

U.S. SECURITIES AND EXCHANGE COMMISSION

SMALL BUSINESS ADVISORY COMMITTEE

AMENDED: 8/6/2025

Tuesday, July 22, 2025

10:00 a.m.

Via WebEx Conference

100 F Street, N.E.

Washington, D.C.

Diversified Reporting Services, Inc.

(202) 467-9200

1 APPEARANCES:

2

3 Paul S. Atkins, SEC Commissioner, Chairman

4 Caroline Crenshaw, SEC Commissioner

5 Hester Peirce, SEC Commissioner

6 Mark Uyeda, SEC Commissioner

7

8 Committee Members:

9 Marcia Dawood, Committee Chair

10 Bart Dillashaw, Committee Secretary

11 Herbert Drayton, III, Committee Assistant Secretary

12 Stacey Bowers

13 George Cook

14 Vincent Cordero

15 Diego Mariscal

16 Erica Duignan Minnihan

17 Jennifer Newton

18 Laura Niklason

19 Davyeon Ross (joined after 11:00 a.m. EDT)

20 Jasmin Sethi

21 Aren Sharifi

22 Wendy Stevens

23 Dennis R. Sugino

24 Robert Bolen

25 Marc Oorloff Sharma

1 APPEARANCES (CONT.):

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3 SEC Staff:

4 Courtney Haseley

5 T.J. Collins

6

7 PARTICIPANTS (CONT.):

8 Speakers:

9 Geeta Dhingra, Securities and Exchange Commission,

10 Division of Trading and Markets,

11 Office of General Counsel -

12 Office of Broker-Dealer Interpretation

13 Joseph Drummey, Securities and Exchange Commission,

14 Division of Trading and Markets,

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16 Office of Broker-Dealer Interpretation

17 Gary Ross, Ross Law Group

18 Linda Lerner, Halloran Farkas and Kittila, LLP

19 Kelley Arena, Golden Hour Ventures

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3	10:00	Call to Order; Introductory Remarks by
4		Commissioners 6
5	10:30	Regulation A 27
6		As a follow-up to the Committee's May 6,
7		2025 discussion, the Committee will
8		continue exploring potential regulatory
9		improvements to Regulation A and
10		deliberate possible related
11		recommendations.
12	11:00	Deep Dive on "Finders" 50
13		In 2020, the Commission proposed, but
14		did not finalize, a limited, conditional
15		exemption from broker registration for
16		"finders" who assist companies with
17		raising capital in private markets from
18		accredited investors. In an ongoing
19		effort to promote small business
20		capital formation, including access
21		to capital for founders who are
22		building businesses outside of
23		prominent entrepreneurial hubs or
24		without robust capital-raising
25		networks, the Committee will

1 explore issues surrounding
2 "finders."
3 To facilitate discussion and deepen
4 the Committee's understanding of
5 "finders" and provide historical
6 regulatory context, members
7 will hear from SEC staff in the
8 Division of Trading and Markets
9 who will provide an overview of
10 the 2020 proposal and share
11 certain feedback from commentors.
12 Thereafter, the Committee will
13 have the opportunity to
14 learn more about the role of
15 "finders" and possible regulatory
16 solutions from industry practitioners.
17 As part of this discussion, the
18 Committee will explore potential
19 principles, frameworks, conditions
20 and safeguards that
21 could permit certain "finders" to
22 engage in limited capital-raising
23 activities.

24 Speakers:

25 Gary Ross, Ross Law Group

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1		Linda Lerner, Halloran Farkas	
2		and Kittlia	
3		Kelley Arena, Golden Hour Ventures	
4	12:30	Lunch	
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6		Committee members will continue	
7		discussion of "finders" by	
8		deliberating on potential principles	
9		and frameworks for "finder" activity.	
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1 P R O C E E D I N G S

2 MS. DAWOOD: Welcome. And welcome to the
3 meeting of the SEC Small Business Capital Formation
4 Advisory Committee. I call this meeting now to order.
5 I want to extend a warm welcome to everyone, and it's
6 good to see you. Appreciate the members of the public
7 who are tuning in, and, also, we have a couple members
8 of the public here in the room. So welcome.

9 And, Courtney, we do have a quorum for this
10 meeting?

11 MS. HASELEY: Yes, we have a quorum, Marcia.
12 And I also want to say - provide the SEC disclaimer for
13 everyone who will be participating. So for any SEC
14 staff that speak today, any views provided are in the
15 speakers' official capacity at the SEC, but they do not
16 necessarily reflect the views of the Commission, the
17 commissioners, or other members of the staff. Thank
18 you.

19 MS. DAWOOD: Excellent. Thank you. So our
20 meetings frequently focus on expanding access to early-
21 stage capital raising, and today's meeting is no
22 exception.

23 In the last meeting, we took a careful look at
24 Reg A, and, following some very informative and engaging
25 presentations, both from the SEC's Office of Small

1 Business Policy in the Division of CorpFin and a private
2 practice attorney familiar with the space, there was a
3 robust discussion among the committee members debating
4 the challenges and advantages of Reg A. And it's clear
5 that we were on the cusp of potential recommendations,
6 but we didn't want to rush that conversation.

7 So this morning we will pick up where we left
8 off with Reg A and finalize discussions of potential
9 regulatory changes that could be undertaken to
10 facilitate more capital formation pursuant to Reg A,
11 including ways to build a more robust secondary trading
12 market for Reg A investors.

13 That will then lead us into the topic of
14 finders, which often comes up in early-stage capital
15 raising circles, and it's sometimes treated as a taboo
16 word. Finders by definition are basically individuals
17 who help startups connect with potential investors often
18 filling a critical cap for founders who lack access to
19 capital. However, the issue is that they aren't
20 registered broker-dealers, which creates some legal gray
21 areas under federal security laws.

22 So despite regulatory uncertainty finders are
23 out there, especially those helping first time and
24 underrepresented founders who lack strong investor
25 networks. And in many cases the role of the finder is

1 very helpful to these founders.

2 So that said not all finders have good
3 intentions, so without clear rules bad actors can
4 operate unchecked. And that's why many in the industry
5 have long called for the SEC to establish a regulatory
6 framework. Bringing finders into the light would reduce
7 risk, create industry norms, and give founders more
8 confidence in who they're working with.

9 But it is a complex issue that has been
10 debated for quite a while. So clear guidelines could
11 help everyone, especially those trying to build
12 something from the ground up.

13 So as we will hear the SEC's last foray into
14 this space was in 2020 when the Commission proposed but
15 did not finalize a limited conditional exception from
16 broker registration for finders who assist companies
17 with raising capital in private markets for accredited
18 investors.

19 Now there's no indication that I'm aware of
20 that the SEC intends to do anything further with
21 finders, but nonetheless this committee and I do think
22 that it is appropriate to raise the topic.

23 So as a preview of what will come today to
24 facilitate discussion and deepen the committee's
25 understanding of finders and provide historical

1 regulatory context members will hear from the SEC staff
2 in the Division of Trading and Markets who will provide
3 an overview of the SEC's 2020 proposal and share certain
4 feedbacks from commenters.

5 From there the committee will have the
6 opportunity to learn more in the role of finders and
7 possible regulation -- regulatory solutions from
8 industry practitioners. And as part of the discussion
9 the committee will explore potential principals,
10 frameworks and conditions that could permit certain
11 finders to engage in limited capital raising activities.

12 So this is a big topic, and I know I'm excited
13 to talk about it, and I also have a lot of questions
14 once we start to hear from some of these experts. But
15 before that I am so please to have Chairman Atkins and
16 other Commissioners with us. So thank you so much for
17 being here, and Chairman Atkins I would like to start
18 with your remarks.

19 CHAIRMAN ATKINS: Hello. Thank you very much,
20 Marcia. It's a pleasure to be here this morning, and
21 good morning to you all who are here present, and also
22 out in -- you're participating virtually. And I wanted
23 to thank Marcia and obviously the committee members for
24 your being willing to serve in this I think very
25 important role. This is my first meeting with you all

1 obviously, so, you know, look forward to working
2 together here in the future.

3 And also I should say thank you to Stacey
4 Bowers and her team in the office of Small Business
5 Advocates, and I think that's obviously a very important
6 role as well. So glad that Congress thought about
7 putting that together.

8 So today just to cover some topics, so let me
9 begin, you know, for all the dedication that you all are
10 showing in being a member here. And the -- you know,
11 the committee serves a really critical function. Its
12 members of course come from every corner of the country
13 and represent a remarkably broad cross-section of
14 investors, innovators and advisors.

15 I'm grateful for your ongoing work to elevate
16 the voices of America's entrepreneurs and I'm excited to
17 discuss important policy matters related to the
18 Commission's role in facilitating capital formation.

19 So today the committee will continue its
20 discussion of potential enhancements to Reg A as you
21 just heard and then engage in a deep dive on finders
22 which, you know, could be a little bit nerdy but it's
23 not. I mean, it's a censure role and especially in this
24 quarter of the entrepreneurial ecosystem because they
25 identify in certain circumstances solicit potential

1 investors.

2 So when you have small businesses seeking to
3 raise less than \$5 billion in capital can struggle to
4 attract funding from venture capital firms and
5 institutions. Larger investors are often inclined to
6 step in at later stages of growth leaving fledgling
7 businesses and their founders with limited avenues to
8 capital.

9 So after exhausting their network of family
10 members and friends, businesses in the earliest stage of
11 growth sometimes engage a finder to identify angel
12 investors who target smaller, higher risk investment
13 opportunities. So these finders may provide a valuable
14 introduction and facilitate access to that much needed
15 capital.

16 But the regulatory approach to this limited
17 activity when done outside of a registered broker-dealer
18 is quite opaque. Commission staff have issued No-Action
19 letters over the years addressing very narrow
20 circumstances under which persons have sought to act as
21 finders without registering as a broker-dealer. Grey
22 areas certainly do remain, and a lack of regulatory
23 certainty can deter conscientious participants from
24 helping small businesses to secure financing at a
25 formative stage.

1 So understandably many have called on the SEC
2 to provide greater clarity over the years. In 2017 the
3 Treasury Department recommended that the SEC work with
4 the financial industry regulatory authority and the
5 states to formulate a new regulatory structure. The SEC
6 proposed an exemptive order with a request for comment
7 in October 2020, but since has taken no further action.
8 And the legal grey area that lingers can deprive small
9 businesses of essential resources at a time when 33
10 percent of them launch with less than \$5,000 in funding,
11 and nearly 40 percent fail due to lack of capital.

12 What's more, when regulatory uncertainty
13 stands in the way of investment it's not just capital
14 that drives up, but jobs and ingenuity. Small
15 businesses employ nearly half of America's workforce and
16 represent an equal share of our gross domestic product.
17 They create almost two out of three new jobs, and they
18 exemplify and spirit of dynamism that has made America a
19 place where a single idea sparked in a garage or a
20 storefront can scale into something very extraordinary.

21 That's why decisions like this one matter and
22 it's why I'm grateful for a chance to listen, and to
23 learn, and to work together towards a smarter and more
24 sensible approach that can further catalyze capital
25 formation for entrepreneurs.

1 Now as we continue -- as we consider how to
2 connect more small businesses with early-stage investors
3 I've been asked if given the goal of revitalizing
4 initial public offerings a clearer framework for finders
5 would be counterproductive. Ultimately companies that
6 would benefit from a finder are seeking early-round seed
7 funding, not the heavy capital infusion that an IPO can
8 provide. Nevertheless it's important that any
9 recommendations that this committee makes regarding
10 finders do not risk further cannibalizing the public
11 markets, and I encourage the committee to keep that
12 objective in mind as it explores regulatory solutions.

13 At the same time, we must be attuned to the
14 distinct headwinds that small businesses face and work
15 to unlock rather than undermine capital raising in the
16 manner consistent with the SEC's mission. Our task as
17 well as our responsibility is to ensure that the
18 agency's regulatory framework keep pace with their
19 ambition. And as we begin today's meeting I'm confident
20 that the insights and the recommendations put forth by
21 this committee can help us to do so.

22 So I'd like to thank you once again for being
23 here today. I very much welcome your perspectives,
24 including those of our two presenters, and I look
25 forward to a productive discussion ahead. So thank you

1 very much.

2 MS. DAWOOD: Thank you so much, Chairman
3 Atkins.

4 Next up is Commissioner Peirce, but she is not
5 able to be with us due to an unavoidable conflict, but
6 she was kind of enough to record some remarks on this
7 important topic, so we will look forward to hearing
8 those now.

