and just better understand what we're actually talking about. Is it something like a Series 7, an investment, you know, bankers go through?
I don't think it's gonna be anything that extensive.

So I'm thinking we're talking about something less, but I just want to better understand what boundaries or, you know, fence posts we're putting around, what education means.

MS. DUIGNAN: Well, you know, as we're having this discussion, one thing that comes to mind is that, you know, you'll often hear people ask, "Oh, how do I become an accredited investor?" right? And the word "accredited investor," you know, sounds as though you have actually done something to earn it.

So, you know, sort of in a little bit of a contradiction to -- and I understand Vincent's point. I do think that it makes sense to give people an opportunity. It doesn't need to be a Series 7, right? It doesn't need to be a weeks-long course, but an opportunity to do something online that actually establishes that they understand something about how the asset class works, something about the risks of the asset class, as well as the opportunity.

And most particularly, I find that a lot of angel investors who have been through weeks-long in-person courses and have MBAs and, you know, have worked in the finance world, still have very little understanding of the lack of liquidity of the asset class.

So, you know, to me, I actually do think it is worth if somebody, you know, is not at a point in their life where they have sort of throwaway money, right? To that extent, that we do say, hey, you know, if you're willing to invest, you know, one hour of your time, right, to sort of complete this tutorial and answer these questions -- or maybe it's even a couple of hours, whatever it ends up needing to be --

I think that that's important, right? And it's something, you know, you probably have to do once or maybe only have to do once every three years, right, to qualify. But to have -- make sure they have some skin in the game, right?

And I know we want to, you know, reduce friction between issuer and, you know, funder, but I don't know that I actually agree with that. You know, I think that if the person -- you know, let's say we do increase for inflation, the net worth and income tests. People who are above that, you know, wonderful. Let them do whatever they want. You know, they can, they clearly have enough buffer, right, to be able to sustain themselves.

But if you're marketing to people who are below that limit, like let's make sure, you know, that they really know what they're getting into. And maybe there are a little bit of, you know, when we say "friction," it's not something that would necessarily cost a ton of time and money. But, you know, make sure that the person has really thought it through and, you know, they're not kind of getting into something very impulsively. So I think from that perspective it can be useful.

MR. SHARMA: If I may, on that education

point, for senior investors, how do we determine that they have the mental capacity to make that decision?

MS. DUIGNAN: Well, I guess if they took this test and passed it, I don't know. It's a good question. Does anyone have thoughts or concerns about that? I mean, I suppose somebody who did not have mental capacity to make their own financial decisions would be under a guardianship, correct? Just in general?

MR. SHARMA: Depends at what stage.

MR. DEAN: Yeah, it really depends. I mean, when you have a broker-dealer involved or an investment advisor -- but more traditionally a broker-dealer -- there are trusted contacts, and the broker-dealers are trained by most of the firms now to keep their awareness open for diminished capacity and other types. But that's when there's an intermediary involved, when it's this particular incident where there may just be a self-test, there may not be that kind of gateway or ability to determine.

MR. DILLASHAW: I mean, I think it's a valid issue. I think if you can pass the test, that's sort of its own answer. And then if the real issue is sort of predatory behavior, taking advantage of seniors. Like there are existing laws against that that sort of protect the specifically predatory behavior that I would say we have a solution for that we don't necessarily need to further integrate into the accreditation standard.

MR. MARISCAL: Yeah, and just on that point really quickly, on a more broader sense of disability, not just senior citizens, I think the question becomes the accessibility and "simplicity" of the training itself, right? I think that that -- but that's a bigger question about universal design and accessibility for all, et cetera, et cetera. But I do think that it raises a good point that perhaps is beyond the recommendation itself. But we're looking into what's the actual implementation of the training.

MS. DUIGNAN: And the other thing, too, that I want to, you know, sort of bring up as we're making recommendations on the definition, is that from my understanding at least, you know, qualifying under this definition is really only important in cases where there is a general solicitation. So you basically, you know, were most important, right? And those -- Bart, did you have --

MR. DILLASHAW: I mean, the accredited investor definition is sort of a critical threshold for 506b, which is the primary one.

MS. DUIGNAN: Uh-huh.
MR. DILLASHAW: So it is important, even outside of general solicitations. The general solicitation is when you kick in the heightened requirements that we're not just going to take your word for it. So I think -- you know, again --
MS. DUIGNAN: Yeah, and I -- but from our discussion previously, I think for prepping for the call Sue -- and just maybe you can make this more clear -- there are already exceptions under which, you know, you can have up to several hundred people on the cap table that you already know who maybe don't meet the standard?
MR. DILLASHAW: Under -- okay, sorry. I'm not going to get too far into it, but under 506b, which is sort of this main one, you can have up to 35 non-accredited investors
MS. DUIGNAN: Right.
MR. DILLASHAW: But there are very heightened disclosure requirements that effectively make it prohibitive.
MS. DUIGNAN: Okay. Okay.
MR. DILLASHAW: Okay. I mean, so you -- again, the long and short of it is you really can't easily get to non-accredited investors through any of

the Reg D safe harbors. If you want to go to non-accredited or do a -- you know, especially if you want to go to non-accredited with a general solicitation, that's where you're getting into the registered regime, either through a Reg A or a Reg CF.

MS. DUIGNAN: Yeah, so I guess what I'm just trying to sort of hit on here is in the vast majority of the cases in which this is being applied, you know, are these like letting your uncle invest in your company -- oh, he's not allowed to -- versus is it, we're going out and sort of finding somebody, you know, that we don't know very well, maybe doesn't know us, and convincing them to invest in our company.

And I just want to look at the protections more from that perspective, you know, rather than we're trying to exclude people from, you know, investing in somebody, supporting somebody that they really know very well and maybe can trust.

So does everyone kind of -- I don't know if anyone else has thoughts. I mean, this is one of the things that I consider as we're thinking about whether this is paternalistic or actually is just sort of protecting investors?

MR. CORDERO: I think if we just apply that educational/awareness messaging, generic, I would say so it's low lift for all parties involved, but at the same time ensures that, you know, people are looking at it. The way to probably tackle it would just be to have it for the unaccredited investor class that's, you know, self-certified. So that would be the way to kind of, I think, kind of clear it.

MS. DUIGNAN: Yeah. And let's go remote. Yeah.

FEMAILE VOICE: Yeah, Wemimo, you had a comment.

MR. ABBEY: Yeah. Thanks a lot. I agree with Erica on this point. I think it's important if we are not going for inflation and we have more people participating, we should -- we also have risk awareness. I love that comment.

But at the same time, I would balance on some kind of education involved. And it can be as simple as, you know, one of those 10 question modules we take for HR training, which all companies or majority of companies, including small ones, need to also do. But just something simple, it could be a self-certification. That should not sort of slow down the deal process. But from an education standpoint, it's just important for folks to understand the risk, be aware, you know, get educational materials on them and know what they're signing themselves up for.

So definitely in support of some education and a simple module could be optional, objective questions for us to establish semblance that they understand what they're getting themselves into. If they fail, they can do it again, the devices and the details on how we operationalize that. But we also have education and some sort of degree of confidence that, you know, folks are really ready to go on this journey.

MS. DAWOOD: If I could just add that the Angel Capital Association does have a lot of education already. Tomorrow, they are gonna present to the Corp Fin Group, you know, just a version of what we're talking about here. So this is something that it's not like we would have to kind of come up with everything on our own. Some of this is already in play.

But to Erica's point earlier about the -- when people hear the word "accredited investor," and they think that, well, I had to get that somehow or I had to pass a test or I had to -- they think it's like becoming a CPA or something like that, that you have to take this test in order to do it. And so there's already this kind of perception out there.

And, you know, I think education for everybody would be fantastic. I mean, we've had too many people that have said, "Well, I tried angel investing," who were already accredited investors by definition as far as wealth and income, but then they -- you know, they invested in one or two deals, lost their money because they didn't do all the things that we tell them that they should do in the education process, which is to diversify and do all these things.

And they're like, "Well, angel investing, that's -- I don't ever want to do that again," you know? So, you know, all of these things that Erica was saying, I do think, you know, to your point, we don't want to make it burdensome on the companies. But at the same time, having that be able to be something that they can say, hey, I -- you know, "I kind of know now what I can do in order to make my portfolio better."

MS. WASHER: And I would agree with you, Marcia, just as, you know, a personal comment. If we're going to do some form of education, I think it should be everyone. Because just because you have a lot of money in the bank doesn't mean you know what you're doing.

MS. DUIGNAN: Yeah. And I think a great note here too, is that a more educated investor base leads to a longer-term, healthier ecosystem. So it's good for everybody.

MR. ROSS: Erica?

MS. DUIGNAN: Oh, sorry, Davyeon?

MR. ROSS. Yes, just a -- just a few thoughts. I like the education angle. I think that's important. One of the things that I was thinking about is that when you traditionally invest and they ask if you're accredited, I've had some situations where you had to fill out paperwork saying, how -- you know, how do you meet the accreditation. But please keep me honest. My understanding is that, you know, that's like a self -- you know, self-select, self-fill out, right? So in theory, there isn't a formalized accreditation process.

So -- but I think the thing that happens is that if people, you know, check the box with whatever document and they may sign, yeah, I'm accredited and I need to meet the salary requirements or the net worth requirements, then they're in theory assuming of the risk. Is that fair?

MS. DUIGNAN: You know, I don't have a 100 percent answer to that question. But, you know, absolutely, there are situations of self-verification, but you are, in general, also supposed to provide like a letter from your accountant or attorney that verifies that. So some sort of level of external verification can be provided. But yes, as you said, it's not every single situation. There are many different categories. So why don't we turn this over to Bart maybe? I don't know if you want to do the heavy lifting today?

MR. ROSS: One quick thing. I think that's my point, right?

MS. DUIGNAN: That's why Stacey's --

MR. ROSS: That the education -- the education not only has to go for, you know, the investor -- and if they're not accredited, to be able to get some education -- but also to the founders that are actually courting that investor. Because I will tell you that there are some situations where I have to provide that information and sign paperwork, and there's some situations where they just ask if you're accredited, and if you say yes, you know, they just keep moving forward.

So I -- think I agree on the education. I just want to make sure that that education goes to the investor and also to the founders or the individuals who are, you know, courting the investor just to make sure that, you know, we have all of our bases covered.

FEMALE VOICE: And I think just to give some clarity, with a 506b, the issuer has to have a reasonable belief that the investor is accredited. And that's where kind of, to Julie's point, this idea of self-certification. So in that situation, a lot of times issuers will rely on a self-certification.

With a 506c, the accredited investor needs to be verified. There are multiple ways that that can happen. The issuer can undertake that verification, but oftentimes it comes through a letter from a CPA or a broker-dealer or an investment advisor.