9 (Commissioner Hester M. Peirce appears via
10 previously recorded video message.)

11 COMMISSIONER PEIRCE: Thank you to the
12 committee members for your continued service and thank
13 you to today's speakers. In this morning's follow-up
14 discussion on Reg A please continue to provide your
15 candid views about what changes could make Regulation A
16 a more effective capital raising tool.

17 The discussion at the last meeting as you
18 thought through different aspects of Reg A already has
19 helped to inform my thinking. I'm looking forward to
20 seeing your recommendations on the topic.

21 Later this morning the committee will be
22 thinking about a common marketplace question that
23 frustrates founders and investors alike, where is what
24 I'm looking for. A founder with a product is looking
25 for an angel investor or venture capitalist with a

1 compatible investment philosophy. Simultaneously an
2 investor with capital to allocation is looking for a
3 company with a vision that resonates with her. Time
4 spent looking for one another is a mutually incurred
5 transaction cost that hampers the growth of individual
6 businesses in the broader economy.

7 One part of the Commission's three-part
8 mission is to ensure fair, orderly, and efficient
9 markets. Ensuring efficient markets means creating a
10 regulatory environment that facilitates rather than
11 impedes the coming together of entrepreneurs and
12 investors. Finders play a critical role, particularly
13 for small businesses, by connecting entrepreneurs and
14 investors. Finders often are engaged just as much in
15 social behavior as they are in economic behavior. As a
16 result, well-intentioned friends, colleagues and
17 industry acquaintances may find themselves unwittingly
18 acting as broker-dealers and therefore subject to an
19 onerous regulatory framework ill-suited for the
20 connections and introductions these individuals
21 facilitate.

22 Companies on the other hand also face
23 uncertainty in knowing when they can engage a finder
24 that is not registered as a broker-dealer to help locate
25 investors. Despite these consequences the Commission

1 has failed to provide clarity in this area, which has
2 forced finders and companies to rely on highly fact
3 specific No-Action letters from Commission staff. This
4 lack of clarity has persisted for so long it transcends
5 committee. This committee's predecessor, the Advisory
6 Committee on Small and Emerging Companies, lamented that
7 there is significant uncertainty in the marketplace
8 about what activities require broker-dealer
9 registration. And this committee too has asked for
10 years for the Commission to adopt a framework to permit
11 finders to engage in limited capital raising activities
12 involving accredited investors.

13 Finally in October 2020 the Commission
14 proposed an exemptive order which would have permitted
15 natural persons to engage in certain limited activities
16 on behalf of issuers without registering as brokers. A
17 month later this committee provided helpful feedback.
18 Commenters caused me to question the proposed approach,
19 which involved two tiers of finders. As one commenter
20 explained with respect to proposed tier one finders,
21 limiting them to one transaction annually and
22 prohibiting them from having any contact with an
23 investor makes the category virtually useless.

24 Though the 2020 proposal was never adopted as
25 you consider the staff's overview of the 2020 proposal

1 and discuss issues surrounding finders more generally,
2 please consider the following questions.

3 Is the 2020 proposal a good starting point for
4 exemptive relief or would a different approach be more
5 effective?

6 Have market practices changed since 2020 in a
7 way that would warrant changes to the 2020 proposal?
8 Would the 2020 proposal or any action related to
9 providing clarity for finders benefit from a full rule
10 making process as some commenters suggested in 2020?

11 Is the committee still supportive of a blanket
12 exemption for finders for offerings under a certain
13 size?

14 Should any exemption for finders cover
15 activities related to secondary offerings?

16 In 2020 commenters were divided on whether an
17 exemption should be provided only to natural persons.
18 Does this committee favor one approach over the other?

19 I look forward to hearing how today's
20 discussion builds on the previous work of the committee.
21 Thank you and enjoy the rest of the meeting.

22 MS. DAWOOD: Great. And we thank Commissioner
23 Peirce for those remarks.

24 Commissioner Crenshaw.

25 COMMISSIONER CRENSHAW: Good morning. Thank

1 you, Marcia. It's a pleasure to be here as always with
2 the Small Business Capital Formation Advisory Committee,
3 and thank you to Stacey and her team as well and all the
4 folks at the SEC who helped put this on.

5 Today as you heard the committee takes up the
6 topic of finders and their role in fundraising for
7 private and small businesses. As you have also already
8 heard in 2020 the Commission proposed but did not adopt
9 an exemption from broker-dealer registration
10 requirements for two tiers of finders operating in the
11 private markets.

12 The proposal effectively created new
13 categories of unregistered, unsupervised financial
14 professionals who could engage in traditional brokerage
15 solicitation activities without having to satisfy the
16 regulatory requirements imposed on brokers. Some in
17 this room may recall that I opposed the proposal, and I
18 would just like to reiterate some of the concerns that I
19 had then, and I continue to have today, as you discuss
20 the topic and consider any future recommendation.

21 First, don't check investor protections at the
22 door. The 2020 proposal did not attempt to marry the
23 finder registration exemption with effective guardrails.
24 If the Commission is to engage in policy making that
25 relaxes registration requirements on finders then it

1 must consider more than just the potential for issuer
2 access to capital. Due consideration must be given to
3 the investor experience.

4 The 2020 proposal would have allowed finders
5 to contact potential investors, distribute offering
6 materials, pitch those materials in meetings with issues
7 and investors, and tout the benefits of that issuer all
8 in exchange for compensation premised on whether they
9 make the sale. This is traditional broker activity.

10 If the Commission allows finders to engage in
11 traditional brokerage activity without registration, or
12 even diminished regulatory responsibilities, we must
13 build in guardrails. The 2020 proposal issued broker
14 requirements under Regulation Best Interest even though
15 the Commission had just made clear in 2019 that
16 Regulation Best Interest applies to accredited investors
17 who have direct access to private markets. It also
18 carved out books and records requirements, and basic
19 sales practice requirements, and it removed examination
20 requirements among other things.

21 The proposal didn't even require finders to
22 notify the Commission of their intent to utilize the
23 exemption. Finders were essentially carved out of the
24 regulatory regime without any mechanism for us to review
25 whether they were complying with the requirements of the

1 Safe Harbor or to evaluate the success of the program.

2 The need for guardrails is important as the
3 Commission considers expanding access to the opaque
4 private markets whose securities are less liquid, bear
5 higher transaction costs, and whose valuation practices
6 are less consistent to name a few issues. But perhaps
7 more importantly the need for investor protections is
8 even greater in the finders' space, which again and
9 again has proven itself susceptible to Microcap fraud,
10 pump and dump schemes, front-end fee scams, and other
11 manipulative activity.

12 Indeed industry experts have noted that the
13 enforcement actions and litigations exposing finder-
14 related fraud likely represent only the tip of the
15 iceberg. So while they certainly do have uses, and
16 we've talked about those and hear those today and can be
17 important, this also cannot be an unprotected space.

18 Further, any effort to limit oversight to
19 anti-fraud provisions, as was done in 2020, would be a
20 mistake. We cannot strip ourselves of the tools
21 required to detected in the first place, such as the
22 right to examine books and records requirements.
23 Without these protections I fear fraud will either go
24 undiscovered or only exposed when investor funds are too
25 far gone to be recovered.

1 Second, any commissioning in this arena should
2 be done through notice and comment rulemaking, including
3 an economic analysis that explores the impact that any
4 proposal will have on efficiency, competition, and
5 capital formation based on empirical data. It should
6 also include a full sum historical perspective on the
7 success and usefulness of finders to date. Empirical
8 data driven analysis will allow for more nuanced
9 policymaking that to my first point allows us to better
10 tailor any potential expansion in finder activity with
11 appropriately calibrate investor and market protections.

12 Third, and relatedly, the data we look at as
13 part of any rulemaking should reflect the difference
14 between mere capital raising and actual capital
15 formation. As I was refreshing myself on the 2020
16 proposal I was reminded of something that former
17 Commissioner Luis Aguilar said about capital formation,
18 which is of course one of the pillars of our mission.

19 Capital formation, he said, is much more than
20 just capital raising. By itself selling a bond or a
21 share of stock doesn't add a thing to the real economy
22 no matter how quickly or cheaply you do it. True
23 capital formation requires that the capital raised be
24 invested in productive assets, like a factory, store, or
25 new technology, or otherwise used to make a business

1 more productive. The more productive those assets are
2 the greater the capital formation from the investment
3 and importantly the more jobs created.

4 I hope you keep this in mind as you think
5 through capital formation today. Will relaxing the
6 regulations around finders in fact ease burdens of true,
7 meaningful capital formation.

8 Thank you in advance for your always
9 thoughtful deliberation and I look forward to all the
10 insights.

11 MS. DAWOOD: Thank you so much, Commissioner
12 Crenshaw.

13 Next up is Commissioner Uyeda, and he is also
14 not able to be with us due to an unavoidable conflict,
15 but we will hear remarks from him now.

16 (Commissioner Mark T. Uyeda appears via
17 previously recorded video message.)

18 COMMISSIONER UYEDA: Good morning to the
19 members of the advisory committee and to the public
20 viewing in person and online.

21 I regret that I cannot join you in person at
22 this meeting because you will be discussing two topics,
23 Regulation A and finders that are near and dear to small
24 issuers and their ability to obtain capital.

25 I appreciate the committee's continued efforts

1 to examine ways to increase the use of Regulation A. In
2 overseeing the capital markets the Commission consider
3 that regulation ought to be a continuum where the
4 regulatory burden increases relative to the overall
5 impact of the offerings.

6 Unfortunately today there are effectively only
7 two approaches, either raise capital under Regulation D
8 or register as a public offering. As the advocate's
9 report demonstrates, having alternatives other than
10 these two approaches pales in comparison.

11 With respect to Regulation A the current
12 regulatory framework adversely impacts secondary market
13 liquidity. This significantly decreases the
14 attractiveness of investing in a Regulation A offering.
15 Why would an investor participate in a primary offering
16 if he or she does not have an easy ability to eventually
17 resell the securities in a secondary market? This
18 framework creates a Hotel California situation where a
19 person can invest capital in a company any time but
20 never exit.

21 Requiring the registration of secondary sales
22 from multiple state securities regulators under Blue Sky
23 laws increases costs and adds complexity to a framework
24 intended to be for small businesses, and it is not clear
25 whether having multiple layers of review adds any

1 additional investor protection.

2 As such we should be thinking of ways to
3 promote secondary market liquidity rather than
4 maintaining structures that restrict it. Making
5 Regulation A offerings more attractive to investors will
6 improve the ability of small businesses to raise
7 capital. Vibrant markets benefit all participants.

8 Retail investors may benefit from the
9 opportunity to diversify their portfolios by investing
10 in smaller companies for which Regulation A was
11 intended. Exposure to smaller companies may provide
12 differing return characteristics than larger companies,
13 thus a better Regulation A framework increases
14 opportunities for all market participants whether they
15 are seeking or contributing capital.

16 Turning to the second topic of the day,
17 finders, a topic that has been long near the top of
18 recommendations from the Small Business Forum of the SEC
19 for many years. Mechanisms for matching users of
20 capital with providers of capital are not as obvious as
21 one might assume, especially for persons seeking to
22 raise relatively modest amounts.

23 In 2020 the Commission attempted to address
24 this issue. The Commission observed that quote, "small
25 businesses frequently encounter challenges connecting

1 with investors in the exempt market, particularly in
2 regions that lack robust capital raising networks,"
3 unquote.

4 Finders could be helpful in bridging the gap
5 between capital raises that are too low to attract
6 venture capital funds or broker-dealers, but above the
7 amounts that can be raised through friends and family.
8 This is particularly true in regions that may not have
9 extensive venture capital or angel financing networks.
10 Increasing capital formation opportunities would be
11 beneficial to founders and investors alike and can
12 foster economic growth and job creation.

13 Let's be clear, any activity, whether in the
14 form of an exemption or a dramatically scaled down
15 regulatory structure, remains subject to the antifraud
16 provisions of the securities laws. But a person who
17 merely provides a name and contact information to a
18 company seeking capital in exchange for modest
19 transaction-based compensation does not need to be
20 regulated in the same manner as the largest Wall Street
21 brokerage firms. Finders should be subject to an
22 appropriately tailored set of guardrails that reflect
23 their limited involvement in smaller scale private
24 capital market activities.

25 The 2020 proposal included a number of

1 exemptive conditions. Perhaps there are others that
2 should be considered. The objective is to minimize
3 burdens on legitimate intermediaries while decreasing
4 the likelihood that illegitimate actors will engage in
5 bad acts.

6 As then Commissioner Stephen J. Friedman
7 observed 45 years ago, quote, "All regulation,
8 deregulation decisions involve a tradeoff between the
9 abuse prevention of a prophylactic role and the role's
10 interference with the activities of non-abusers,"
11 unquote.

12 In this instance any framework should open
13 doors to finders and serve as legitimate conduits for
14 investment information flows without imposing
15 disproportionately Draconian broker-dealer regulatory
16 standards.

17 I look forward to reviewing the committee's
18 recommendations. Congratulations, Marcia, on taking
19 over as the chair of this committee, and to the other
20 committee members who are assuming their new leadership
21 roles. And to Erica and the departing officers thank
22 you very much for your service and your contributions.
23 Thank you to the participants and the attendees for
24 joining us today.

25 MS. DAWOOD: Great. Thank you so much to all

1 the Commissioners for your comments today. Thank you.

2 All right. So as I mentioned earlier, today
3 we plan to spend the first part of the meeting revising
4 the Reg A discussion that we started at our last
5 meeting. And we had a lively and informative discussion
6 several months ago where we gained a better
7 understanding of how and when Reg A was being used to
8 raise capital, the kinds of issuers that were being
9 relying -- that were relying on this regulatory pathway,
10 and notably those who were not using it.

11 So I think we all learned more about some of
12 the advantages and limits of the Reg A offerings, and
13 there was a lot of good discussion analyzing and
14 debating potential fixes. And if memory serves we also
15 spent a fair amount of time recognizing the practical
16 market considerations at play that directly impact the
17 desirability of Reg A.

18 And ultimately we kicked around several ideas,
19 dismissed others, and I think there was some brewing
20 consensus around certain points. So I want us to
21 revisit those and determine if there's a recommendation
22 there that members would like to vote on.

23 So the guiding question is do we think that
24 there are changes that could help facilitate capital
25 formation pursuant to Regulation A and improve secondary

1 liquidity for investors in Reg A offerings.

2 And to recap at our last meeting we considered
3 the current tier two offering limits, costs and burdens
4 associated with both a Reg A offering itself and ongoing
5 reporting requirements and the challenges in terms of
6 secondary trading.

7 And in terms of current offering limits some
8 of us observed that if the goal is to increase usage of
9 Reg A while it didn't seem like raising the current tier
10 two offering limit beyond \$75 million would hurt and a
11 higher limit could potentially attract new issuers. It
12 also didn't seem like the \$75 million offering limit was
13 itself creating the friction.

14 So I'm asking this committee after marinating
15 on this for a little while since our last meeting is
16 there anyone here who now feels differently, or feels
17 like we should in fact reconsider raising the tier two
18 offering limit from \$75 million?

19 Any comments?

20 (No verbal response.)

21 MS. DAWOOD: Because I remember us mentioning
22 a \$100 million offering limit. Would anyone want us to
23 consider higher?

24 MR. BOLEN: Yes. Small business can be \$47
25 million a year in revenue if you use a standard

1 valuation, 5X annual revenue, you get about \$250
2 million. So a standard below that would hamper the
3 growth and entrepreneurship in the United States.

4 MR. DILLASHAW: From the speakers from the
5 last time there was -- I think the general consensus was
6 that the offering limitations were not what was causing
7 people to avoid Reg A. However, there was some
8 discussion that there may be a marginal class that's out
9 there trying to raise between 75 and 150 million because
10 the S-1, the regular IPO path, is probably still a
11 little bit north of that.

12 So just looking back from the transcript from
13 the last meeting there was some discussion as to whether
14 or not -- although it's probably not the most important
15 thing in Reg A, whether or not we nonetheless wanted
16 to -- or did we have any recommendations about raising
17 the limit or considering raising the limits, not because
18 that was the key limiting factor of Reg A, but there may
19 still be a little bit of a gap between the mini IPO and
20 the full IPO.

21 MR. DAWOOD: So does the committee think that
22 we support raising this to a higher amount from the 75
23 million?

24 MR. DILLASHAW: I see one nod.

25 MS. DAWOOD: And what would that dollar amount

1 be? Are we talking about raising it to 100 or --

2 MR. COOK: Yeah. I mean, I think Bart
3 summarized it well. I don't think that's the main thing
4 holding back Reg A right now, but I don't see any reason
5 why we wouldn't consider an incremental increase to 100
6 million.

7 Mr. BOLEN: What are the reasons it wouldn't
8 be increased?

9 MR. DILLASHAW: The reasons that it wouldn't
10 be increased? The -- to push people more towards the S-
11 1, you know the primary IPO path I think would be the
12 main one.

13 MR. BOLEN: Can small entities afford the S-1?

14 MR. DILLASHAW: If you're raising \$150
15 million, I mean I think the -- we talked about this a
16 little bit the last time where there was commentary on
17 the costs of the offering for a Reg A or an S-1 while
18 expenses when you're raising those levels of capital are
19 again not determinative versus the availability of some
20 of the exemptions and the ability to access secondary
21 markets or primary markets. And going back to a couple
22 of meetings ago where we talked about the OTC markets,
23 that those are probably more determinative versus the
24 cost themselves.

25 So obviously it's depending on the type of

1 offering it would be a little bit more expensive, but I
2 don't know that that's what's moving the needle between
3 a Reg A or a primary through an S-1.

4 MS. DAWOOD: I think the other thing I would
5 highlight from the last meeting, and I don't have the
6 annual report in front of me, but we have data that also
7 shows that most companies aren't using Reg A even up to
8 the current \$75 million limit as well. It's usually a
9 much lower threshold than that.

10 Great. So as a committee we could put in a
11 recommendation that the Commission increase the tier two
12 offering limit in Regulation A from \$75 million in a 12-
13 month period to \$100 million.

14 Shall we have a vote on that?

15 All those in favor raise hands. I think I
16 just heard an aye from Jasmin.

17 (Hand vote.)

18 MS. DUGNAN MINNIHAN: No, that was Erica.

19 MS. DAWOOD: Erica, sorry.

20 Anybody opposed or no votes?

21 (Hand vote.)

22 MS. DAWOOD: Any comments on that, Aren?

23 MS. SHARIFI: I mean, just kind of echoing
24 what everyone is saying. I don't think there -- that
25 the investors were not using the Reg A up to the full

1 amount, so I don't see the benefit in proposing that.
2 Nothing more than that other than to say I don't know
3 the upside.

4 MS. STEVENS: Marcia.

5 MS. DAWOOD: Yes.

6 MS. STEVENS: So I said yes basically because
7 I don't see a big difference between 75 and 100, but one
8 of the Commissioners did mention that we need to have
9 some data behind what we're proposing, and so I think
10 from what I'm hearing in the room that's probably what
11 we need to back it up.

12 MS. DAWOOD: Jasmin, can you hear us?

13 MS. SETHI: Yeah, Jas. I had a comment.

14 Yeah, I -- I support raising it to 100. I do
15 think that we would need more data, but I think we could
16 as far as recommendations go, you know, put some kind of
17 recommendation for the Commission to, you know, gather
18 data maybe, or consider raising it based on data. I
19 mean, this is the kind of thing, you know, they would
20 examine the report or proposed rule and solicit
21 comments.

22 So I think the 100 to 250 does seem like a big
23 jump, but it might make sense. It just depends I think
24 on what, you know, findings are.

25 MS. DAWOOD: So we're talking about 75 to 100.

1 MS. DUIGNAN MINNIHAN: Yeah.

2 MS. SETHI: Right, right. But earlier we had
3 talked about potentially -- so I was -- I guess I was
4 speaking to whether it makes sense to kind of go to the
5 100 but also say, you know, maybe we want to consider,
6 maybe the Commission should consider raising it, but we
7 think they should at least go to 100. That would be a
8 way to kind of set a minimum.

9 MS. DUIGNAN MINNIHAN: Yeah, and I
10 think -- sorry, I'm not sure who pointed it out but, you
11 know, if we were for example going to consider small
12 businesses as those which have a total market cap of 250
13 million or below based on a five times revenue multiple
14 it's unlikely that such a business would necessarily
15 need to raise more than \$100 million at that size. So
16 it does seem a more appropriate figure, but also some
17 leeway is given in increasing it to potentially make it
18 more attractive to certain issuers.

19 MR. BOLEN: I'm the one who proposed that.
20 I'm Robert Bolen and I'm the U.S. National Ombudsman.
21 I'm in charge of overseeing all federal regulatory
22 enforcement. We actually do see a tremendous number of
23 companies in the early low \$100 million, \$200 million
24 range that are raising or hoping to raise a lot of
25 capital for machinery intensive equipment, whether

1 that's upgrading to CNC, whether that's building out a
2 factory in the U.S., onshoring, or adding additional
3 locations.

4 So that actually is very common in the United
5 States and that uses the SBA Office of Advocacy data on
6 what constitutes a small entity. That is accepted by
7 all federal agencies.

8 MS. DAWOOD: So are you proposing then that it
9 be even higher than \$100 million?

10 MR. BOLEN: Yes. You would exclude mining
11 machinery companies under \$200 million as well as most
12 manufacturers.

13 MS. DAWOOD: And what dollar amount are you
14 considering based on your knowledge?

15 MR. BOLEN: 225.

16 MS. DAWOOD: Anything -- any specific reason
17 for 225 as opposed to 200 or 250? Just curious.

18 MR. BOLEN: As I mentioned you'd be over 200
19 if you use the \$47 million cap or annual receipts of a
20 small entity, which was studied by the SBA Office of
21 Advocacy and is currently enforced across all federal
22 agencies. If you go between 200 and 250, 225 would
23 provide enough along the bell curve to get most
24 companies and it would still allow the larger companies
25 to use S-1.

1 MS. DAWOOD: All right.

2 MS. DUIGNAN MINNIHAN: I would just love, you
3 know, since this seems like a subject that you're very
4 knowledgeable on if you could just help us understand
5 why the other pathways would not be economically
6 efficient or suitable for those businesses raising that
7 size.

8 MR. BOLEN: Sure. So I just got back from
9 Gillette, Wyoming where a company that creates heavy
10 duty machinery for mining and for wind turbines was
11 building out and raising capital. When people think,
12 wow, they're raising over \$200 million, there must be a
13 cushion in there, what they're not thinking is these
14 pieces of equipment cost tens, twenties, sometimes over
15 \$100 million to build, to operate.

16 You look at the labor costs and training
17 people to use this machinery, they don't have that same
18 level of room that one would imagine if you look at this
19 coffee shop trying to raise \$200 million. It goes back
20 to --

21 MS. DUIGNAN MINNIHAN: Yeah, I'm so sorry. I
22 hate to interrupt, but I mean why the current pathway of
23 raising is not economically efficient, not their
24 specific business model, because I think one of the
25 things that we were analyzing is what is sort of the

1 annual cost of the more traditional pathways versus the
2 size of the raise. So I'm trying to understand why they
3 wouldn't be able to support the cost of the more
4 traditional fundraising pathways --

5 MR. BOLEN: I don't understand your comment --

6 MS. DUGNAN MINNIHAN: -- on the \$250 million
7 raise.

8 MR. BOLEN: The annual cost, are companies
9 IPO's every year?

10 MS. DUGNAN MINNIHAN: Yeah, just saying that
11 they wouldn't be able to support I guess the different
12 regulatory burden that is placed on the larger
13 fundraises as they exist.

14 MR. BOLEN: As I just mentioned they're
15 raising large amounts of capital to accommodate for
16 larger, more expensive upgrades to their technology and
17 to build out a greater workforce.

18 MS. DAWOOD: So you're basically saying that
19 they're -- you see companies often who would like to use
20 Reg A and that limit is really holding them back?

21 MR. BOLEN: I don't think it's being used up
22 to limit because the limit is so low currently it's not
23 appealing, and it doesn't catch enough people for
24 compliance costs to decrease.

25 MR. DILLASHAW: Yeah. We went over this a

1 little bit last time. So do you think that the
2 manufacturing operations are trying to raise through I
3 guess equity financings to do that such that Reg A would
4 be the pathway? I guess when I hear about, like, a
5 manufacturing operation I'm typically thinking that's
6 going to be some sort of structured debt or finance,
7 which would be through private markets traditionally.