MS. DUIGNAN: Okay, great. Thank you everyone for your wonderful input. Okay, Dennis?

MR. SUGINO: So I'm in favor of no inflation adjustment. I'm in favor of education as well. But I'm wondering, because the investor may look at education material that is or not relevant to the deal, if we could have some requirement that the issuer recommend some educational material.

MS. DUIGNAN: Okay, noted. Thank you.

MS. WASHER: So I'm wondering -- and Courtney, thank you. You did a really good job kind of summarizing where the discussion has been going. So thank you. And I wondered if we could take just a straw poll just to see where we are, you know, where people are in their thinking. And for online, you can vote by raising your hand. Like right now, Davyeon has his hand raised and I can see that and count that.

But if we could just get a sense of where the things we're not aligned on and we need to continue to discuss, and where are some things we might be in alignment on. So just to get a sense for where we are. So the first thing about the accredited definition and the inflation, it seems to be that the vast majority of people either do not want to adjust or would only consider adjust going forward.

Is that where -- can everybody kind of nod their hand or raise their hand and say that's kind of a sense? Raise of hands?

MS. DUIGNAN: Yeah, we don't --

MS. WASHER: We'll just do it -- we're gonna go bucket it first and then continue on so I see,

MS. BOWERS: Is there anyone that thinks that we --

MS. WASHSER: Should go back to 1982?

MS. BOWERS: That we should go back to '82, yeah? No one advocates for that --

MS. DUIGNAN: I actually do think that we should adjust it back to the original adoption date, but in conjunction with the other opportunities to open people up to following under the rules. So my vote -- and I know I'm the only one who probably wants to adjust for inflation -- would be to adjust back to the adoption date, to adjust on a going-forward basis, you know, maybe every five years.

And if you fall under, you know, sort of that threshold, wonderful, you're accredited. If you do not, however, you then can qualify as accredited with, you know, education and then invest under the income threshold limit. So I would look at more of sort of a, you know, conjunction of the different mechanisms that we have to qualify people.

But, you know, I sort of bring back to what Jasmin said earlier, is that if we do not adjust for inflation and we continue to not adjust for inflation, those thresholds do become meaningless. And I think that, you know, even at the numbers that they are, it gives people a sense that as long as you meet these income and net worth tests that you can kind of, you know, freely take the risk of, you know, doing whatever you want in terms of investment.

And I honestly think that, you know, in

today's sort of cost of living environment, you know, those numbers are really not sufficient for people not to feel the impact of a total loss of investment under those. So that would be my opinion.

MS. WASHER: So on the idea of education, I think the easiest thing, I think the easiest thing -- I think there was very good alignment that everyone felt some form of education was important. So I think the only thing you would have to do is raise your hand if you don't agree with some level of education requirement.

(Vote.)

MS. WASHER: Okay, so I think that we've got very good alignment on education. There's a lot of details to work out as to what form would that take. I saw a lot of consensus around that it should be something straightforward. There should be some general risk awareness education that could be accessed online through a, you know, video and then some questions. So I don't think this committee needs to determine exactly what that vehicle is, just to highly recommend that.

MS. BOWERS: And just for the purposes of the recommendations, just to get a summary, would it be possible to get a breakdown of -- so we have one vote so far for going back to '82 and adjusting forward. Could we get a breakdown on people who think there should be no adjustment, versus people who think we should adjust forward?

MS. DUIGNAN: I think that's a good idea.

MS. WASHER: Yeah, that's a good idea.

MS. DUIGNAN: So who would like to adjust going forward?

(Vote.)

MS. DUIGNAN: Okay, who would like to no adjustments period?

(Vote.)

MS. BOWERS: Yeah we've got uh Davyeon and--

FEMALE VOICE: So just --

FEMALE VOICE: There was only two.

FEMALE VOICE: I voted for that. Erica --

MS. DUIGNAN: Okay. So it looks like no adjustment wins the day.

MS. BOWERS: Is everyone else no adjustment or is there any abstaining?

MS. DUIGNAN: I think everyone else was no adjustment.

MS. WASHER: And just to confirm, for those online, is there anyone online that wants an adjustment or were you all voting for no adjustment?

MR. ABBEY: No adjustment.

MS. WASHER: Okay.

MR. ROSS: No adjustment, Davyeon, me.

MS. WASHER: Thank you.

MS. DUIGNAN: Let it ride. Looks like it is taking the day. Wonderful. And so on the income and asset thresholds of 5 percent, first of all, does everyone here -- who here feels comfortable with 5 percent as a guideline, just in terms of the number.

FEMALE VOICE: Get them a little higher, please.

MS. WASHER: And then online, if you guys could raise your hand on the screen if you're okay with the 5 percent number?

MALE VOICE: So sorry. Sorry to --

MS. DUIGNAN: Just to reiterate that's 5 percent in a roll -- sorry. To reiterate, that's 5 percent every rolling 12-month period of the greater of net income or net worth?

MR. MARISCAL: Is that 5 percent per investment? Or is that 5 percent --

MS. DUIGNAN: No. In a 12-month --

MR. MARISCAL: -- in the private placement?

MS. DUIGNAN: In -- yes, in any 12-month rolling period of your -- the greater of your net worth or your net income.

MS. DAVIS: Just to clarify, I just want to make sure we understand what you're voting on. Is it if you don't meet the net worth and income thresholds, then you would be allowed to invest as an accredited investor if you only invest up to 5 percent? Is that what you're saying?

MS. WASHER: If they're not accredited.

MS. DAVIS: If you are non-accredited.

MS. WASHER: They don't meet the threshold, so they're not accredited

MS. DAVIS: Okay.

But they can still invest 5 percent.

FEMALE VOICE: 5 percent of the greater of --

MS. WASHER: Without Wemimo and Davyeon agreeing with that.

MS. DUIGNAN: And I'm sorry, Stacy, can we show everyone's hands again who is in favor?

MS. DAWOOD: Quick question though. Are we talking about the 5 percent -- and then what would happen if there was an education thing? So would it mean that the 5 percent is still valid or we would go -- what would trump the other, I guess, is what I'm asking? MS. DUIGNAN: Well, I guess we have to figure that out. So we'll --

MS. SETHI: Five percent is a de minimis. Kind of like red crowdfunding, that it would be okay, self-verified. Yeah, without any --

MALE VOICE: Without any education? Is that what you're saying?

MS. SETHI: Without any education.

MS. DUIGNAN: Right. And, you know, I kind of like the idea that if you meet the income and asset test, you can automatically be accredited. If you don't, you can maybe take an exam and become accredited. Sounds inclusive.

FEMALE VOICE: But anybody can gamble up to 5 percent.

MR. COOK: I would advocate that only -- you could only gamble up to 5 percent, to quote Jasmin, if you –

(Audio interference.)

MR. COOK: -- the education. That also then solves the problem of issuers having a physical document that says that they're covered.

FEMALE VOICE: Yeah.

MS. WASHER: I would be very much in favor of that as well, because I do think education -- I almost would require education for everybody, but at least for the people under the threshold. Even if they're under 5 percent, I still think that that simple education is pretty important.

MS. DUIGNAN: Okay, so it looks like folks are advocating for, you can become an accredited investor under the threshold if you pass the exam, and you are then allowed to invest up to the income or net worth threshold, 5 percent or some percentage in any 12-month rolling period.

Can we get a show of hands on the number 5 percent being a recommended figure, if you're okay with that? Yes, with education.

(Vote.)

MS. DUIGNAN: If you did not raise your hand, is there another figure that you had in mind?

MR. DILLASHAW: So I'm in the bucket of not raising my hand. I think that if you pass the education requirements, there should not be a cap. So --

MS. DUIGNAN: Making it very complicated.

MR. DILLASHAW: Yeah, so I'm probably -- I don't know if I'm voting the right way. But if you pass the test, I don't think you should be capped.

MR. CORDERO: To be honest, Bart, I feel the same way you do -- that if you pass the test, you shouldn't be capped. But what I'm feeling -- and that's why I'm okay to go the other way, is because if we're not raising the inflation threshold, right? We're not incorporating inflation. By default, the process will move itself in a certain direction, which is to create more access, which is what I think most of us all want or all of us want. We just want it responsibly. I think that's kind of the conversation. How do we do that responsibly?

So in light of that, then the question becomes, okay, so if we're already opening access there by default and we'll allow that to continue to open itself up, then what do we do on the non-accredited front? How do we now allow more access even for people who are under that threshold, you know, non-accredited?

As kind of a compromise, so that it doesn't feel like we're just -- the gates are just opening up all at once, which may have issue -- maybe the kind of a more prudent way to proceed would be to, you know, have -- recommend no inflation increases and an allowance for non-accredited to participate up to a certain amount of thresholds, assuming they take the education, you know, awareness course. So that way it's kind of like a mediated -- makes everybody something that I think everybody could probably live on.

MS. DUIGNAN: Yeah.

MALE VOICE: Well --

MR. CORDERO: So you're -- if you're – we're not touching inflation for accredited. Unaccredited, if you take the course, then you're allowed to invest up to these thresholds for unaccredited.

MR. DILLASHAW: So you're saying -- yeah, if you don't meet the thresholds --

MR. CORDERO: If you don't meet the thresholds --

MR. DILLASHAW: -- you can take the test, you can only invest up to --

MR. CORDERO: Whatever the percentage is. And I'm saying -- although I actually agree with you, I think you know -- I would like -- I am sure that from a standpoint of moving it forward -- but from a standpoint of getting real consensus from everybody and possibly having this move forward, it's how do we show prudence would be something like this.

MALE VOICE: Oh, yeah. I'm happy to be outvoted. I've just --

MS. DUIGNAN: Sorry, I got outvoted severely on the first topic.

MALE VOICE: Yeah, yeah, I think.

MS. DUIGNAN: It's badge of honor. It's called you're the dissenting opinion.

MALE VOICE: Yeah, yeah, yeah. My -- sort of club.

MS. DUIGNAN: Marcia, did you have thoughts? of club.

MS. DAWOOD: I was just -- I just think it could become very complicated. Now you're putting the burden on the founder to say, "Okay, did they pass the test?" "Oh, you passed the test?" And, "Okay, now I need to also collect your income information." And like, who's policing all that? It just seems like a lot. Yeah.

So, if they took the test and were saying, "Well, okay, now you took the test and you think you're, you know, now okay to write a check," then I would hope that they would, you know, understand enough to write a check because they have plenty of opportunity to go play the lottery or, you know, do other things, go gambling with it. So.--

MS. DUIGNAN: Okay. That is a very good point. So, we will, I think, include that in our deliberation. Wonderful. And then, I believe the third point that we need.

MR. CORDERO: Erica?

MS. DUIGNAN: Yeah.