8 Are you seeing an opportunity to access retail
9 investors for those types of operations or just maybe
10 walk me through why you think Reg A is the
11 appropriate -- I think this kind of gets to Erica's
12 question as well, why you think Reg A is the appropriate
13 sort of, like, offering vehicle for a raise like that
14 such that the caps that are imposed on Reg A versus S-1
15 or 144 the, you know, Reg D are inappropriate for the
16 situations that you're seeing.

17 MR. BOLEN: Forgive me. I don't understand
18 why we're determining what is or is not appropriate for
19 a small entity across the U.S. They should be able to
20 raise capital in whatever way they can as long as fraud
21 is combated, investors are protected, and they're able
22 to grow their business. I don't know why we would close
23 the door for them.

24 MR. DILLASHAW: Well, I don't think we
25 would -- I don't think the -- the question is not are

1 we closing the door, the question is we have multiple
2 doors right now and this is one of the doors. And so
3 the parameters of this door have certain pros and cons
4 in terms of, you know, your ability to reach retail
5 investors and the disclosure burden that's attached with
6 that, and versus, like, a Reg D is going to have another
7 door where it's not going to have the ability to access
8 retail investors, but if you have a much lower
9 disclosure burden or, you know, S-1 where you can access
10 everybody, you can have a robust secondary trading
11 market, you can reach unlimited amounts of capital.

12 And so I think some of the discussion around
13 Reg A has been the parameters of this door, and so
14 trying to understand why you think -- or one of the
15 discussions we've been having trying to figure out the
16 parameters that this door, you know, are they
17 underutilized or overutilized because of certain
18 limitations. And so I think, you know, in specifically
19 this question is the offering size limitation to it,
20 is -- has that been one of the limitations. And so just
21 trying to sort of, like, understand that in the specific
22 context that you're talking about.

23 MR. BOLEN: When we look at economically
24 disadvantaged regions they would not have the same
25 access to capital as someone in a larger city and I feel

1 it's appropriate to open all doors for them. It strikes
2 me as paternalistic to say something is or is not
3 appropriate for them to use in the best interest of
4 their small entity, whether that's something they
5 founded, whether that's a family business that's
6 growing.

7 If you're operating in the U.S., you're trying
8 to get bigger, trying to create jobs, trying to help
9 people in your community, I don't think we should be
10 saying, well, you should look at something that's more
11 expensive, you should look at something that will
12 require you to bring on more people with higher
13 compliance penalties. That doesn't strike me as
14 appropriate.

15 MR. CORDERO: And I was going to say some time
16 ago, you know, several sessions ago we talked about the
17 idea of democratizing the capital marketplace, and I
18 think that was something that was a common point of
19 unity amongst the committee, that we all sought to kind
20 of help more capital inflow across the board, and more
21 people to be able to participate both as recipients of
22 that capital as well as allocators of that capital, and
23 that we wanted the marketplace to benefit from that
24 upside.

25 And then also in complement, and I appreciate

1 your point about condescension and paternalism, there
2 was also I think a fairly united kind of ethos I think
3 that everyone shared that we wanted to kind of assume up
4 the prospective investors across the country, and if
5 investors or, you know, citizens, consumers were able to
6 do credit cards, and take home loans, and do a number of
7 things, gambling, buy lotto tickets, that they should
8 also be able to invest and that we should assume that,
9 you know, people will take the proper precaution.
10 Again, we've all talked about looking at the system and
11 the kind of framework for that to ensure that that's in
12 place.

13 But I actually -- think that's right that
14 ultimately each of these kind of doors -- you know, it's
15 philosophically I think the point is how do we kind of
16 make each door as robust as possible as opposed to
17 limiting each of them within silos but maybe how do we
18 expand the breadth, the reach of each of the doors so
19 that the most people can participate and that also that
20 people view those doors as very robust avenues then to
21 seek, you know, potential capital and also clearly to
22 invest.

23 MS. DAWOOD: So are we saying then that we
24 would like to actually raise it higher than \$100 million
25 for our recommendation?

1 MR. BOLEN: Yes.

2 MS. DAWOOD: Or do we need more information?
3 Yes. Okay.

4 MR. BOLEN: Okay.

5 MS. DAWOOD: And are -- is everyone then
6 comfortable going to \$225 million as we just heard
7 argued?

8 MR. DRAYTON: Marcia, can we understand the
9 exemptions? You mentioned some exemptions when you were
10 speaking. No exemptions? No industry exemptions at
11 all? None? Okay.

12 MR. BOLEN: You could to it as a factor of
13 size standard. That would create exemptions. I don't
14 think that's the most appropriate way to go about it,
15 but you could.

16 MS. DAWOOD: Okay. All right. So should we
17 vote then on going up to -- from the \$75 million
18 to -- in a 12-month period to \$225 million?

19 Voting, all those in favor.

20 (Hand vote.)

21 MS. DAWOOD: Online. Let me see hands again.
22 Six. Yeah, any -- any of those opposed.

23 (Hand vote.)

24 MS. DAWOOD: Okay. So now we will revisit
25 125. All those in favor of 125.

1 (Hand vote.)

2 MS. DAWOOD: And those opposed.

3 (Hand vote.)

4 MS. DAWOOD: Any other comments on why --

5 MS. SETHI: I mean, I would just want to add
6 another option of go up to, like -- I was comfortable
7 with 100 and then I would want to just put (a) recommend
8 that the Commission study higher limits. I just
9 think -- I just -- I think people have good arguments
10 on both sides and I just would want to see some data to
11 support, otherwise I feel like we're just pulling a
12 number out of a hat.

13 MS. DUIGNAN MINNIHAN: I agree with Jasmin.

14 MR. BOLEN: What was the final vote count for
15 125?

16 MS. STEVENS: I have a question and a comment.
17 The first question is you -- you referred earlier to a
18 study when you were talking about the 47 million and how
19 you -- there was a study about higher amounts needed.
20 Do we have access to that?

21 MR. BOLEN: It's not a study, it's the SBA
22 Office of Advocacy Size Standards, which are the result
23 of thousands of studies that occur every single year
24 across all sectors.

25 MS. STEVENS: Okay. So that's recent?

1 MR. BOLEN: It's updated weekly.

2 MS. STEVENS: Okay. And then my comment in
3 not wanting to go above 100 is from my personal
4 experience in fundraising and working with companies.
5 I'm a CPA by trade. As you go to higher amounts the
6 company's ability to manage that, with having the proper
7 people and being able to report, and I'm not even
8 talking about financial accounting reporting, I'm
9 talking about reporting to investors who are very
10 interested in what the company is doing.

11 So I'm very comfortable with 75, I'm very
12 comfortable at 100. And I think it was Jasmin that
13 suggested taking it to 100 and then continuing to
14 evaluate it. That's where I stand.

15 MS. DAWOOD: All right, great. So if we go
16 back, just to be very clear, and we say that we
17 will -- we're recommending that we go from the 75 in a
18 12-month period to 100 with the ability to get more
19 research, get more data to potentially bring that number
20 higher in the future can we vote again for that?

21 And all yeses please raise hand.

22 (Hand vote.)

23 MS. DAWOOD: We're going 75 to 100 with what
24 Jasmin said the ability to be able to get more data that
25 could go higher in the future.

1 (Hand vote.)

2 MS. DAWOOD: Any -- Jasmin is yes, Dennis yes,
3 Erica yes.

4 Any opposed? At this point I don't think we
5 do.

6 (Hand vote.)

7 MS. DAWOOD: Okay.

8 MR. BOLEN: How many votes are required for
9 something to be recommended?

10 MS. DAWOOD: We need a majority of the voting
11 members.

12 MR. BOLEN: How many is that?

13 MS. DAWOOD: We have -- we need 10, because we
14 have 18 voting members.

15 MR. BOLEN: Present?

16 MS. DAWOOD: Total. 18 voting members, yeah.

17 Yes. So while Courtney is doing that, we also
18 did talk about ongoing reporting requirements. This
19 topic may be a little easier than the last one.

20 Based on the transcript of our last meeting,
21 there was some -- there was some appetite for scaling
22 the Reg A reporting requirements. I think we all were
23 in favor of this.

24 And there was a also a discussion about how
25 the multitude of burdens, both reporting costs and lack

1 of liquidity compound likely affect a company's decision
2 making -- decision making when determining whether or
3 not to rely on Reg A or, for example, pursue a different
4 capital raising exemption.

5 So as we discussed those burdens there seemed
6 to be a consensus around relieving the liquidity burden
7 and not -- and the not insignificant friction that the
8 lack of preemption plays. And the thought was that it
9 would help issuers raise money more easily if investors
10 knew that there would be one less friction point later,
11 which is the ability to resell their Reg A shares.

12 So talking about recommending federal
13 preemption from state regulation for secondary sale by
14 investors of Reg A offerings is something that could
15 move the needle here. So comments and any questions on
16 that for talking about the federal preemption for
17 secondary sale by investors in a tier two offering only,
18 not tier one.

19 And George in the last meeting you made a
20 point about tier one has more limited ongoing reporting,
21 right? Yeah.

22 So -- oh, hold on. Hold please.

23 MS. HASELEY: Some clarification from the
24 bylaws. So a vote carries at the meeting. It's a
25 simple majority of the votes cast at a meeting where

1 there is a quorum. So this is a meeting, there is a
2 quorum, but we can do the total voting members at this
3 meeting, which we just counted was 14, so then a
4 majority of the votes cast is 8.

5 So if we go back where the members voted to
6 raise the tier two limit to 125 that did receive 8. So
7 125 was a recommendation that got a majority.

8 MS. DAWOOD: Okay.

9 MS. HASELEY: As was the 100 plus higher. So
10 I think if you have 125 flat, or 125 with a study for
11 higher that would be the question for the members to
12 clarify.

13 MS. DAWOOD: Bart.

14 MR. DILLASHAW: I think we should try to just
15 wrap this one up because I think we're on -- we started
16 off with sort of universal agreement that the offering
17 limitations weren't actually what was holding Reg A
18 back. I think there was general consensus of let's
19 recommend raising it a little bit and then suggesting
20 that the SEC evaluate higher limits, or the
21 recommended -- so I think it's just a question of do we
22 want to say that we recommended to 100 or 125 and still
23 have the an evaluate higher.

24 So I will throw out the 100 simply because
25 we've already agreed to that one.

1 MS. DAWOOD: Yeah, I would say that that makes
2 sense. Everybody has agreed to that, and we like the
3 idea of moving higher. So since already voted on that I
4 don't think we need to vote on that again. Okay. So
5 that's what we're going with, 100 and the ability to
6 move higher.

7 MR. BOLEN: 125 was voted. It went forward.
8 Additional votes were cast following that based on
9 confusion regarding the bylaws. 125 did pass as the
10 recommendation.

11 MR. DILLASHAW: So should we take a vote that
12 the superseding recommendation that will be the final
13 consolidated one will be the last one that we did?

14 MS. SETHI: Yes, I think that would be good.

15 MR. DILLASHAW: So can we -- the last vote
16 that we did can we agree that that is what we're going
17 with.

18 MS. DAWOOD: Which is the 100.

19 MR. DILLASHAW: Which is the 100 plus
20 recommending for it to go higher.

21 MS. DAWOOD: Plus recommendation.

22 MR. DILLASHAW: And then we can get onto the
23 GC stuff.

24 MS. DAWOOD: Okay. Well, while we're in the
25 voting mood the committee could recommend federal

1 preemption for state regulation for secondary sales by
2 investors of securities initially sold pursuant to tier
3 two of Regulation A. Any comments before we -- or
4 questions before we put that to a vote?

5 MS. SETHI: I mean, generally I think federal
6 protection makes sense in the securities space, so I
7 don't see any reason why we wouldn't want that.

8 MS. DUIGNAN MINNIHAN: I would agree. I
9 thought the last conversation that's largely where we
10 came out.

11 MS. DAWOOD: Yes, I agree. Okay. All right.
12 So can we have a show of hands of yes, that we
13 are in favor of this federal preemption?

14 (Hand vote.)

15 MS. DAWOOD: Okay. Any opposed?

16 (Hand vote.)

17 MS. DAWOOD: Vincent, were you a raised hand
18 yes or no?

19 MR. CORDERO: Can you just restate? I was --

20 MS. DAWOOD: We're talking -- we're talking
21 about the federal preemption from state regulation for
22 secondary sale by investors of securities sold pursuant
23 to tier two Regulation A.

24 Okay, all right. Vincent is officially a yes,
25 so that's 12.

1 Oh, Diego. Sorry. We're voting on
2 recommending federal preemption from state regulation
3 for secondary sales by investors of securities initially
4 sold pursuant of tier two Regulation A. Okay.

5 Okay. I think we have now wrapped up
6 Regulation, yes? Yes. Excellent.

7 All right. We are going to move on. Look at
8 that, we're just on time. Moving on to finders.

9 So turning to the next topic, this is a topic
10 that I could see us discussing beyond today. So there
11 is a lot of meaty information here, so I want to make
12 sure that we get to unpack all of it and we get to have
13 some pretty robust conversations.

14 So as I noted in my introductory remarks,
15 promoting access to capital for founders who are
16 building businesses outside of prominent entrepreneurial
17 hubs or without robust capital raising networks is near
18 and dear to this committee's heart. So finders may
19 serve a valuable function in helping to be the bridge
20 between the issuer and the capital provider.

21 And while the SEC has not taken action on
22 finders since 2020, given the change in administration
23 and the attention this topic has continued to receive on
24 the Hill I think that it would be appropriate to
25 evaluate this issue and really explore the pros and

1 cons.

2 So I would like to introduce and welcome two
3 members of the SEC staff from the Division of Trading
4 and Markets who will provide an overview of the SEC's
5 2020 proposal and share certain feedback from the
6 commenters. So Geeta Dhingra and Joeseeph Drummey
7 welcome and we look forward to your comments.

8 MS. DHINGRA: Thank you. Good morning and
9 thank you for having us. And I think the disclaimer has
10 been taken care of, so I'll avoid repeating that.

11 We look forward to hearing the discussion on
12 finders. t's an important issue to us. And to kick us
13 off I'm going to give some background on how we got to
14 the proposed order in 2020 and then turn it over to my
15 colleague Joe to provide a bit more detail on what was
16 proposed and some themes in the comments we received.

17 So as you all know in October 2020 the
18 Commission proposed a limited conditional finders
19 exemption to provide clarity to investors and issuers
20 and try to establish clear lanes for registered broker
21 activity and eliminated activity by finders that would
22 preserve investor protections while exempting finders
23 from registration.

24 In the order the Commission emphasized that
25 its mission includes facilitating capital formation not

1 just for public companies but also for small businesses
2 that are active participants in our private markets. We
3 understand small business investors play a critical role
4 in fostering the growth of small companies.

5 The Commission also indicated that it had
6 heard repeatedly that identifying potential investors is
7 one of the most difficult challenges for small
8 businesses, especially where the amount sought is
9 insufficient to attract venture capital or registered
10 broker-dealers. The order indicated that finders could
11 potentially fill that gap. A long standing issue,
12 though, as many people have brought up, is that the
13 regulatory status of these individuals who identify and
14 solicit potential investors for an issuer and receive
15 compensation for these services.

16 Some have stated that individuals avoid
17 serving as finders because of the regulatory uncertainty
18 regarding whether these individuals could be engaging in
19 unregistered broker activity even when they have a
20 limited role at a capital raise. Likewise, issuers who
21 want to play by the rules may struggle to know in what
22 circumstances they can engage a finder that is not
23 registered as a broker-dealer.

24 And as many of you have stated as far back as
25 2005 many have called on the Commission to take action

1 to resolve this uncertainty in this area, including
2 recommendations from various committees. These
3 committees have recommended the Commission address the
4 status of finders, including by exempting them from
5 their registration requirements, and by defining
6 permissible activities in which they can engage. We
7 also note there has been proposed legislation in this
8 area.

9 So given this background and the role of
10 intermediaries with respect to capital formation and
11 investor protection, especially for smaller issuers, the
12 Commission stated it was important to address the
13 regulatory status of these individuals and that led to
14 our proposed finders exemption.

15 So I'll turn it over to Joe now to provide a
16 bit more detail.

17 MR. DRUMMEY: Thank you, Geeta, and good
18 morning to members of the committee.

19 The proposed exemptive order would have
20 permitted natural persons to engage in limited capital
21 raising activities on behalf of an issuer, i.e. act as a
22 finder without registering as a broker subject to
23 certain conditions commensurate with their activities.
24 In the proposed exemptive order the Commission expressed
25 its preliminary belief that this exemption would have

1 provided clarity to both investors and issuers and
2 established clear lanes for both registered broker
3 activity and limited activity by finders that would be
4 exempt from registration. The proposed exemptive order
5 was also designed to solicit public comment on these
6 complicated and significant issues.

7 The order would have created two categories of
8 exempt finders, tier one finders and tier two finders.
9 Now to briefly describing some background on each tier
10 of finder we will discuss some of the conditions and
11 limitations that would be applicable to either a tier
12 one or a tier two finder.

13 First with respect to tier one finders, the
14 order would have limited their activity to the provision
15 of contact information of potential investors in
16 connection with only one capital raising transaction by
17 a single issuer within a 12-month period provided the
18 tier one finder does not have any contact with the
19 potential investors about the issuer.

20 With respect to tier two finders, the order
21 would have permitted them to engage in the following
22 solicitation related activities on behalf of an issuer.

23 First --

24 MS. DAWOOD: Hey Joe, can I just stop you for
25 one second and let the other committee members know that

1 this is on your desk and in fact there is a chart that
2 will help you follow along with what Joe is talking
3 about. Thank you.

4 MR. DRUMMEY: Thank you.

5 First, identifying, screening and contacting
6 potential investors. Second, distributing issuer
7 offering materials to investors. Third, discussing
8 issuer information included in any offering materials
9 provided that the tier two finder does not provide
10 advice as to the valuation or advisability of the
11 investment. And fourth, arranging or participating in
12 meetings with the issuer and investor.

13 Because tier two finders would have been
14 permitted to engage in this wider range of activity as
15 compared to tier one finders the order would have
16 imposed certain conditions unique to tier two finders.
17 First, the proposed order would have required tier two
18 finders to disclose specific information to the
19 potential investor prior to or at the time of the
20 solicitation. Second, the proposed order would have
21 required tier two finders to obtain from the investor
22 prior to or at the time of any investment in the issuer
23 securities a dated, written acknowledgement of receipt
24 of the tier two finder's required disclosures.

25 Moving on now to the conditions and

1 limitations that would have been applicable to all
2 finders, both tier one and tier two.

3 The proposed exemption would have been
4 available only where, one, the issuer is not required to
5 file reports under Section 13 or Section 15(D) of the
6 Exchange Act. Two, the issuer is seeking to conduct the
7 securities offering in reliance on an applicable
8 exemption from registration under the Securities Act.
9 Three, the finder does not engage in general
10 solicitation. Four, the potential investor is an
11 accredited investor as defined in Rule 501 of Regulation
12 D, or the finder has a reasonable belief that the
13 potential investor is an accredited investor. Five, the
14 finder provides services pursuant to a written agreement
15 with the issuer that includes a description of the
16 services provided and associated compensation. Six, the
17 finder is not an associated person of a broker-dealer.
18 And seven, the finder is not subject to statutory
19 disqualification at the time of his or her participation
20 in the activities contemplated by the exemption.

21 Some limitations on activities would also have
22 applied to both tier one and tier two finders,
23 specifically neither a tier two or a tier one finder
24 could be involved in structuring the transaction or
25 negotiating the terms of the offering, handling customer

1 funds or securities or binding the issuer or investor,
2 participating in the preparation of any sales materials,
3 performing any independent analysis of the sale,
4 engaging in any due diligence activities, assisting or
5 providing financing for such purposes or providing
6 advice as to the valuation or financial advisability of
7 the investment.

8 What is more the proposed exemption would have
9 been limited to activities solely in connection with
10 primary offerings. And finally this proposed exemption
11 would have provided relief only for the narrowly defined
12 activities identified for each tier of finder, and only
13 then when the finder was able to comply with all of the
14 conditions.

15 Moving on now to some of the comments. The
16 Commission as you know requested comment on all aspects
17 of the proposed exemption and the proposed exemptive
18 order included a long list of questions for the public
19 to consider.

20 The comment letters received were provided by
21 a variety of interested parties, including broker-
22 dealers, investment advisors, venture capital groups,
23 industry associations, academics, advisory groups,
24 retail investors, and other market participants. These
25 commenters addresses different aspects of the proposed

1 exemption, and we do not attempt to summarize in this
2 setting the more than 100 comments the Commission
3 received. We provide background here on just three
4 issues to give you a sense of the letters. These issues
5 are not more or less significant than the others, they
6 are just examples and we, the staff, value all public
7 input on all of the issues presented.

8 First, as we've stated the proposed exemption
9 would have been limited to natural persons. The
10 comments on this issue included requests that the
11 exemption extend to certain legal entities that natural
12 persons often create for business, liability, or tax
13 purposes, such as a limited liability company.

14 Second, as we've stated the proposed exemption
15 would have prohibited a tier one finder from contacting
16 investors. Multiple commenters on this issue asserted
17 that a total prohibition on contact with investors would
18 be difficult in practice, and they requested that tier
19 one finders be permitted at the least to make
20 introductions and/or notify investors of the referral to
21 an issuer.

22 And third, with respect to compensation. As
23 you all have heard this morning the proposed exemptive
24 order would have permitted finders to receive
25 transaction-based compensation and the Commission

1 requested comment on the forms of permissible
2 compensation as well as whether any conditions or
3 limitations should be associated with that compensation.
4 Some commenters on this issue requested that a
5 finder -- a finder's compensation in whatever form it
6 takes be limited to a specified percentage of the funds
7 that the finder raised tethered to the market rate for
8 analogous brokerage services or set at a reasonable
9 rate.

10 Other commenters asked that the order provide
11 greater flexibility in compensation, for example no
12 restrictions whatsoever, permitting fixed fees, or
13 permitting financial interests in issuers. Other
14 commenters opposed transaction-based compensation all
15 together, alleging that it creates incentives for
16 finders that undermine investor protection.

17 And with that we again thank the committee for
18 its time this morning and we look forward to hearing the
19 discussion that follows.

20 MS. DAWOOD: Thank you very much for those
21 comments. Questions, Laura.

22 MS. NIKLASON: Yeah, I have one question
23 regarding the disclosure, which tier two finders must
24 provide to investors. What form of disclosure is this?
25 What does that encompass?

1 MR. DRUMMEY: Thank you, thank you for your
2 question. The form of the disclosure was contemplated
3 to be written, although the proposed exemption did
4 permit for some form of oral disclosure so long as it
5 was followed up with written disclosures.

6 MS. NIKLASON: But what's included -- what are
7 they disclosing?

8 MR. DRUMMEY: Yes, ma'am. There were six
9 specified things that must be disclosed. They are the
10 following: the name of the tier two finder, the name of
11 the issuer, the description of the relationship between
12 the tier two finder and the issuer, including any
13 affiliation, a statement that the tier two finder will
14 be compensated for his or her solicitation activities by
15 the issuer, and a description of the terms of such
16 compensation agreement, any material conflicts of
17 interest resulting from the arrangement or relationship
18 between the tier two finder and the issuer, and finally
19 an affirmative statement that the tier two finder is
20 acting as an agent of the issuer, is not acting as an
21 associated person or broker-dealer, and is not
22 undertaking a role to act in the investor's best
23 interest.

24 MR. BOLEN: I would like to better understand
25 the terms of the agreement. How specific would they

1 have to be? Would a tier two broker have to go into
2 exact percentages? Would they have to -- or, sorry,
3 tier two finder exact percentages, dollar figures? What
4 kind of burden would be putting on the tier two finder?

5 MS. DHINGRA: The proposed exemptive order did
6 not include much detail. I think that agreement was
7 just meant to clarify that there -- was meant to
8 memorialize the terms between the issuer and the finder.
9 So I think we would have probably assumed that obviously
10 just -- or the compensation would be included, but the
11 release did not really speak to the specific terms of
12 the agreement.

13 MR. BOLEN: Was it ever viewed the possibility
14 this could go through without having the terms of the
15 compensation included? That seems like an additional
16 step that would be very difficult and could cloud the
17 judgment of both parties.

18 MS. DHINGRA: That's definitely helpful
19 feedback and something we'll take into consideration.
20 Thank you.

21 MS. DAWOOD: Jennifer.

22 MS. NEWTON: Yeah. So I noticed -- so the
23 proposed rule, I think that it probably came out prior
24 to the evolution of AI, and so I just wondered if when
25 the term "natural person" is used whether there was any

1 thought around kind of, like, some of the new emerging
2 technology, Gen Tech, AI, that has the capability of
3 acting as a finder for various types of funds? And
4 just -- just wondering because I just happen to know
5 some technology platforms that are working on models
6 where AI can now actively identify investors, but it's
7 not a natural person. So was there any thought process
8 around using that specific term, "natural person"?