MR. CORDERO: Just one quick. So that seems to be -- your point is more of an administration issue in terms of a lift, in terms of all the parties involved, and who could be held responsible for potentially and -- but that's -- but that's not so much at its -- that's not like a -- that's not a challenge against the very concept itself. It's more, how do you administer that?

MS. DUIGNAN: Yeah. And I really don't have a problem with the limit. It's more about, you know, I do think education's more important. So if we're gonna have one trump the other, then I'd rather see people be more educated. Because just because they have the limit, we're going to go back to what we have now, which is, "Oh, I have enough money to be an accredited investor, so I'm going to go ahead and make these couple of investments." "Oh, this really stinks, so I'm not going to do this anymore and I'm no longer going to help entrepreneurs."

So I just think that education is a lot more important. And if we really want people to not -- you know, to take the money and do something, you know, for good, like go and invest in a, you know, small business instead of going to the lottery or gambling or whatever, then, you know, this is kind of what we could do to make it a little easier.

MALE VOICE: So it's education for everybody.

MS. SETHI: So it sounds like there's some division -- we may want to revisit this next time, as to whether the 5 percent should be just kind of a de minimis threshold without any other requirements for non-accredited investors, or whether it should be coupled with an education requirement.

MS. DUIGNAN: Yeah. Well, the other thing, you know, that I was saying is, I mean, you know, we can make recommendations on inflation adjustment, on strategy for implementing education, and strategy for thresholds. And then, you know, those can be combined, you know, perhaps as the Commissioners and other folks were actually doing -- the regulator to see fit.

So, you know, I think putting the burden on us to figure out exactly how it's executed might be, you know, a bit more than we can bite off right now, but that's definitely noted and I think a really important feedback.

MS. WASHER: And I would just say, I do think we've come to very good consensus on the issue of inflation. We have even better consensus on education. It's very important. And I think we have consensus that even if you don't meet the test, that there's some amount you should be able to invest. So I think within those broad guidelines, we're making recommendations to the Commission. Those are our broad guidelines.

For us to try, as a large group, without, you know, our education in regulatory law to be any more discreet than that or more directed than that, I think would be too - I think is out of our purview. But I think we've come to three broad recommendations that a very large majority of the people around the table are supportive of.

MR. CORDERO: I just have one question, though, because I'm for education, as a -- I feel like there's a bit of a -- and even in myself, listening to the discussion -- a bit of a debate in terms of education for all regardless of accredited status, or is it only education for the unaccredited?

And I honestly -- I would love, you know, education for all. I think that's a good thing. At the same time, it seems like it's particularly applicable to the unaccredited category. So I just didn't know if -- I think everyone's for education, I just didn't know if it was education for all or just education for the unaccredited.

MS. WASHER. Well, let's take a -- let's take a vote on that. Are people in support of education across the board, or are you only in support of education for those below the threshold? So let me put it this way so you know what you're voting on. Who is in favor of education only for those below the threshold?

MS. DUIGNAN: And I think we should maybe just phrase it a little bit differently, because I think anyone could do the education. So who is in favor of requiring the education component only, before -- below the threshold -- requiring it?

(Vote.)

MS. DUIGNAN: Okay. And who would like to require it for everybody?

(Vote.)

MS. DUIGNAN: Okay.

MS. WASHER: We split that.

MS. DUIGNAN: I love that. Well, they always say that to be a great investor, you have to be contrarian and right. So we'll see.

MR. BAIRD: Did you guys get us online, our two online votes, me and Wemimo?

MS. WASHER: Oh yeah, yeah. There's actually three online votes,

MR. BAIRD: Great.

MS. DUIGNAN: Sorry guys. I don't have internet today, so it's hard for me to see your hands, I apologize.

MS. WASHER: So if you raise your hand, you're raising your hand if you would like -- right now, if you would like the education to only be for those below the threshold.

MR. BAIRD: Yeah. Wemimo and myself both raised their hand for that, so yeah.

MS. WASHER: Okay, all right.

MR. BAIRD: Cool, thanks.

MS. DUIGNAN: OK, great. And I think -- oh, sorry. Bart?

MR. DILLASHAW: Sorry. Not to further dive into the weeds here, but as I was sort of thinking through some of the logistics in my mind, I think it's an important clarification that we're talking about the education and some of this stuff. I think what we all have in our mind is the individual investors, as opposed to institutional accredited investors. So lest we sort of get into an institutional investor having to take sort of a qualification test, that's not what we're talking about, right?

MS. DUIGNAN: Yeah, so I think we already agree it's only for people that are below the income and asset threshold. All right, wonderful. And I know we're all ready for lunch. Just the last thing that we should vote on is the requirement for some sort of a risk awareness statement to go along with the investment documentation. Who is in favor of a risk awareness statement?

(Vote.)

MS. WASHER: Plus one online. I'm sorry -- plus two online.

MS. DUIGNAN: Okay. Who is opposed to a risk awareness statement? Would you like to add any comments? We'll start with Jasmin.

MS. SETHI: It's meaningful, I guess. I think it might be duplicative of the education.

MS. DUIGNAN: Okay, Bart?

MR. DILLASHAW: Ditto.

MS. WASHER: Well, we're back to like what trumps the other.

MR. DILLASHAW: Yeah.

MS. WASHER: I mean, if they took the education, then do we need the restatement? But I mean, I don't know. Does it hurt to put something else in the documents? We already -- I mean, the legal documents are already so laborious anyway.

MS. DUIGNAN: Which is why it might be nice to have something that's a little bit more plain English, I think.

MS. WASHER: Yeah, yeah. Not like the terms and -- check the terms and condition box and nobody actually reads. Yeah.

MS. DUIGNAN: Okay, wonderful. So I think with that, we're probably good to wrap for lunch. I want to thank everybody for amazing work today. And we will be adjourning until, I believe, 1:30. Thank goodness, 1:30. We will see you all back here at 1.30. Thank you.

(Whereupon, a luncheon recess was taken.)

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

MS. DUIGNAN: Okay, good afternoon. Welcome back to everyone who is rejoining virtually and on the SEC webcast. This afternoon's agenda focuses on the state of the IPO market. And as we saw in OASB's report this morning, IPO activity has fallen significantly in recent years, and there are declining number of smaller public companies. To help us explore the current state of the market and better understand these trends,
today we're bringing in speakers from a national law firm and a global investment bank who will share relevant IPO data and their views on contributory factors and trends in the marketplace.

As part of the discussion, I hope the committee will consider how decreased IPO activity and market shifts are impacting smaller companies and related capital-raising challenges. I'd also like us to consider how this shift in IPO activity has impacted the private markets and how it affects a company's decisions about when and whether to access the public markets.

But before diving into that discussion, we thought it would be helpful for the committee to continue hearing from SEC Staff across from various divisions and offices of the agency, to broaden this committee's collective understanding of how the SEC goes about executing its mission. Previously, we've heard from SEC Staff in the Division of Corporation Finance and the Division of Investment Management. Today we will hear from the SEC's Office of Minority and Women Inclusion, OMWI.

Allison Wise is joining us from OMWI, where she is Acting Director. Allison, we so appreciate your willingness to join us today. Many of us are relatively new to the committee and would greatly appreciate if you could share a bit about the role that your office plays in the SEC's mission and in particular, the role that OMWI plays in terms of promoting DEIA vis-à-vis SEC regulated entities and we outreach efforts. Thank you, Allison.

MS. WISE: Thank you, Erica, and thank you all for inviting me to share a few remarks with you all today. And thank you to Stacy Bowers and to Julie Davis for the warm welcome.

So I'll start by just kind of sharing a brief description of my background in that I am a career public servant and have about 20-plus years in the field of diversity, equity and inclusion. Where previous to coming to the SEC, have worked to stand up

D&I offices, brand new, in federal agencies, and also worked at the Office of Personnel Management, where I helped to advise other federal agencies on how to build effective D&I programs.

So here at the SEC, I've been here about a little less than three years, so I'm still learning myself. I still feel new. So Stacey, you're not alone. But I'm incredibly, really proud of the mission of the OMWI office. And so today, I want to share with you a little bit about what we do, some of our priorities, and also talk about what we do in the regulated space with -- working with regulated entities.

So let's -- I'm going to start with just kind of a broad overview of what OMWI does and that we were created pursuant Section 342 of the 2010 Dodd-Frank Street Reform and Consumer Protection Act. The SEC established its OMWI office in 2011 and assigned the office responsibility for all matters related to diversity in the agency's management, employment, and business activities. So OMWI, in partnership with all of our divisions and offices, we lead this effort under the SEC's DEIA strategic plan.

Currently, OMWI consist of 12 staff members. So myself, as the acting director, I report directly to Chair Gensler. I'm also double-hatted, I'm the deputy director. And then we have three groups within the OMWI office. So we have a Legal Policy and Regulated Entities Group. We have a Workforce Diversity, Equity and Inclusion Group. And then we have a Strategic Outreach and Business Activity Group. So pretty much around section 342 is how we look at our work.

In September of 2023, just this past year, SEC issued its new DEIA strategic plan, so basically, these are our priorities for the next four years. And it is really more expansive. This is the second strategic plan that we've released, and it's more expansive than our prior -- which was only D&I strategic plan. So, we added sort of the 'E' and the 'I' -- the 'E' and the 'A,' sorry, with more of an emphasis around accessibility now, which is in the spirit of -- we get some applause for that -- in the spirit of the executive order under this administration. So we wanted to ensure that we had included the spirit of that, the principles that were laid out there.

And this was the -- the was the second planned and it recognizes really the importance of DEIA in all aspects of what we do here at the

Commission, including our mission activities. So there's more of an emphasis there. And so we've laid out three goals in our strategic plan and they are people, culture and mission, which is also aligned with the framework that we use when we look at diversity and inclusion efforts.

So people and culture, I think a lot of times people are very familiar with that. People really is a focus at engaging in activities that help build our future through our people, basically creating diversity at all levels of our organizations. And culture is about really building inclusivity, connectedness, and belonging, through our action.

And then the last one is mission, which is about leveraging DEIA for mission effectiveness. Given your work, I'd like to spend the remainder of the time that I have here talking about the mission goal and OMWI's work in the mission space, because I think that's really important to illuminate here.

So our mission work really focuses on leveraging DEIA both internally and externally. So internally, when I talk about leveraging DEIA, I'm really talking largely about expanding opportunities for under-recognized groups, perspectives to be heard and considered in SEC's mission activities, because we understand the importance of intentionally seeking diverse perspectives to effectively meet our mission critical space at the SEC. So I'd like to briefly discuss some of the ways that we're reaching out and we're collaborating with under-recognized groups.

So the first one that I want to really share is providing opportunities for under-recognized groups to serve on SEC advisory committees and task forces. And OMWI has been involved with efforts to enhance the diverse representation on SEC advisory committees. And OMWI played a role in the candidate selection process to fill vacancies for the Investor Advisory Committee, and for this one as well.

We have leveraged our diversity partner network to provide information to interested parties and identify high-quality candidates. We have also assisted advisory committees in their efforts to identify subject matters who come from underrepresented communities, to participate on panel discussions and information-gathering efforts.

And the second one internally that we are focused on is expanding opportunities for under-recognized groups perspectives to be considered in rulemaking and regulatory processes regarding policy. So, we've provided information to our diversity partner organizations on opportunities to participate in rulemaking comment letter process, provide information, and raise issues to the advisory committees, and also provide opportunities to engage with SEC Staff on regulatory issues.

With regard to the work that we do externally, we also work to educate and promote the benefits and importance of DEIA in the financial services industry. And we do this not only by sharing what SEC is doing in the DEIA space, like talking about our strategic plan -- of course, that's really important -- but also inviting our entities regulated by the FCC to engage in self-assessment of their diversity and inclusion practices. So I'm going to talk a little bit about the way we do that and the tool that we use, and then how we publish the analysis of what we receive.

So pursuant to Dodd-Frank, the OMWI director is required to assess the diversity policies and practices of entities regulated by the SEC. So every two years, we invite the SEC-regulated entities to complete a self-assessment, looking at their diversity policies and practices and submitting those self-assessments to the OMWI director.

There are no required standards, however, by which the entities assess their diversity policies and practices. However, we have worked with five other FIRERA agencies to develop what we call the joint standards. And this is the five joint standards is which -- the way we assess diversity policies and practices of our regulated entities.

So they are: organizational commitment to diversity and inclusion. Number two is implementation of employment practices to promote workforce diversity and inclusion. The third is procurement and business practices. And the fourth one is practices to promote transparency of organizational diversity and inclusion.

And the fifth one is it's the assessment of diversity policies and practices.

Now, to provide the entities with an easy sort of one-stop template for submitting their self-assessment -- and frankly, it really helps to sort of standardize what we receive from them -- we've developed a form which we're -- we base it on the joint standards and we call that our diversity self-assessment tool. And so it's known as the DSAT. So, you know, we like to use acronyms, so I'm going to refer to it as the DSAT.

So the DSAT is actually just recently

revised from the -- from the previous form that we called the DAR. It's actually shorter now, so it allows the entities to consent to allowing the SEC to publish the name of their entity, without having -- as they submit the DSAT, so they're able to consent or not to publishing their name. It also collects diversity data on their demographic composition and of their workforce, actually, and as well as the demographic composition of their board of directors. So, we invite them to submit all of that.

In terms of the assessment, we look at overall submission rates; who's submitting, the size and number of – based on a number of employees, their practices of note. We look at any trends that we're seeing. But we really can't make a lot of broad assessments due to the issue of a small number of submissions. And also there could be potential bias there, right? In terms of who submits their self-assessments. So we're really focused on aggregate responses to the five areas under the joint standards. So we look at aggregate responses based on the DSAT that's provided, and so you would see that in our assessment report.

In terms of what's publicly available for anyone to have access to -- so you can have access to

-- we have our DSAT form, so you can take a look at all of the areas that we assess under those five joint standards. So you can see the form. We also have a FAQ section that really gives you a lot more information on, you know, what's allowable, what isn't. And so those are really, really important in really kind of understanding this process. And the webinars we have kind of memorialized from prior lunch and learn sessions on inviting our SEC regulated entities. So some of our engagements and everything are also recorded there and they're all available on sec.gov on our OMWI page.

Starting in 2020, OMWI began publishing our aggregated results of the five diversity and inclusion indicators, as well as best practices gleaned from those submissions. We did not indicate who had those best practices, but we gathered them, curated them, and put them in our assessment report. So we'll soon be publishing our 2022 analysis that we'll hopefully be publishing next month. And this year is actually our collection year. So we're looking to really get those submission rates up.

So since 2018, we've invited SEC-regulated entities to submit them every two years, so we've only been collecting since 2018. And as I mentioned, 2024, this is our collection year, and we'll likely start that around June and probably close out around September, so allow them several months to be able to submit. And we plan to do some engagements with some -- you know, really demystifying this process and sharing with our regulated entities the importance of submitting.

Our submission rates are kind of low. They're about 5 percent right now. And we have approximately 1,300 or 1,400 entities that we invite to submit. So it's pretty low but -- and that is due in part because it's voluntary. So in the statutes, they did not make it mandatory in Dodd-Frank. So it's pretty challenging to get the entities to really submit their self-assessments.

We invite you to feel free to spread the word. If anything, I want to underscore that and really just the value of submitting a self-assessment. We're also open to any suggestions.

MR. MARISCAL: I have a question

MS. WISE: Sure.

MR. MARISCAL: I'm not sure if we can Interrupt or not, but I'm just doing it. Is that in line with the type of recommendations that we could do as a committee? So for example, could we recommend that those things are -- that that assessment becomes mandatory, as opposed to optional? Would that be in line of the regulations?

MS. DAVIS: That would definitely be something that Congress would have to do, not the SEC, but you can make recommendations to the SEC or to Congress.

MS. WISE: Yes. And I believe the Investor Advisory Committee also is interested in this area too and has really asked additional questions. So they too, you know, may be providing some recommendations to the Commission as well. So absolutely through comment letter, recommendations, that's what we would invite. And so, you know, and just any other suggestions that you all may have in terms of increasing our submission rates. We're really open to it.

I know we've been doing also some benchmarking with some of our other sister agencies that are -- other FIREAs, who have this same challenge. But we know that sometimes we can really increase our engagements. We can also get leadership buy-in. We can also get more voices, where it's not just OMWI being able to illuminate this. And also I think it's really important for them to understand that this is separate from the examination process. So I think oftentimes those get put together in a sense, are they gonna use this to determine policy or are they going to look at this as they do on the examination site, and it's -- on the examination side, and it's very separate.

And so, you know, being able to demystify that with our regulated entities in that constant message that we can have there, hopefully will, you know, get them to sort of trust that we are not using it for something like policy- related. But we know that it's really important to collect and review what our regulated entities are doing. And we know that that's important to investors, that companies are looking at their diversity and inclusion practices.

So that's what I have for you today. I think we're right at time, if not a little over, so.

MS. DUIGAN: Yeah, absolutely. Thank you so much. Any questions from the committee? Dennis?

MR. SUGINO: Thanks for presenting today. I've had a chance to participate in some mutual fund board meetings and have noticed in particular how non-diverse mutual fund boards are. What have you done in that area and what teeth do you have to change that?

MS. WISE: That's a good question. I think that, you know, hopefully through our diversity self-assessment process, we're able to really illuminate how little we're seeing to really encourage the benefits of seeing that also. So not a whole lot of teeth in terms of what OMWI can do. But I think, you know, hearing from entities like this and groups like this on the importance of that is really important. SO --

MR. SUGINO: So I know you do assessments of the funds themselves. Is asking questions about the board make-up part of that?

MS. WISE: So our diversity self-assessment, yes, it does ask for board diversity. So we do ask and we do assess that.

MR. SUGINO: Okay.

MS. WISE: Yes.

MR. SUGINO: Thank you.

MR. CORDERO: Is it possible to -- you had mentioned that the Investor Advisory Board is looking at this as well. Is it a way for us to look at what they're doing or collaborate with them in any way?

MS. WISE: In terms of when I think -- I think it's going to be at the end of today, honestly. So I think they're going to be posting a comment letter by this afternoon, from what I understand. So it'll be public and you can see what they are recommending.

MR. MARISCAL: So just for my own -- sorry, just for my own clarity. So is it a committee similar to this where they look at the investment -- okay, the investment side. So similarly, the same way these meetings are recorded and sort of documented the investor side. Okay. I think that would be really interesting and perhaps even proposing the opportunity to do a joint session at one point, I think could be really interesting, right? And we could -- I mean, I don't want to put more work in people's purview, but I think that that could yield some very interesting conversations and perspectives.

MS. DUIGAN: Absolutely. Thank you so much, Allison. We really appreciate your time today. Wonderful.

MS. DUIGAN: So, now I am pleased to turn to our outside speakers to help us kick off discussion of the state of the IPO market. Joining us in person is Brian Johnson, partner at WilmerHale. He is also the vice chair of the Corporate Practice Group and co-chair of WilmerHale's Capital Markets Practice.

Brian has experience representing public and private companies and financial institutions in a wide variety of corporate finance and other strategic transactions. He regularly acts as general outside corporate counsel for his clients to provide advice on governance, securities law, compliance, and other ongoing corporate matters. Brian has a particular focus on life sciences and emerging companies while also representing clients in a range of industries. So welcome, Brian. Thank you for being here.

MR. JOHNSON: Thanks for the introduction. I'm going to be presenting some slides today that I shared in advance with the committee. And in particular, those slides are going to focus on a fair bit of data from both the last year, 2023, as well as from the past decade plus, so we can have a frame of reference both for 2023 and 2022 as well, which was not so different than 2023, going back in time.

Annually, our firm publishes an IPO report and this year's 2024 IPO report is going to come out in another week or so. So, this meeting is actually fortuitously planned in terms of timing. So what I'm going present today is actually a preview of what we're going to be publishing very shortly.

So, with that -- take your time. So, the slides I'm going to present, again, have a fair bit of data. Those data slides are going to be interspersed with some commentary. Please do feel free to ask questions as I go, if you want to try to understand some of this data. And this is, again, to reiterate, fairly data heavy. And I think it makes sense to present the data, provide a little bit of feedback, and then we can have a conversation afterwards about the historical data and how that impacts where the market may be going this year and next year.

So with that, we can start. Yep, this slide's great. So this first slide simply shows data going back over the course of the past 15 years or so, even a little bit more than that. It shows in blue, the number of IPOs and in green, the dollar volume, which in general tend to move in tandem, although there are some differences, especially in years of flux. If there's a particularly strong market or a particularly weak market in any particular year, you can see some differentiation between number of deals and dollar volume, and we'll get into that in a little bit more detail as we move forward.

You know, again, some obvious trends, you know, going back to the financial crisis in 2008. 2009, things pick up. They dip down again, and then ramp up extraordinarily in the 2020 and 2021 timeframe, which I think everybody's familiar with.

And then really dropped off a cliff in 2020, sort of the fourth quarter of 2021 and heading into 2022 and 2023.

So on the next slide, I'm going to try to provide a little bit of context, both for that prior slide and for some slides that will -- that will follow. So as I mentioned, 2023 was in general another down year, fairly similar to 2022, although better in some ways. Obviously there's, you know, the pessimism surrounding the interest rate hikes by the Fed, primarily as a result of inflationary environment that we've all been subject to, combined with just general subdued confidence for whatever reason. People can speculate about why or what that is or isn't, but general depressed confidence in the markets, as well as of course, the geopolitical concerns going back into 2022 with Ukraine and other situations.