9 MS. DHINGRA: That's a great point. I think
10 as you mentioned this order was done before AI became,
11 so it wasn't really contemplated at the time. But again
12 we welcome your feedback or any comments you have on
13 that issue.

14 MR. COOK: Could you elaborate a little bit on
15 the antifraud protections for tier one and tier two that
16 were contemplated?

17 MR. DRUMMEY: Thank you for your question. As
18 the proposed exemptive order emphasized the antifraud
19 protections of the federal securities laws would still
20 apply, even if a natural person were to take advantage
21 of this proposed exemption.

22 MR. DILLASHAW: One point of clarification on
23 that. Would the antifraud provisions, would that apply
24 to the finder or to the issuer in terms of, like, would
25 the finder be responsible for any of the disclosed

1 information provided by the issuer that they're just
2 passing along?

3 MS. DHINGRA: The antifraud provisions would
4 apply to both entities, but I think part of the
5 agreement between the issuer and the finder would sort
6 of delineate the responsibilities there.

7 MS. DAWOOD: So if I could just kind of
8 summarize, and tell me if I'm correct. So a tier one
9 finder and a tier two finder could be compensated, but
10 the difference really is how many times a tier two
11 finder can participate in fundraises; is that right?

12 MS. DHINGRA: I think there are a number of
13 differences. A tier one finder really is limited to
14 providing the contact information just once, and a tier
15 two finder can engage in more activities and there are
16 no limits on how often. But then as -- because of that
17 they have additional obligations, such as disclosure.

18 MS. DAWOOD: Disclosures, got it. Thank you.

19 MR. BOLEN: I have two things I would like to
20 better understand about this, mainly the concern that it
21 be limited to natural persons. When we think about
22 angel investment networks that I have personally seen
23 around the country, both in this role and working with
24 Georgetown Entrepreneurship, a lot of university alumni
25 networks have angel investor networks that connect

1 alumni to capital so that they can build and grow small
2 entities. If this were limited to natural persons it
3 would exclude them.

4 I'd also like to better understand without
5 this exemption currently in place could you find that a
6 university would have to register as a broker-dealer for
7 doing so, because all major universities do that
8 currently.

9 MS. DHINGRA: Well, whether someone needs to
10 register as a broker-dealer is a facts and circumstances
11 analysis and, you know, it requires a weighing of
12 factors, whether they're soliciting individuals. And
13 also the definition of broker is whether you're engaged
14 in the business, so they would have to make that
15 determination.

16 But I don't know if universities are in the
17 securities business of what you're saying, but we look
18 at different factors, solicitation, negotiation,
19 handling customer funds and securities. So all these
20 weigh into whether someone needs to register or not.

21 MR. BOLEN: And then what about angel investor
22 networks across the U.S.? There are a lot of local
23 angel investor roundtables throughout, particularly in
24 economically disadvantaged areas, where would they fall
25 in something like this were it limited to natural

1 persons?

2 MS. DHINGRA: I think as you said the order
3 sort of speaks for itself. It's limited to natural
4 persons, so if -- if it's not a natural person they
5 wouldn't be able to rely on the exemption. But again it
6 was a proposal, it was never finalized.

7 MR. DILLASHAW: And one just quick for a
8 little bit of background. Absent exemptive relief can
9 you provide some brief sort of scope about what it would
10 mean to be a registered broker-dealer, you know, so that
11 if we don't have this exemption what happens to folks?

12 MS. DHINGRA: Sure. I think, you know, as we
13 sort of mentioned whether someone needs to register as a
14 broker-dealer depends on the facts and circumstances and
15 what activities they're engaged in. If someone does
16 need to register as a broker-dealer they would need to
17 become a member of FINRA and comply with various
18 obligations related to books and records, net capital.
19 So there are a variety of obligations depending on what
20 the -- or what the entity is doing.

21 MR. CORDERO: Today are we reviewing whether
22 we want to adopt the proposal? Is that -- or are we
23 just having it as a discussion point?

24 MS. DAWOOD: Oh, no. This is just a
25 discussion, to start the discussion, yeah. This is just

1 the very beginning.

2 MR. BOLEN: If they don't register but should
3 have what is the penalty?

4 MS. DHINGRA: If someone does not register and
5 should have you could bring an enforcement action, and
6 specifically under Section 15(a), and then if there's
7 fraud, also fraud.

8 MR. BOLEN: Assume no fraud, what would the
9 penalty be?

10 MS. DHINGRA: It would likely be a Section
11 15(a) charge for being an unregistered broker-dealer.

12 MR. BOLEN: Is that a dollar amount? Is
13 that -- what is that?

14 MS. DHINGRA: No. It depends. It would, it
15 would depend on the enforcement action and
16 recommendation.

17 MS. NIKLASON: But I think I'd like to point
18 out that the -- you know, I think realistically angel
19 roundtables, groups of angels, university alumni
20 associations that make investments, you know,
21 those -- those groups of investors are really that,
22 they're really investors, and investors can work
23 together to identify investment targets. That
24 doesn't -- you know, just because you're an investor
25 doesn't mean that you have to automatically ask the

1 question, am I a broker-dealer.

2 So I actually think that this -- this
3 exemption doesn't -- you know, but by limiting it to a
4 natural person I don't think it means that a group of
5 investors then suddenly has to contemplate, you know,
6 registering as a broker-dealer. I actually don't think
7 that's where this, this suggestion is going. Do you see
8 what I'm saying?

9 MS. DUIGNAN MINNIHAN: Yeah, I'd also like to
10 just chime in here as someone who's run several
11 different angel groups and operated in this capacity
12 over the years. You know, the difference here is really
13 around I think whether or not you're taking additional
14 compensation and, you know, disclosing exactly what that
15 is. And certainly with, you know -- through sort of
16 alumni network angel groups it's more about a
17 collaborative effort to source investment opportunities
18 within the network rather than, you know, taking some
19 sort of a fee that the university certainly almost never
20 takes a fee when folks get together to make an
21 investment as a group.

22 MS. NIKLASON: Agreed.

23 MS. DAWOOD: Yeah, good point, Erica.

24 Joseph and Geeta, thank you so much for coming
25 and giving us all of your comments today. Appreciate

1 it.

2 MR. BOLEN: Actually I'd like to say one more
3 thing before they leave. If you were to limit it to
4 natural persons and you were to find that an angel
5 network or a small entity were making introductions
6 consistent with being, what would it be, a non-
7 registered finder of either tier, that penalty, that
8 typical enforcement action would have to be reduced or
9 waived under Section 223 of the Small Business
10 Regulatory Enforcement Fairness Act anyway. So you're
11 just creating more paperwork.

12 MS. DAWOOD: So I'd like to now introduce and
13 welcome our three outside speakers, Gary Ross, Linda
14 Lerner, and Kelley Arena, all industry practitioners
15 with experience in the space and who may help offer us
16 some perspective on finders, including some candid
17 observations on how early-stage capital raising
18 activities sometimes play out and the gaps that exist
19 for many early-stage founders.

20 So Gary Ross is a partner at the Ross Law
21 Group where he focuses on practice on facilitating
22 private offerings of securities and on forming and
23 advising private equity and venture capital funds. And
24 in addition to his fund practice Gary advises emerging
25 growth companies on a wide variety of securities

1 registration exemptions.

2 Gary is the creator and host of the American
3 Bar Association Podcast series, a fellow podcaster. VC
4 Law is what it's called, so everybody should go and
5 definitely subscribe. And he is also active on the
6 Business Law Section of the ABA. And in fact Gary is
7 also a current chair of the ABA's Small Business Issuer
8 Section.

9 I'll go ahead and introduce all three of our
10 speakers and then we'll have them speak one by one.

11 Linda Lerner is a partner at Halloran Farkas
12 and Kittlia, and Linda's practice involves capital
13 formation issues, confronting startups and small
14 business and middle market businesses, regulation of
15 security tokens and advising broker-dealers and
16 investment advisors on federal and state regulations.

17 Linda also has a long focus on finder issues,
18 and to that end she is the chair of the ABA Task Force
19 on private placement brokers, assisting unregistered
20 finders to operate within the law, and interacts with
21 regulatory and federal legislation staff to obtain
22 relief from intermediaries who facilitate capital
23 raising.

24 And Kelley Arena is the founder of Golden Hour
25 Ventures, a New York based angel group and venture

1 studio, on a mission to activate a new class of
2 investors and drive capital toward women led startups.
3 And with a background spanning professional sports,
4 Fortune 500 operations, and investment banking, Kelley
5 brings a multi-faceted lens to venture investing and
6 founder support.

7 So we will start with Gary. Go ahead.

8 MR. ROSS: Great. Thank you so much, Marcia.

9 I don't know if my slides are -- I have some
10 slides, and I apologize to whoever is going to be
11 forwarding the slides because had I known I wasn't going
12 to have a clicker I would have put more -- I would have
13 put more bullets on there instead of having to keep
14 going forward.

15 So I guess we can go ahead and go to the next
16 slide. Are you doing it, TJ, or is someone else? Oh,
17 back there. All right.

18 I'll give an extremely brief introduction and
19 then I'll go over current market practice as I see it
20 and how the traditional broker-dealer concerns and
21 justification for regulations in this space don't really
22 fit this market, briefly touch on potential effects of a
23 finder exemption, and then I'll give my thoughts on the
24 2020 proposal.

25 And also on Capitol Hill there's been a draft

1 bill called the Unlocking Capital for Small Business Act
2 of 205. I don't believe that's been addressed today, so
3 I'll give some thoughts on that. And then also Form D,
4 and if the time allots also state preemption.

5 Next slide.

6 As was said I founded Ross Law Group 12 years
7 ago. I had some time in big law and the federal
8 government. I started with zero clients, so to build up
9 a client base I went to all the startup events I could.
10 You know, three to five times a week I was at startup
11 events just about everywhere, New York, Washington,
12 D.C., San Francisco. I met a ton of finders. You know,
13 they're all over the space.

14 Founders who are building their company they
15 don't have the time to go to five events a week, but the
16 finders do because really that's their job. So they
17 were just all over the place. Kelley can probably talk
18 more about the -- or is a better person to talk about
19 the role of finders in the space, but I would just say
20 that they're ubiquitous, they're all over.

21 But when they want to be compensated it's
22 obviously an issue because they're not allowed to have
23 transaction-based compensation, and many times
24 throughout my 20 year career, and as recently as just a
25 couple weeks ago, I'll be handed a finder's fee

1 agreement and said, hey, can you mark that up, can you
2 comment on that. And I have to say, well the whole
3 premise is invalid. You can't give these -- you can't
4 give transaction-based compensation, you can't have a
5 commission.

6 So then we go back and forth, and these are
7 what I see as the current workarounds that people use in
8 this space. The first one is flat fee. I'll tell
9 people, hey, you can have a flat fee, but you can't have
10 it -- it can't be based on the size of the investment.

11 And the first thing they do is come back and
12 say, okay. Well, it's going to be \$50,000 is the -- or
13 maybe that's too high, but they'll come back and the
14 flat fee that they want is exactly 5 percent of the
15 proposed investment.

16 And I'll say, "Well, you can't do that
17 either."

18 So we go back and forth, and we come up with
19 some flat fee that's not tied -- that doesn't mirror
20 exactly some percentage of the investment, and we also
21 say that there's various services, like there's
22 consulting services, advising services, and all of that.
23 But I really feel it's really just a smokescreen for
24 what is happening. It's a finder who's trying to get
25 compensation based on the size of the investment that

1 they're bringing to the company. That's really what's
2 happening.

3 The next thing that happens, I mean a lot of
4 times when I'm handed a finder's fee agreement or a
5 commission and I say I can't do that, you know,
6 oftentimes the parties just disappear and, you know,
7 they don't want me involved anymore because I'm going to
8 tell them it's not legal and they'll just sign the
9 agreement and that will be -- that will be that. Or if
10 they don't have an agreement they'll find a finder's fee
11 agreement on the internet, or through Chat GPT, or what
12 not.

13 And one thing that's really come on in the
14 last few years is special purpose vehicles. So finders
15 will form a special purpose vehicle, an LLC, and there
16 will only be one or two investors. And the entire
17 reason that they're forming a special purpose vehicle is
18 so they can get compensation as a management fee. And a
19 lot of times the management fee is paid upfront, and it
20 will be, you know, 5 percent, and it will be the size of
21 a -- the size of a standard broker commission or it will
22 be, like, 2.5 percent for the first two years and then
23 waived after that so it equals 5 percent.