So just to frame a little bit what I showed on the prior slide, so deal activity did increase 48 percent from 2022 in terms of number of deals. And also just to put in context some of the data that we're presenting here, the information that we show here for IPOs excludes SPACs. It excludes direct listings . It excludes reverse mergers. These are sort of true IPOs, to make sure we're comparing apples to apples on different slides and people understand what we're presenting.

So although again, deal activity did increase,
it increased from a historically low number in 2022, so still a week year in '23. And, you know, less than -- as we show here in a slide -- less than one-third of the 2021 total number of IPOs. Likewise, gross proceeds, so dollar volume of deals in 2023, were up 144 percent, so significantly from 2022.

However, the median offering size of only $10 million in 2023 is really a very small number and surprising, I think, for a lot of us. I think in some ways, a lot of us are surprised that some of these small deals are getting done at all. And so that although the volume of deals went up in 2023, so many of them are such small deals, it's really hard to understand what those deals are gonna mean for the market going forward, in terms of whether other companies view those deals as any type of bellwether for future transactions.

Likewise, the IPOs that grossed less than $25 million, so another sort of benchmark, you know, increased significantly. So, median of $10 million, deals of less than $25 million -- so another sort of benchmark -- you know, increased significantly. So median 10 million, deals of less than 25 million increasing in frequency, and you know, that is much different than history would suggest. You can see, you know, in comparison, IPOs of that size accounted for only 8 percent.

MS. DUIGAN: Can I just ask a quick question?
I'm sorry.

MR. JOHNSON: Sure, go ahead.

MS. DUIGAN: Could you just maybe explain a little bit, was there something that happened in the market to all of a sudden allow for these teeny tiny IPOs to get done?

MR. JOHNSON: I don't think there was anything in the market specifically in terms of, you know, allowing these deals to be done. I -- you know, in terms of, you know, either regulatory or, you know --

MS. DUIGAN: Like, I don't know, lower cost technology. I mean, something, you know?

MR. JOHNSON: No. I think it's just, you know, the -- I actually find it surprising and I think we're still trying to understand why that's -- why that's the case. And it may in part be inability of some of these companies to continue to raise money on a private basis, the ability of them to list on a lower tier -- a lower tier market on -- you know, on NASDAQ or on another type of stock exchange. But I don't think it was – I'm not aware of any like one or even a set of regulatory factors, for instance, that, you know, resulted in these -- you know, the Staff should speak too. But, you know, I'm not aware of any particular regulatory aspect that, you know, pushed that down, other than the market stinks.

So I think we can go to the next slide, which this is just a breakdown of quarterly volume and deal size, going back for the past five years, so a shorter time period. And you can see in the early-COVID days in Q2 of 2020, things ramped up for the course of about 6 quarters in a row, peaking in Q2 of 2021. Some of the volume in Q3 and Q4 of 2021 were really deals that were already in the works, had already submitted registration statements to the SEC.

These deals were getting done at the end of 2021, but then the number of registrants that were submitting new filings -- which is not in the data here, but anecdotally -- really started to fall off a cliff in Q4. And then if you look at the difference between Q4 2021 and Q1 of 2022, it's -- I mean, it's frightening how much things really did fall off a cliff in that time period. You can go to the next slide, please.

MR. DRAYTON: Brian, may I ask a question before you proceed? I'm going to piggyback on Madam Chair's question here. Because of the -- and you may get to this -- because the deal sizes are smaller, does that mean that there's more dry powder sitting on the sideline waiting to be deployed?

MR. JOHNSON: I do think there's a lot of dry powder that is sitting on the sideline. But there's also, I think, a real reluctance to put it to work. And when we think about dry powder, you know, is that dry powder by industry-specific funds, for instance? If you look at, you know, tech or biotech, is it generalist investors? Is it public company investors? Is it investors that invest both in public company and private companies? Because certainly we have seen an uptick in investment by different types of funds in later stage private companies. Which -- I mean, the investment by, you know, into later stage private companies who are preparing to go public, I think is even a more dire situation than the IPO market itself in some ways. Because you have small companies who get initial funding, you know, on a privately-held basis, whether that's, you know, from a venture fund or from whatever source they rely upon, and they get to a certain point. And if the investors know there's no real possibility of that company going public in some reasonable time frame, whether that's 12 months, 24 months, they're not going to put money in for that last round of pre-IPO funding.

And I think that's really where we've seen a lot of companies fail, where they didn't have the capital to execute on what they thought was the ideal business plan. So when we think about dry powder, coming back to your question, we've seen more money going into even earlier stage, and this is not -- this is not unusual. I mean I do think, you know, the market ebbs and flows. It's going -- it's going to come back. When and how much, you know, I don't know. But the dry powder tends to go towards earlier-stage companies that people think are going to have some type of, you know, revolutionary impact on whatever industry they happen to be in. So.

MR. CORDERO: And, Herbert, in the annual report, they have -- it's an historic high of dry powder.

MR. JOHNSON: Any other questions before we move on? Great. So, again, the median IPO offering size, which I've referenced as being, you know, the $10 million in 2023 -- you can see it on this slide -- you know, pretty consistent, even in years that were down. Like the 2008, 2009, and 2010 kind of timeframe, there was nowhere near the drop off in the average size or the median size of an IPO. Which again, I think we're all still trying to figure out, you know, why is that the case? And, you know, are those companies who are doing such small IPOs actually going to be successful in the medium to longer term?

MALE VOICE: I guess, I mean, can you tell if there's like big secondary components to those that aren't getting reported? It just seems like such a low amount relative to the volume.

MR. JOHNSON: Yeah, I mean, it's certainly there are some deals with -- and we have some in our report that's coming out. It's not in these slides. The volume of secondary sales -- but in other words, existing stockholders selling in the IPO -- is actually decreasing. Right? I mean, because the market -- the market's bad. So new investors -- their support in many cases, the company, rather than taking out existing investors.

You know, it's an interesting concept,

right? Like is the 10 million so low because it's the company raising money, but the deal, the deal -- the deal is bigger. The answer is no, I don't think that's, that's actually what's driving it. But yeah, it's a good question.

So the next slide, distribution of IPO offering size, again, puts a little bit more detail on the size of offerings. This only goes back -- so this is dark blue, 2020, moving forward to lighter blue, 2023., and then broken down into different categories along the X-axis. You can see, you know, starting with less than 50 million and then going up in increments all the way through 500 million dollars and above. Really for -- you know, for a long time I would say, you know, you would see the deals of, you know, sort of the 75 to 500 million dollars. That was that was a sweet spot for most IPOs. And you look at 2020, sort of that 150 to 250, I mean, that's a fairly typical expectation of what things, you know, should look like in a -- in a healthy -- in a healthy market.

You know, the number of, you know, larger $500 million and above, I mean, those are -- those are great deals. I'm not sure that that's -- those larger size deals are necessarily predictive of a super strong market or not. I think it's the deals in the middle that are typically driving whether there's a strong IPO market in general. So we can go to the next slide.

So here's some more data points. We broke it down a little bit by industry. So many of the IPOs, going back over the past decade, are companies in the life sciences industries, biotech companies, medical device companies, et cetera. In 2023, only a third of the life sciences companies had revenue of any kind, so not profits, revenue. That was better than 2022, but meaningfully less than the average over the 5-year period from 2017 to 2021, which was 46 percent.

So, you know, it's -- these are -- even the companies that are going public in 2023 are not necessarily the strongest companies. These companies going public as a -- and perhaps this goes to the original question of, you know, so many smaller companies -- because they have -- maybe they have no other choice. I mean, that's speculation on my part, but that could be -- that could be part of the reason.

The median annual revenue of non-life sciences companies -- so, you know, your typical tech company -- you know, was much better, really double for 2023 versus 2022. But again, short of what we saw in the prior 5-year period. Likewise, the percentage of profitable companies -- so moving from revenue to profit -- percentage of profitable IPO companies also increased in 2023 compared to 2022.

But, you know, interestingly, compared to revenue -- the revenue number, the percentage of profitable companies, was actually increasing. So it's -- you know, the metrics are changing. You know, I think the -- some companies are going out because they have to, but then the companies who are successful are the ones who are actually fairly profitable. So it's this interesting dynamic.

Of course, none of the 21 life sciences IPOs in 2033 were from profitable companies. That's actually not surprising for companies in this space. They are, you know, looking to grow their business and develop drugs on a pre-revenue and certainly pre-profit basis. And then we'll get into, on some subsequent slides that we have, sort of the so-called "market performance" of companies, including how much they trade up or not and the first day of trading, as well as how they perform over the course of the subsequent year after their IPO. So we can go to the next slide.

So again, this is a visual representation of what we were talking about earlier in terms of revenue of IPO companies. Again, what's confounding about 2022 and 2023 is the very low revenue. But look at 2009, another "bad year" in the IPO market. There you had revenue that was significant. In other words, the only companies that could go public in that time frame were ones who had significant revenue. Now, it's sort of flipped on its head.

And again, I think we're all trying to understand this, but it is -- but it is, you know, an interesting factor. And again, speculation on my part, maybe these are companies who had no other choice and decided to do it. But, you know, I think we're going to learn more about that in the coming years.

Likewise, if you look at the next slide, which is the percentage of profitable IPO companies, this is -- this is -- this is, I guess, not confounding in the sense that 2022 and 2023, the percentage of profitable IPO companies was higher compared to, for instance, 2020, which was a banner year in the IPO market. And compares at least, you know, ordinarily to 2009, which was, you know, a bad year. So higher percentage of profitable companies in bad years. I think that's proven -- continued to prove to be the case.

The next slide is performance, market performance. First day and year-end gain. Yeah. Again, not a happy slide. Not a happy slide. You know, you can see, really again, where things flipped. If you look at 2021, you actually had companies performing fairly well on their first day of trading, which is the light green bar. But then by the end of the year, you know, market performance across the board -- not just IPO companies, but across the board -- fell precipitously.

2022, a little bit more of the same, you know, some decent first day performance. But then, you know, the overall market dynamic caught up to all these companies. And they -- you know, I think they actually performed meaningfully worse than the average in the market. We can go to the next slide. Thank you.

So some more -- trying to put things in perspective a little bit. So again, this concept of a broken IPO, really all that means is that the stock closes below the IPO price on the first day of trading. That increased in 2023, compared to 2022, and certainly over the prior 5-year period. The 2023 broken IPO numbers is the highest number since 2008.

And with respect to life sciences companies, compared to other companies, they perform slightly better but so marginal that I'm not sure it's even worth a distinction in that third bullet.