24 And there are perfectly legitimate reasons for
25 SPVs in their early-stage space. One is if it's a group

1 of people coming together to meet a minimum investment
2 threshold. If you have to have, you know, a million
3 dollars and you have five people who are willing to put
4 in \$200,000 then -- then that's fine. But there's a lot
5 of SPVs that are there just so the manager can have
6 a --just so the managers can have a finder's fee.

7 Next slide.

8 The traditional broker-dealer concerns don't
9 really fit the early-stage market. We don't really have
10 the boiler rooms that we have in the traditional broker-
11 dealers. We're all familiar with "Wolf of Wall Street,"
12 right. "Wolf of Wall Street," I think it was Leonardo
13 DiCaprio was looking at a picture of a wooden shed,
14 dilapidated wooden shed, and he was telling the
15 investors, he was saying, "You know, this company has
16 great potential. You know, this company is just going
17 to the moon. You know, invest now, invest now, invest
18 now."

19 And we don't really have that in this space.
20 So in this space the main reason we don't have it is the
21 investors are accredited investors, and usually they're
22 experienced in early-stage investments, and also
23 they're -- they have direct access to the companies.
24 They have direct access to the founders. They can look
25 at -- you know, they can visit the company. Sometimes

1 they're passed along names. They have visited the
2 company in person, and they've checked it out.

3 Whereas in the "Wolf of Wall Street" situation
4 we don't really have that, that is where a broker is
5 applying pressure to someone to invest, and we don't
6 really have that in this space. I view it as more like
7 recruiters. So a recruiter will put an employer and a
8 potential candidate in touch, and then they will talk
9 several times, and they'll decide if there's a fit.

10 So I view finders really more like that rather
11 than the high-pressure, fast-talking brokers. That was
12 really the reason for broker-dealer concerns in the
13 first place.

14 Next slide.

15 If there we a finder exemption I think it
16 would result in several, several good things. I mean,
17 one, I think it would improve the caliber of the finders
18 because right now, you know, people serving as finders
19 are comfortable operating outside of the law, which I
20 feel is not a good thing. And there are a lot of good
21 people who would serve as finders if this was all
22 brought aboveboard and, you know, there was a
23 streamlined compensation system instead of the things
24 that I've talked about a couple of slides ago, having to
25 do these workarounds just so somebody can get

1 transaction-based compensation.

2 I appreciate Commissioner Crenshaw's focus on
3 investor protection. I do feel, though, that there
4 would likely be no increase in fraud because I think
5 that there would be a lot more disclosure, which I'll
6 talk about here in a minute when I get to the Form D
7 slide.

8 Next slide.

9 The 2020 proposal that was -- that was
10 discussed, this -- this slide makes it seem like I'm
11 super negative on it, but I'm really not. I mean, this
12 has been an issue, the finder issue has been an issue
13 for many years, for decades, and any -- any attention on
14 this by the SEC is more than welcome. So I think it was
15 a step in the right direction.

16 I just have an issue with a couple of things.
17 Commissioner Atkins talked about No-Action Letters that
18 are so -- that are under narrow circumstances, and of
19 course he's talking about the Paul Anka No-Action Letter
20 where he had no contact with the investors. So Paul
21 Anka was raising for the Ottawa Senators, and the Ottawa
22 Senators wanted to use Paul Anka to raise money, and
23 Paul Anka basically agreed to hand over his Rolodex to
24 the Senators. The Senators would call people up and
25 say, hey, Paul Anka gave me your contact info and, you

1 know, we're raising money as a potential investor in
2 this.

3 And that just never happens in reality. We
4 never have the situation where somebody is just
5 supplying contact information and they're just not
6 involved, the finder not contacting the investor. When
7 I tell people that that's all that's allowed, they think
8 I'm kidding. They're, like, you know -- you know, what
9 are you talking about. That's crazy.

10 So I feel like the tier one finder is really
11 more of a waste of time than anything else, and it's
12 really not worth it, and it really clouds the situation
13 because a lot of people who know about the Paul Anka No-
14 Action Letter just don't appreciate the fact that he had
15 no contact with the investors. They believe that he
16 made an introduction, and then stepped back, and that
17 was it. And a lot of people have told me that, hey,
18 that's what it stands for.

19 And to be honest it was a couple of years
20 before -- when I first heard about the Paul Anka No-
21 Action Letter, and even though I read it, it was a year
22 or two later that it really hit me that, hey, he really
23 had no contact with these investors. And so I feel like
24 the -- and it really just clouds the situation, the
25 whole, the whole idea.

1 So I think that the proposal, I think the tier
2 one finder is just not -- is just not necessary because
3 it's such a, such a special circumstance. And I even
4 hear that in reality no money was raised by -- through
5 Paul Anka.

6 Next, and heard a little bit from Geeta and
7 Joe about this, determining the scope of prohibited
8 activities. In my experience it can be a little bit
9 different. It can be a little bit difficult, sorry.
10 Negotiating the terms of the offering, I will
11 occasionally put companies and investors in touch, not
12 often. I've done it maybe a dozen times in my career.

13 And what often happens is I'll have a friend,
14 like I have a buddy on the West Coast, a friend from law
15 school who runs a VC Fund, and he'll tell me, hey, we're
16 looking to invest in early-stage startups with a
17 valuation of between 10 and 20 million.

18 And then I'll go to some startup event, and
19 I'll meet someone who says, hey, I run a startup in the
20 healthcare field. And I'll go, hey, I know somebody who
21 might be interested in investing. Of course their ears
22 perk up. They start, you know, flooding my inbox and
23 blowing up my phone.

24 And they'll say, hey, here's our materials and
25 I'll on their valuation -- valuation 25 million.

1 And I'll say, well, I'm sorry, my friend only
2 invests in 10 to 20 million, companies valued at that.

3 And they'll say, well, maybe there's some
4 wiggle room. We're okay with 20 million.

5 And, you know, is that -- am I negotiating the
6 terms of the offering for that? You know, I would say
7 not, but some people could say, yeah, hey, you brought
8 them down from 25 to 20. Well, I didn't mean to. You
9 know, I was just ferrying messages along.

10 Kind of same on participation and preparation
11 of sales materials. The first thing that any investor
12 is going to ask for is the deck. Hey, I know this
13 company who's raising money. Okay, send me their deck.
14 Investors are busy. You know, they're not immediately
15 going to call. The founders have said that, hey, they
16 have direct communications but, you know, they have, you
17 know -- you can tell us how many inquiries you get a
18 week. I'm sure it's a whole lot so, you know, you want
19 to see the deck first before knowing it's worth your
20 time to talk to someone.

21 And it's -- it's going to reflect on me what
22 the deck looks like, so I'm going to give it a look
23 before I send it off to somebody, right. If you have
24 some terrible looking deck then the investor is going to
25 be, like, hey, who is Gary hanging out with? You know,

1 this looks horrible.

2 You know, if I see typos, or if I see a chart
3 that doesn't fit or some, you know, crazy projections
4 I'm going to say, hey, you know, maybe tone it down a
5 little bit on the projections on 17, and you've got a
6 typo on 12 and 13, and there's something wrong with your
7 picture on 22. You need to look at that.

8 And so, you know, could I be preparing sales
9 materials by reviewing it? You know, maybe. So I feel
10 like sometimes -- and these aren't really edge cases. I
11 feel like these happen all the time, ferrying messages
12 back and forth. The investor doesn't want to talk
13 unless it's exactly what they're looking for. So then
14 this company changes so that they fit that, and somebody
15 is in the middle ferrying messages back and forth. So I
16 just feel like that happens all the time. So it's
17 difficult to really prohibit activities as opposed to
18 the next one.

19 Next slide.

20 The Unlocking Capital for Small Business Act
21 of 2025, it is a draft bill, so it's not even a -- I
22 don't know if you could call it a bill yet. And what it
23 does is allows for finder compensation for securities
24 offerings that are 15 million or below. And so it moves
25 away from Paul Anka. It does have a finder and private

1 placement broker exemption, but it doesn't -- it does
2 away with Paul Anka, which as you can see I'm in favor
3 of, and also it has dollar thresholds rather than
4 activities. \$15 million offerings you can have finders.
5 I think it's \$30 million total for the year, which I
6 feel works better than activities because for activities
7 it's easy to draft a finder's fee agreement and say,
8 hey, the finder reps and warranties that they're not
9 going to do these activities. But I feel like in
10 reality -- in reality it's a little -- it's harder to
11 make sure the person isn't sucked into doing those
12 activities. So I think a threshold situation works -- a
13 threshold guidance works a lot better.

14 Next slide.

15 The Form D, in 2020 this committee made a
16 proposal to the SEC to consider having some sort of
17 notice for finders, but that's actually already on the
18 books. So Item 12 the company has to identify if
19 they're using Reg D offering, if it's a Reg D offering,
20 they have to -- in Item 12 they have to disclose the
21 name of any broker-dealer or finder that they're -- that
22 they're working with, that they paid compensation to.

23 And you can find that in the instructions, in
24 the form itself in Item 12. It does focus on broker-
25 dealers. But in the instructions, it makes clear that

1 you have to disclose not only broker-dealers but also
2 finders in there.

3 In a perfect world what I would like to see is
4 not only for the finders, you know, for the company to
5 have to disclose the finder, but to have the finder name
6 hyperlinked. So it would be, like, the shareholder
7 ownership filings that we have in Forms 3, 4 and 5 where
8 you could just click on the person's name and you could
9 see all the Form Ds that they appear in, all the
10 companies that they've helped before.

11 And Item 15 requires the sales commission and
12 finder's fee expenses, which I think would go to some of
13 Commissioner Crenshaw's concerns. I think that it would
14 be an investor protection mechanism to find out, hey,
15 you know, this company, how much did they pay in
16 finder's fees. The amount is aggregated, so, you know,
17 they don't have to have, like, a big spreadsheet with
18 what they paid everyone. But I think that it would be
19 step in -- a step in the right direction and there
20 wouldn't be any additional -- you know, no new rules
21 would have to be promulgated for that. That's an
22 existing thing that as soon as we had the finder
23 exemption these things would kick in and you get a lot
24 more disclosure on the Form D.

25 And next slide.

1 Briefly about state preemption. Everybody is
2 always going to be -- well, most people are going to be
3 in favor of a federal law preempting the state law in
4 this area so that they can only deal with one set of
5 rules and not 50. But in my mind, you know, I'm a fan
6 of federalism. I'm used to looking at New York laws in
7 addition to federal law. So I believe that there would
8 still be a role -- there could still be a role for the
9 states here. California and Michigan and Texas are
10 among the states that have -- that have finder, finder
11 fee laws on the books.

12 What's difficult now is figuring out when
13 those apply, if it's only for Rule 147A Intrastate
14 offerings or if it's -- if the company, the finder, and
15 the investor are all in the same state is that when you
16 look at state law or just the company and the investor?
17 What I would like to see is something that's more
18 similar to Regulation D where we're doing Blue Sky
19 filings depending on where the investor is located. I
20 think that that would be good, you know, if an investor
21 is in California, Michigan, Texas, Wyoming, wherever
22 they are, if we just had to look at that state I think
23 that that would be feasible. We would be looking at the
24 federal level, and then to make sure that they're exempt
25 and then we would be looking at just one state and it

1 would be clear what we would be looking at.

2 Final slide.

3 In closing, the SEC's mission is to protect
4 investors, maintain fair, orderly, and efficient
5 markets, and facilitate capital formation. And I think
6 all three cut in favor of having a finder exemption.
7 Protecting investors, I mean right now it's kind of
8 murky and opaque, and I've talked about these
9 workarounds, which I don't think are beneficial for
10 anyone.

11 And fair, orderly, and efficient markets, I
12 mean right now, you know, forcing people to go on SPVs
13 just, just so somebody can get transaction-based
14 compensation doesn't seem efficient to me. Another
15 thing I'll mention on the investor part, when someone is
16 forcing the investors to go through SPVs then it's
17 the -- then it's the investor who is paying that broker
18 fee. It's not the company paying for it. Whereas if we
19 created a -- if the SEC created a finder exemption then
20 I'd say by and large it usually would be the company
21 paying for it or, you know, at the very worst they would
22 be paying together instead of like it is now where it's
23 kind of on the investor.