With respect to companies at the end of the year, 56 percent below their offering price was the median decrease in stock price. In comparison, 2021, companies were down 19 percent in that year. So really, you know, it's clearly a smaller number of deals, but, you know, information like this certainly impacts investors' willingness to invest. And it impacts companies' willingness to engage in the process, to spend money in the process. You know, it takes significant effort for these companies to ramp up and be in an IPO process -- lawyers' fees, accountant fees, other advisors, etc. So we can talk a little bit more about that as we go on here.

I guess there's one interesting slide -- one more interesting slide here. So the median time to IPO and median amount raised, prior to the IPO -- in other words, from the time the company was incorporated until it went public, how many years, and how much money on a private basis did those companies raise? And this is based on companies who went public in any particular year. So, you know, not surprisingly, sort of looking at benchmark years, you look at 2009, a very long time before companies were incorporated, before they were able to go public and they raised less money.

I think that's more or less true as time goes by. Although if you look at 2019, 2020, and 2021, the amount of money raised, a lot of that money was being raised in large increments in a short period of time, shortly before these companies went public. So either the companies were able to get public quickly or they knew they were going to be engaged in an IPO process shortly and they did a very large round right before they went public. So, again, some interesting background information.

The next couple slides break down venture capital-backed IPOs as compared to PE-backed IPOs. I'm not sure there's much to get into for purposes of this market. And then on the last few slides here, I have just some topics for discussion, less data-driven. And this is -- you know, this is industry-agnostic list of factors. Certainly in any individual industry, there are other factors. But you know, what makes a successful IPO company?

I don't think any of these are particularly surprising. Management, differentiation of your product or platform, either substantial revenue or near-term prospects for substantial revenue, revenue growth, profitability, and of course, really the size of the company. There are a lot of investors who don't invest in smaller-sized IPOs. So the fact that you have a -- it doesn't have to be a $500 million-plus IPO, but if you're in that middle range that I was talking about earlier, you're more likely to be successful on a longer term basis because you can have investors who are willing to buy and hold and support the company on an ongoing basis.

The next slide, just why would a company choose to go public and not choose to go public? Just tried to set out here a set of general factors. Obviously, if you go public, there's the opportunity to bring in capital as part of the IPO. There's liquidity for existing investors. You're likely to have a higher valuation on a go-forward basis for the overall enterprise. You have improved access to capital on a go-forward basis. Employees are more likely to be incentivized through stock options that actually are able to be realized, in terms of value. It allows a company who's growing to use their stock as currency to acquire other companies. And, of course, the general prestige in the market. These are a very general list factors.

Disadvantages, of course, as I mentioned earlier, it's expensive, not only to undertake the IPO. If you're --if you're successful, you end up spending a fair bit of money on banker, lawyer, accountant, other advisor fees and so forth. But even if you start a process spending money from day one, public company obligations. Of course, scrutiny by the public and the inability to avoid disclosure. Loss of -- in some cases, loss of control on exactly how you're going to run your -- run your business, as larger investors get involved. General flexibility, diversion management time, and of course, potential liability, given the nature of our legal system.

The next slide talks about when a company might choose to go public. And again, very high level. The company has, as I said on an earlier slide, has a management who's ready to run a public company, not a private company. Comparable companies have completed IPOs. Investors -- which means investors are going to be willing to invest in that particular line of business. Business model, development pathway, existing pathway. Existing investors pushing for a liquidity event. And general market conditions.

You know, those -- you know, these last few slides are really just, you know, some high-level talking points which we can which we can cover in more detail. The other thing that I will say in terms of the IPO market is, all right, so companies aren't doing IPOs the last couple of years, what's happening? You know, there are companies looking at alternatives. We can talk about that.

There are also companies who are failing, there's no question. You know, who either are dissolving, you know, in one -- you know, either under, you know, state law or undertaking -- depending on the industry and their debt level -- formal bankruptcy proceeding. I mean, that is -- I mean, unfortunately becoming much more -- much more widespread over the course of the past couple of years when these companies are unable to access the markets.

In terms of alternatives, I mentioned at the beginning, our data doesn't include reverse mergers. It doesn't include SPAC transactions. It doesn't include so-called direct listings. It doesn't include sort of a new term, which I think is a misnomer, but what some people refer to as "private IPOs."

There was an article in the Wall Street Journal this weekend -- I don't know if people saw it

-- that talked about, you know, these so-called private IPOs, which aren't really IPOs. It just means it's a private placement by existing investors to new investors. Sort of a -- it's a private secondary transaction, not an IPO. Somebody came up with the idea that they were going to call it that. It's starting to get some traction, probably just because everything else is so dry.

Anyway. And of course, more companies being willing to engage in strategic M&A processes at prices that they -- and valuations that they may not have found attractive in the past. And in terms of dry powder, I actually think that's where you're starting to see dry powder from larger industry players being deployed in a way that's different than the IPO market.

We're also seeing consolidation, not just M&A between small private company and large public company in terms of a buyout, but more consolidation among smaller companies. We're seeing consolidation among venture fund portfolio companies. You know, a venture fund decides, well, I have two companies who are, you know, they're sort of doing the same thing. There would be synergies if we were to put the companies together. Neither one's doing that great.

Let's put them together and see what happens. You know, there's -- you know, there's a fair bit of that happening when there are no other great alternatives. You know, a fair bit for boards to consider in those types of circumstances in terms of fiduciary duties, but it is something that we see or are seeing a lot more often.

I will say also on the lawyering front, we are spending a lot more of our time doing strategic collaborations, joint ventures, other types of deals between, you know, smaller and larger companies. Those deals, you know, depending on industry, typically involve the smaller companies giving away meaningful rights to their products, to their revenues, and living to fight -- essentially living to fight another day. There are good strategic regions to do those deals too, but at least we're spending a lot more of our time doing deals like that as opposed to, to IPOs.

Certainly, you know, M&A for what we generally refer to as "non-life sciences" technology companies, so not biotechs, but real techs, is -- for public company acquiring private company, is much more active than the life sciences space. The reason so many life sciences companies go public is because

they're able to satisfy
their capital needs through the public markets, through specialized investors who are willing to invest in public companies at an early stage because those investors are taking a bet, as opposed to a big pharma buying that company out, which is unlikely to happen at such an early stage. Big pharma is more likely to do strategic collaboration of the kind I was referring to earlier.

On the tech side, I do think there's a lot of larger tech companies who are willing to take a bet on small companies. So that area is active, certainly. Valuation sensitive on both sides, but active. And so with that, I'm gonna pause and see if there are any more questions.

MR. CORDERO: Understanding is totally your personal opinion. With Reddit announcing, you know, they're gonna be doing their IPO.

MR. JOHNSON: Uh-huh.

MR. CORDERO: Two questions. One, does '24 -- I mean, you probably already have some deal flow going. You have some perspective on what '24 looks, like versus '23. And then separate question is, do you see '25 as really opening up? You know, whatever the Fed decides to do, we'll know. And then separately, we'll have had a new election cycle and a new term began. So do you see like -- so first question is Reddit demonstrate '24 is opening up a little bit and then do you see things really opening up '25?

MR. JOHNSON: Yeah, so whether Reddit is successful or not, you know, I can't speculate on. But if it is, will it, can a big deal like that break the dam? Yes, it can. You know, other companies want to see companies be successful in their IPO that will give them conviction to start their own processes or to pursue their processes with more vigor. So yes, that could very well help -- Reddit and, you know, fast followers, so to speak.

In terms of 2024, we have more companies who are in the process of either preparing to submit or that are about to submit registration statements, but it's still smaller numbers than five years ago, for instance. Better than '23, better than '22, slow build. I think there was a fair bit of optimism in January. It's, I think, been tempered a little bit over the course of -- over the course of February, and I think people are waiting to see what will happen. You know, interest rates, geopolitical issues, not getting any better. And you know, again, you know, withholding any personal perspective on that, it's not -- it's not good for the IPO market.

And you know, where does that lead us in 2025, or in 2024 going into 2025? You mentioned the election. I'm not sure how much the election's gonna impact the market. I think the other factors are more significant. Yes, I think it is a factor, but I don't think it's as a big a factor as the others. Yeah, and fingers crossed for 2025.

MS. DUIGAN: Great, well, thank you so much, Brian. This was really, really informative and helpful. Were we able to get a copy of the presentation?

MR. JOHNSON: Yes. Okay, wonderful. Well, I know we're all really grateful for the amazing presentation of data information and for you coming to speak with us today. So thank you very, very much.

MR. JOHNSON: Thank you. And joining us by WebEx is Lizzie Reed, partner and global head of the Equity Syndicate Desk at Goldman Sachs. Prior to her current role, she served as head of America's Equity Syndicate Desk. Before that, Lizzie was a member of the Investment Grade and Emerging Market Credit Syndicate
team for eight years, and an analyst within America's

Leveraged Finance when she first joined Goldman in 2007. Welcome Lizzie.

MS. REED: Thank you, Erika. And it's a – I apologize I can't be there in person but it is really great to be on the webinar with all of you. So thank you for the time. And I'm happy to spend time on just the broader IPO markets. I did send a PDF that kind of outlines a little bit of a look-back of IPO issuance and also just issuance within broad equity capital markets since 2018 through 2020 for year-to-date.

While I very much respect and love the commentary from Brian, I'm going to paint a little bit of a picture that's a bit more optimistic, in terms of where the equity capital markets are in our dialogue with board-level issuers, investors, in terms of what is really driving the pace of IPO activity? What is really driving absolute volumes and aftermarket performance? And really what do we think are the key considerations for a company to go public today.

So taking a big step back -- and I don't know if Courtney maybe can put the slide on the screen for everyone in the room. Taking a big step back, the IPO market or just any type of capital raise or is debt-related or equity-related, is highly correlated with the macro environment. And so, when we think about the health of the product suite, we focus a bit on what did it feel like in terms of the conditions in 2017, '18, '19? What was it like in 2020 and '21? And what has it really been from 2020 to year to date?

And I kind of view it in many ways as pre-COVID, right? When in '18 and '19, the S&P 500 was middling, at best, in terms of its performance. And there was very, very active and robust equity capital markets activity in 2020 and '21, where you had a risk-free interest rate. Borrow was very, very easy for corporates to grow and to use in terms of investing into their business. And then really an evolving market in 2022 year-to-date, where a lot of macro factors have basically impacted the pace, right, of issuance over the course of the last several years.

So I think Brian's data basically includes all equity capital markets issuance and within the IPO space, in terms of any relevant deal size. This chart in front of you in the room is really for offerings that are size of $50 million or greater. The data that we use is from SEC filings and Dealogic. Dealogic is kind of the street-wide market standard across banks, and that is what banks use on their annual reports and quarterly reports when they talk about their position on league tables. It's a publicly disclosed and advertised standing.

So I think what I actually really want to draw to everyone is the pace of activity on the bottom part of this chart of just U.S. IPO issuance in 2022, which was $8 billion across 21 separate offerings of $50 million or greater.

In 2023, as Brian spoke to and I totally agree, we saw an increase in terms of the amount of issuance, not only in the notional dollar at 19 billion, but also the number of offerings at 30.

And then if you look at 2024 year to date, I actually look at these numbers and I feel quite optimistic about what the forward will look like. There's a very short window in the beginning of January that an issuer can basically access and print their IPO before going to the financial staleness.

It's about a 4 to 5-week period in January through mid-February. And as a result of that, we've seen 14 separate offerings pricing for 6 billion. And so while the numbers are absolutely significantly muted versus the average that you saw from 2018 to 2019, we are seeing the pace of activity pick up.

And what's really driving that is a couple of big thematics. One, we're in a recovering macro environment. While I think all eyes from the investor community is focused on the pace of Fed cuts -- not only here in the U.S. but also globally -- as well as the sentiment of the consumer, how are they navigating inflation and how are they spending their money in the economy.

In addition to that, what's going on in the geopolitical landscape, it is a much more challenged market. But as the investor community has a better understanding of the path of recovery and better confidence in path of recovery for stability, we are going to be in a market where the purview or the opportunity set of the IPOs or companies who can go public is going to become increasingly broader and more constructive, because investors are high cash balances. They want to invest in best in class assets and invest in new ideas.

And also companies have spent the last two years in this macro environment really navigating their balance sheet in a successful way, whether that is, you know, shrinking headcount in terms of their employee base. Investing more thoughtfully their capital in terms of R&D, advertising, CapEx spend. Whether it is thinking about their cost of capital across debt and equity. And as the debt markets are incredibly efficient right now, the equity markets will follow, and that will be a very good signal in terms of the pace of IPO activity and the breadth in terms of the type of companies.

Not only do biotechs consistently access permanent capital and equities because they need to fund their R&D to save lives, right -- and to invest in terms of saving drugs and lives -- but tech has a really big need for capital. And also, aspects and industries away from biotech and pure tech, whether it's industrials, financial institutions, natural resources, healthcare, ex-biotech.

There are real needs for capital and raising permanent capital within the equity capital markets allows them to have a lot of ways to basically fund their business and a lot of ways to partner with very, very unique types of investing institutions. And so the market, once again, is not in a place where we're all clear. And I don't think that we'll reach the heights of 2020 or 2021, given the current interest environment, anytime soon.

I will paint for this group a more constructive view in terms of how deals are getting done and also how they're trading in the aftermarket. We look at aftermarket performance in a couple different ways. One is just what is the pure alpha, so day one performance? How do these stocks actually trade day one. How do they trade day one versus index the S&P 500? And how do they trade day one index S&P 500 if you exclude the Mendacin-7 that are really driving the S&P returns very high?

And net net on average, whether it's average or the median, they do tend to be in positive performance. And as a result of that, the number of the investors that are kind of migrating from being public institutions, family offices, big, large sovereign wealth funds that have been somewhat more insular in their portfolio construction in 2022 and '23 as they're navigating a rapidly changing macro environment, we're seeing much more constructive positioning and much more ample capital deployment. And so I agree with Brian. We are definitely in a recovering market, but it's a market that I think I'm a bit more optimistic in terms of the depth.

The other thing I would just say is a question that I get fielded a lot in the boards and the board member levels and also the issuery levels of why haven't we seen more IPO activity? Part of it is the calendar cycle. Part of it, you know, to Brian's point, and I would echo this, there still continues to be a heavy negotiation between desired valuation, versus what valuation of a public investor is willing to pay today. And that's going to continue to have, you know, ebbs and flows in terms of the opportunity set.

But once again, it's definitely more narrow, right, the bid/ask spread that we saw in 2022. But it's not at the levels where it's, you know, 100 percent in the favor of the issuer. And so the objective of why an issuer would like to go public or the intensity of why they wanted to go public has to be clearly, clearly defined in today's market in order to have success.

So I just want to give a big high level what we're seeing, you know, from my seat sitting at a bank, I'm responsible for distribution across privates and public markets. And the last thing before I can kind of open up to Q&A, because I'm very conscious of time in this working group, in terms of things that we want to accomplish -- the other thing I would say, just in the product itself, the last five to seven years, there's been incredible innovation for companies. And what I mean by innovation, it's innovation across the full ECM product suite. And so if you're a private company, your ability to access private capital very efficiently, whether it is doing new private rounds, what Brian referenced as a private IPO, which I agree is just really a late stage private round. Whether it is thinking about interesting type of debt instruments that you can get capital from on your balance sheet.

So, a lot of private companies have spent the last two years really navigating their cash burn. It's heavily skewed towards tech and biotech. But they've also have spent a lot of time thinking about, how do I go raise capital in a very efficient way and maybe avoid a little bit of the macro sentiment that's driving risk appetite in the public market.

And also saying the public market, there continues to be a lot of innovation, whether it's common, convertible, derivative, debt to equity exchanges that allow companies to basically navigate whatever their capital needs might be in a way more efficient way than you saw 10 years ago. And a lot of that is due to just sort of the pure capital formation. Businesses are bigger, right? Sponsors are larger.
VCs are larger. Institutional investors are larger. And therefore, there's a lot of capital formation that is driving opportunity set for investors to be very,

very disciplined and very discerning, but also from the best-in-class type of companies to get that access to continue to run their business.

So I'm gonna paint a very balanced view in terms of what we're seeing in terms of driving activity. But once again, I'm a bit more optimistic in terms of the depth and the reception of the IPO market and happy to kind of pause there, given the fact we have 15 minutes or so, just to make sure that we open up for Q&A across Brian and myself.

MS. DUIGAN: Thank you so much, Lizzie and Brian. Would love to open it up to questions and I'd actually love to kick the questions off with a question. Do you think that a big part of the reason why, you know, maybe we have seen that median go down and, you know, a reduced number of IPOs is that, you know, the growing size of kind of late-stage private rounds that happened in '20 and '21, you know, folks are basically holding on to positions that are underwater and, you know, we just really haven't seen the capitulation yet that they're ready to accept, you know, this valuation is maybe not going to happen where they hoped it would be. And what sort of impact do you think that might have on this year's market, you know, if people might be forced to sort of give in to the new valuation standard?

MS. REED: Uh-huh. It's a great It's a great question. It's one that we have a lot of healthy debate with our issuing clients, particularly because we're trying to navigate, what is the company's objective? Why are they going public? What is the current shareholder base look like?

And if you're raising capital in 2021 at all-time market highs, and then you're going to go public in 2024 and you're not at that valuation point, I totally agree there's a lot of boards and a lot of companies that say, you know, I don't really need to go public right now. And I'm going to continue to stay private until there's a different catalyst, where there's greater market stability. Or maybe there's a strategic I want to partner with. Maybe there's an M&A opportunity I want to pursue.

As a result of that, I agree that there are many, many companies that are kind of in a little bit of that holding pattern until the macro really recovers, and maybe that's 2025, you know, it's 2026. But the efficiencies of many of those companies, particularly in the tech space, where they don't -- you can raise private capital very efficiently -- we're calling it "growth capital" -- versus acute need, meaning employee retention, type of those types of offerings, that to me is one driver.

If you're a company that raised private capital in 2019, early portion of 2020, pre all the Fed stimulus -- most of those companies-- and think about VCs or sponsors -- most of those investments in today's market are actually in a positive mark to market position. And many of them are contemplating coming to public markets in the form of an IPO or an M&A or sponsor to sponsor M&A opportunity, because they continue to realize returns for their investors.

So I think you have to be a little bit balanced about -- Erica, to your point, and I totally agree with you -- when was the capital raise done? What mark to market is that? And what is the timing of the license of your company?

Why do you want to go public now? And if there are companies, for example, that say, I just -- "I don't want to realize that valuation, even though I'm only floating a very small percent of my company," it doesn't necessarily mean that they're willing to go do that. And a lot are basically waiting until a better macro environment, you know, comes to market.

MR. JOHNSON: I completely agree with that in terms of companies who are able to wait. There are certainly companies who aren't able to wait, you know, many years. So hopefully, to Lizzie's optimistic point, hopefully some of those companies who have waited a year or two years because they've been raising capital in alternative ways, maybe those are the companies that we're gonna see coming to market, you know, coming in 2024 and 2025.

You know, fingers crossed, that they and -- they and their boards are going to be more realistic about valuations. And hopefully that helps drive the market. It certainly would be great for all of us in the industry.

MR. DILLASHAW: I've got one, and probably Brian, this is a little bit for you too, but one of the things that we talked about in the annual report was sort of this long-term trend of a decrease in the number of smaller reporting companies. And I'm wondering how, specifically sort of in the context of an SEC committee, when you guys are thinking about this issue -- and Lizzie, from you as well -- how much of the decision of, "Do I want to go public?" is what's the macro environment?

What are, you know, some of the stuff you were just talking about in terms of valuations and exit opportunities for investors? How does the regulatory environment and the cost of going public factor into that decision -- and stated another way from the SEC's perspective, "Like are we in an overly regulatory environment?" I know they're sort of emerging company on-ramps. I'd like to hear your sort of thoughts on how that plays into this overall, "Do I want to go public?" public decision.

MR. JOHNSON: Yeah. I mean I'll go first and then let Lizzie weigh in. I mean from what we see typically -- and as I at least mentioned in passing earlier -- the bigger decision, I think, or the bigger factor tends to be the cost of the IPO itself, as opposed to what the continuing costs of operating as a public company are going to be.

Certainly, companies take into consideration the ongoing costs of being public. And certainly, you know, they talk about and consider the regulatory environment. But I think the regulatory aspects that directly impact the cost of the deal itself are the ones that I think tend to be more important in terms of whether a company chooses to go public or not.

MR. DILLASHAW: And just for reference, like what's the ballpark for that cost?

MR. JOHNSON: The cost of a company to go public? So putting aside the underwriting fees and commissions, which, you know, are typically 7 percent for an IPO, but that comes -- you only pay that money if you do the deal -- whereas some of the other costs for other advisors and so forth are meaningfully more. Again, depending on industry, there can be quite a wide range, but I would say anywhere from sort of, forward, it could be -- 7-$8 million, would not be an unusual ballpark for a company that's, you know, doing a, you know, $200 million -- $150 to $200 million IPO. And that data is public in, you know, in Part 2 of the S-1 registration statements. We probably have that data somewhere.

MS. DUIGAN: So what about the company that went public for $10 million?

MR. JOHNSON: So they probably are not -- well, they're almost certainly not using a big four accounting firm. They're not using a large national law firm, very likely. They are doing, you know, enough to comply and to get through SEC review. I don't think they're -- I would hope they're not skimping on those things. But you know, their fees could be, you know -- I'm guessing -- but could be in the $1 to $2 million range. They're still meaningful.

MR. DRAYTON: I guess it's for Brian and

Lizzie. You know, we just spent the morning sort of opening the aperture on accredited investor, and I was trying to find the pixie dust in these presentations just now. So what does this -- all the information you shared, what does this mean for these new entrants that we're inviting into the space?

MR. JOHNSON: Yeah, so I -- you know, I didn't mean to come across as overly pessimistic during my presentation, certainly, because I do share some of the optimism that Lizzie was being more direct about. But what does it mean for, you know, the next couple of years and, you know, how can -- how, as a committee, can you help the markets and help companies get through this process?

You know, I think just in some ways, it's just the company's understanding that there is -- there's an opportunity. Like you can do this. You know, whether that's through a traditional IPO, whether that's through, you know, some other capital raising means. Or whether that's -- and I know outside the scope of this committee or outside the scope of this meeting, you know, allowing companies to raise private money in more efficient ways.

MS. DUIGAN: All right, well, thank you everybody for the questions. Thank you, Brian and

Lizzie so much for sharing your insight with us. We really appreciate these very thoughtful presentations and the work you've done to help inform our recommendation deliberation. So really appreciate it.

MS. REED: Thank you, thank you very much.

MS. DUIGAN: All right, have a great afternoon. Wonderful. So we now can start our deliberation. So, thank you. Thank you, Brian.

MR. MARSICAL: So, is there a draft version based on this morning's discussions that we can discuss or?

MS. DUIGAN: No draft yet. We'll just have to sort of recall, I guess, or maybe -- I don't know. Sue, do you want to kind of go over the highlights of what -- maybe, do we have the votes and maybe just the highlights of how everyone voted on the different things, and then we can just kind of take the last few minutes to see if there are new thoughts that maybe have arisen from the conversation?

I think one thing that I definitely think was highlighted by this conversation is just how complex the exit risk is. And, you know, when we're thinking about educating people on how they can think about getting liquidity, that, you know, there's quite a bit to chew on there, even for the most sophisticated investors. So that was interesting.

MS. WASHER: Maybe we can start by just talking a little bit about process and certainly Staff -- you know, Courtney and Stacey -- jump in. But just based on experience, we now -- we've had a full conversation, it's been recorded, so all of us can go back and listen to it.

Jasmin's been taking notes, I've been taking notes, I know Staff has been taking notes, and we had three votes. And so what happens next is Jasmin, as our secretary, will work with Staff to not only draw up, you know, minutes of this meeting, but draw up a draft recommendation, you know, sort through the executive committee and we'll comment on it and get it to a certain point.

And then we'll absolutely turn it back to you for your thoughts, but we do not need a formal -- an additional formal vote on a final draft.

And so that is the process going forward?

MS. DUIGAN: So, I think it would be helpful if we could just – and Jasmin, maybe you can do this, or Sue, whichever one of you feels most equipped -- but just to go over again what we voted on, the outcome of the votes, sort of by percentage, and then we can take the last five to ten minutes to get sort of any additional thoughts or commentary that folks might have as they had some time to digest our conversation and also hear sort of from our speakers this afternoon.

MS. WASHER: So I'll summarize what we voted on. I don't know whether Jasmin or Staff has a percentage of how the vote went.

MS. DUIGAN: Yeah.

MS. WASHER: But I can summarize what we voted on. So we voted to not adjust the thresholds for inflation, to leave that alone, and that was a pretty large margin there. We also said that if you don't meet that threshold that we're not changing, that you can invest up to 5 percent of whatever's higher, your income or net worth, in a 12-month period, if you complete some form of education. And we all agreed on education.

MS. SETHI: Yeah. So actually, I was not totally clear on that, but I don't know if everybody was. I was going to note that there was a lot of agreement on 5 percent for not accredited investors, but there was a lot of discussion around whether that 5 percent needed to be -- have education required or not. We may want to take a specific vote on that, or we can note that that is something that, you know, we want to.

MS. WASHER: We voted it. We voted on it.

MS. SETHI: I don't think we got to -- so I know I was confused when I was voting and so I was fine with 5 percent with or without.

MS. DUIGAN: Okay.

MS. SETHI: So I don't know if everybody got to -- I think some people might be okay with 5 percent, even without education, had we separated the two.

MS. DUIGAN: Yeah, maybe we should be clear on that.

MS. WASHER: Courtney, can you look to see --

MS. HASELEY: Well, I think we can, if you want to, do a, you know, additional vote. I thought there was a vote up to 5 percent, provided that you also have some form of educational requirement. But why don't we, Erica --

MS. DUIGAN: Right? I think that's a good idea. Okay. So voting to clarify recommending that those who do not meet the income and asset threshold, can invest up to the greater of 5 percent of their net worth or net income, provided they pass a certification exam.

MS. SETHI: So could we -- could we actually - sorry, just -- because I think some of us might be okay with -- I think some of us are okay with 5 percent with education, over no 5 percent. I think the issue is some people might be okay with 5 percent even without education. So if --

MS. DUIGAN: Okay, well, let's make this easy. Who's for with education?

MS. SETHI: So I think people can vote for both, but I don't --

(Vote.)

MS. DUIGAN: Keep your hands up, please. Oh, come on, Marcia. Okay.

MS. SETHI: Well, I think -- I'm thinking people can vote for both –

MS. DUIGAN: -- we are voting right now. Okay. And Wemimo voted online. Okay.

MR CORDERO: I think the question that a couple people had was with regards to the administration of that, in terms of non-accredited with an educational component being able to invest. I think that was your question.

MS. DUIGAN: Right, yeah. And I think, you know, the recommendation is to make it something fairly simple.

But, you know, this is certainly something that we can all, I think, contribute ideas to as Jasmin is drafting, you know, the final recommendation, especially Marcia, I'm sure you have most of that -- a great deal of expertise here.

Would anybody like to vote against requiring an education component for the 5 percent?

MS. SETHI: So I'm actually voting for both. I don't know if anyone, like I think -- I'd rather have 5 percent than not have it, but I'm okay with it with or without education. So I don't know if anyone else feels the same way, but.

MS. DUIGAN: Yeah.

MS. WASHER: It doesn't change the --

MS. DUIGAN: That's not -- yeah.

MS. SETHI: I mean, I --

MS. WASHER: You three voted --

MS. DUIGAN: Okay.

MS. WASHER: You three voted a different way, but it doesn't change the recommendation that we voted on.

MR. MARSICAL: So just a point of Clarification for me. I think there was some discussion, and maybe we voted and I just missed it. But I think there was some discussion about when we do the education component, would there be an opportunity for people to invest beyond the 5 percent? To me, that was a point that was still unclear.

MS. DUIGAN: So, I think the fact that 5 percent -- 5 percent limit within the rolling 12-month period, greater of net income or net worth with the education component. It would not really be recommended to invest more than 5 percent in any 12-month period, because I mean, think about it. You could actually end up with substantial exposure even over the course of just a couple years. So does anyone have a thought on that? And that's only for people that are under this already pretty low limit that we're not adjusting for inflation.

MS. WASHER: We did discuss it, Diego.

MR. MARSICAL: Right, right, right.

MS. WASHER: We did discuss it. But it didn't reach the level of passing the full committee.

MR.MARSICAL: Yeah, yeah. Okay.

MS. DUIGAN: Yeah. I think part of the concession was given that we're not adjusting for inflation, we don't need to be excessively generous on the other part.

MS. HADELEY: And Erica, just a point of clarification, administratively for the record here, what Jasmin will prepare after the meeting is entirely reflective of the recommendations that will have already been discussed and voted on and documented from this meeting. So she won't be creating anything different from what has been discussed here.

MS. DUIGAN: Thank you so much. All right, great. Any other thoughts, comments, concerns, inspiring takeaways from today's great meeting?

MS. WASHER: And I would also add, does anybody have some ideas of agenda items we should consider for our next meeting?

MR. MARSICAL: I mean, I certainly was inspired by the conversation we had from the Office of Under -- I forget --

MS. DUIGAN: Minority and Women Inclusion.

MR. MARSICAL: But I was -- I was actually very motivated by the fact that potentially another set of recommendations, which I think would be really powerful, would be this requirement -- I mean, it could be broader than that. But one of the things is recommending the requirement of these agencies to actually fill the survey.

So I think, again, the topic could be broader than just this one specific thing, but many of us have talked about interest of supporting underrepresented founders, so I think something in that space could be really productive.

MS. DUIGAN: Okay, great.

Thank you. Any other ideas?

I know -- oh, go ahead.

MR. DILLASHAW: Just an idea, but sort of piggybacking off of the discussions that we just had and some comments that the Commissioners made early on, I mean, I think a whole other vein of discussion could be sort of this contrast between the public markets and the private markets.

We've been super focused on the private markets, but as we just sort of heard, you know, there is sort of this transition to the public markets and there's a lot of regulation around that, some of which involves smaller reporting companies, and is that a general topic of discussion that we want to get into? Maybe yes, maybe no, but --

MS. DUIGAN: All right, any other thoughts? Okay, wonderful.

One that I thought, too, could be interesting -- and, you know, I think it's probably useful for us to always, you know, be thinking about one or two things at a time so that, you know, we can sort of have one in the wings while we're pushing forward with a recommendation with something else -- is that previously we had been working on underrepresented, sort of manager recommendations. And I know that obviously the office has done some recommendations around that as well.

So that could be something we could continue work on since we've already had some discussions and speakers on the topic. And I know Dennis had a speaker that he was interested in inviting in to speak a little bit more on the topic.

So would love to throw that out there as kind of of a continued agenda item.

But that hopefully for our next meeting, we can start integrating some other topics in adjacent areas as well.

All right, great. Well, any final closing thoughts or questions from everybody?

No? All right, wonderful.

Well, I want to thank everyone so much an amazing meeting today.

I would love to thank the team for everything, all the support that we got. As well as to thank Stacey for an amazing first -- I'm sorry. Is that -- every time I look in that camera, I'm like, is she over there -- for an amazing first meeting, leading us here.

And with that, I move that we adjourn the meeting. All right, thank you, everyone. Have a wonderful afternoon.

(Whereupon, at 2:57 p.m., the meeting was adjourned.)

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PROOFREADER'S CERTIFICATE

In The Matter of: SBC ADVISORY COMMITTEE
File Number: OS-0001
Date: Tuesday, February 27, 2024
Location: Washington, D.C.

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

_______________________ 3/4/2024
Kyleigh McGinnis (Date)

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I, Jemima Brennan, reporter, hereby certify that the foregoing transcript is a complete, true, and accurate transcript of the testimony indicated, held on Tuesday, February 27, 2024 in the matter of:

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

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