24 And then facilitate capital formation, I like
25 Crenshaw, what Commissioner Crenshaw said about there is

1 a difference between capital raising and capital
2 formation. A lot of people might clutch their pearls
3 when I say this, but I mean, one thing that could
4 be -- could be done is having -- allowing transaction-
5 based compensation just in equity of the company.

6 Like I have there on the last bullet, any
7 exemption is better than no exemption. And as we know,
8 Regulation Crowdfunding started off at 1 million, now
9 it's 5 million. I feel that we could have something on
10 the books that's very small and just see what happens,
11 see if there's any unintended consequences. I mean, the
12 Unlocking Capital for Small Businesses Act has a \$15
13 million threshold. I mean, I've seen very small raises
14 for companies, you know, 5 million, even 1 million. I
15 mean, you could have a really low exemption of 1 million
16 and allow transaction-based compensation in equity. It
17 seems like, hey, let's just get that on the books and
18 then start from there and see -- see what to do then.

19 With that thank you very much for this
20 opportunity and happy to entertain any questions.

21 MS. DAWOOD: Thank you, Gary, for that
22 presentation.

23 Go ahead, Herbert.

24 MR. DRAYTON: I've got one question. If as a
25 VC I am looking for growth capital for a company that

1 I'm invested in, and I reach out to other VCs, I'm going
2 to benefit from that down the road, am I acting as a
3 finder in that situation?

4 MR. ROSS: I don't believe so because the -- I
5 don't believe so because you're not getting direct
6 transaction-based compensation. You're going to benefit
7 because the company is going to presumably grow.
8 They're going to get more money and they're going to be
9 able to, you know, purchase more assets and the like,
10 but you're not getting direct transaction-based
11 compensation.

12 MR. BOLEN: I'd actually like to touch that
13 very quickly. As a direct result of the transaction he
14 could benefit, and so without that exemption it is a
15 question, and because it's a question it could, what
16 will, create uneven regulatory enforcement. And from
17 what I understand in your presentation this does occur
18 in a casual way very frequently. People are connecting
19 small entities to people with capital, whether they
20 benefit \$100, \$1,000, 5 percent of the transaction deal,
21 it is occurring from what I understand kind of all over
22 very casually, and without this exemption it would be
23 unevenly enforced, and you could say this person is
24 doing it, but you wouldn't catch anybody.

25 And so without an exemption it's just going to

1 be worse for some people. Do you agree or disagree with
2 that?

3 MR. ROSS: Yeah, I -- I agree with that. I
4 mean, there's definitely -- since I got tapped to talk
5 here, which I fully appreciate, I've heard from lawyers
6 who regularly do work on finder's fee agreements, which
7 I think is just kind of crazy because to me the law is
8 clear. They talk about, hey, it's a grey area. It
9 doesn't seem grey to me. I mean, you've got to register
10 as a broker.

11 And so, you know, people are often when I say,
12 hey, I'm not going to -- you know, I can't give comments
13 on this finder's fee agreement, they're like, you know,
14 let me find another lawyer who will. And so, yeah,
15 there's a lot of unevenness across the space now.

16 MS. DUIGNAN MINNIHAN: Yeah, I'd just like to
17 make a comment on that. As a venture capitalist, you
18 know, part of my job is helping portfolio companies and
19 other companies find follow-on rounds. If I were to
20 require the portfolio company to pay me a certain
21 percentage of the money raised in that round I would be
22 in violation of these current regulations. So it does
23 appear to be pretty evenly enforced. If you are
24 receiving a direct fee that would be a violation even
25 for VCs.

1 MR. BOLEN: When you say "evenly enforced"
2 what is your perspective on the enforcement of this
3 regulation? You are one person with one venture capital
4 firm.

5 MS. DUGNAN MINNIHAN: Yeah, I don't
6 understand the question. Could you be a little bit more
7 specific?

8 MR. BOLEN: Even enforcement as defined by the
9 Small Business Regulatory Enforcement Fairness Act is
10 whether across the board the regulation is being
11 enforced evenly. So everyone --

12 MS. DUGNAN MINNIHAN: Okay. So if I were
13 to --

14 MR. BOLEN: I'd like to finish my point,
15 please.

16 MS. DUGNAN MINNIHAN: Okay, go ahead.

17 MR. BOLEN: Everyone who violates the
18 regulation receives the same enforcement action. From
19 your perspective as one venture capital firm I don't
20 know that you are necessarily positioned to determine
21 whether or not it is being evenly enforced across all
22 venture capital firms, all law firms, and all small
23 people who are making introductions.

24 MS. DUGNAN MINNIHAN: So certainly I'm not
25 sure who you mean by all, and number one, you know, I'm

1 not opposed to for smaller transactions people being
2 able to collect a finder's fee. So I just want to say
3 that firstly.

4 But more importantly as a venture capital firm
5 if you were to take a percentage of the transaction you
6 would also be in violation. So we are also subject to
7 the same regulation.

8 MR. DRAYTON: Robert, let me -- let me come
9 back to that. Well, probably more for Gary.

10 If I have an equity position in that company
11 am I then -- could I be seen as a founder of that
12 company or is there some delineation because -- because
13 I have an equity position? Because all the companies I
14 invested in all the founders have an equity position.
15 I'm just sitting on the cap table. So am I truly seen
16 as a VC looking for resources or am I seen as a founder
17 looking for resources to make a commitment to this
18 company?

19 MR. ROSS: I don't see that as transaction-
20 based compensation, no. I understand what you're
21 talking about, and there is an issuer exemption for a
22 broker-dealer. So someone who is in the company and
23 they're not getting transaction-based compensation they
24 can be covered under the issuer exemption.

25 A lot of people want that. They want to

1 shoehorn every situation into that, you know someone who
2 is not getting a salary and they're only getting
3 commission, but it is -- just for that situation it's a
4 founder out there raising money and they're not going to
5 get any kind of commission of course they're going to
6 benefit that, hey, more money in the company, maybe they
7 can get a raise and the like.

8 But I do warn people, hey, you can't give that
9 person a bonus that's tied to whatever they bring in in
10 investments because that's -- that's a common thing.
11 But I would say here, I would say that that's not -- I
12 would be comfortable with saying that that's not a
13 transaction-based compensation. Of course facts and
14 circumstances, but I'd feel comfortable with that.

15 MS. DAWOOD: Jasmin, I think you have your
16 hand up.

17 MS. SETHI: Yes, I do. I have a question for
18 the speaker. I'm wondering about where technology fits
19 into this technological platform. I don't know if
20 you're familiar with any examples that this has come up
21 in the finder context but, you know, nowadays you do
22 have platforms where investors and companies can go to
23 match and the platform could take a fee, they could take
24 a fee based on a subscription model, they could take a
25 fee based on transaction match. You know, I don't know

1 if it -- and it sounds like it might matter how they
2 charge for this regulatory scheme. So I guess I'm
3 wondering what your thoughts are and if there's any
4 examples of how this has worked so far, with the
5 understanding that this may have to evolve with future
6 technological developments.

7 MR. ROSS: That's a good question because
8 there are a lot of platforms out there. A lot of
9 platforms facilitate SPVs partially for this reason.
10 Sometimes they're just getting carried interest.
11 Sometimes they are taking some sort of an administrative
12 fee. For the platforms that are directly linking
13 investors and companies they have to be either a broker
14 or if they're doing Regulation Crowdfunding Offerings
15 they have to be a funding portal, which is a reduced
16 regulatory burden from full broker-dealer registration.

17 The Unlocking Capital for Small Businesses Act
18 2025 it contemplates the private placement broker who is
19 working with private companies as opposed to public
20 would have to meet the requirements of the funding
21 portal registration, which doesn't require testing, so
22 you don't need a Series 7 and whatnot. It requires, I
23 think it's Form Funding Portal, something like that.
24 Linda can correct me if I'm wrong. And it's a little
25 bit less than the Form DD, which is much more

1 burdensome.

2 So there is some sort of -- you know, there
3 are requirements there. I couldn't start a platform
4 tomorrow and link companies and investors, you know,
5 without -- without either being a broker-dealer or a
6 funding portal.

7 MS. DAWOOD: I know Vincent has a question and
8 then we're going to have to hear from Linda and Kelley
9 due to time constraints. So go ahead, Vincent.

10 MR. CORDERO: Just one, Gary, you know, I
11 applaud you coming in and kind of talking about what's
12 actually happening in the marketplace and I think
13 bringing to light possibly how the market would benefit
14 investors, and founders, and companies if we were honest
15 about what's kind of happening in the shadows and try to
16 kind of bring that out into the light and better
17 facilitate that for everybody's benefit. So that's one.

18 Two, if you -- with regard to what you put in
19 your presentation that you reviewed, if there were
20 no -- if there were no -- if you were starting from
21 scratch and you were looking at the marketplace today,
22 so instead of trying to, you know, nuance what's in
23 existence, the framework, but instead you were looking
24 at the marketplace and seeing that the private market
25 very much has become a very robust marketplace in

1 complement to the public market and it doesn't
2 necessarily need to be one in evolution to the other,
3 and they can both co-exist, and they both kind of serve
4 the overall ecosystem of the marketplace, how would
5 you -- I mean, it might be something that -- I don't
6 know if you've put it together, or if you have, or if
7 there's a reference point, but if you were starting from
8 scratch and taking into account where the market is
9 today and where you see it going, what would be best
10 for, you know, for the marketplace, for the private
11 marketplace to best facilitate its growth to the benefit
12 of investors and also to founders and startups?

13 MR. ROSS: That's a good question, Vincent. I
14 would say that the -- a couple of things. I mean, one,
15 all the investors need to be accredited investors.
16 There are some ways, I mean Rule 504 and some other
17 ways, intrastate offerings where you could have non-
18 accredited investors, so you should have some system in
19 place where the investors had to be not only accredited
20 but also -- but also sophisticated.

21 So you don't want a situation where it's like,
22 you know, someone trying to sell things to my dad. You
23 know, my dad was asking me the other day, he got one of
24 those things, the Massachusetts Fee Toll things and he
25 was wondering how he could sign on to send somebody

1 money via AMX, through one of those phishing things. I
2 was horrified.

3 So I would want it where there's some sort of,
4 you know, guardrails I guess that Commissioner Crenshaw.
5 And also one of the states, I believe it's Michigan, has
6 a laundry list of things that it wants finders
7 to -- that it wants disclosed in the agreement between
8 finders and companies, and it's reasonable things, hey,
9 the -- you know, the amount that the finder is getting,
10 you know, the identity of the company and all these
11 things, which I think is only good.

12 So if there were, you know, a short list of
13 things that were required in the agreement, I mean
14 having a written agreement between the two, obviously as
15 a lawyer I'm going to be -- I'm going to be in favor of
16 that, right. I'm hoping that some lawyer is drafting
17 it, maybe me. And so those -- those are the things that
18 come to mind.

19 And then what I said about the Form D. It's
20 been said a few times before that the Form D isn't fully
21 utilized because, you know, there's not much -- there's
22 not much information there and you have these enormous
23 unicorns. So I think that there is a place for the
24 finders to be disclosed in the Form D like I said.

25 And, you know, my ideal scenario is that

1 hyperlink where I could click on there and I could see
2 because, you know, if some finder is telling me, hey, I
3 never do this, but this is such a great company that I
4 really want to help the company out, and then I click
5 there and, you know, 60 Form Ds their name appears, you
6 know, that would be relevant information. On the
7 flipside if somebody says hey, I really know about
8 putting companies together and their name never appears
9 then that would be relevant information as well.

10 MS. DAWOOD: Thank you, Gary. And I do see
11 your hand up, Erica, but we have to move on right now to
12 Linda and then we'll come back to you, Erica.

13 MR. ROSS: I was wondering if I could just say
14 one, one thing. I apologize, Linda, but there was a
15 question before about what happens if there's not a
16 registered broker-dealer. I believe that was you. The
17 investor gets a rescission right. So it's like a -- it's
18 like a put, okay.

19 MS. DAWOOD: All right, Linda.

20 MS. LERNER: I want to speak today about the
21 value finders can add in the search for capital and how
22 finders could be regulated in a way that makes economic
23 sense for them while providing a greater level of
24 investor protection. But first I wish to thank the SEC
25 Small Business Capital Formation Advisory Committee and

1 the SEC's Office of the Advocate for Small Business
2 Capital Formation for the opportunity to address these
3 remarks to you.

4 As was said, I'm the chair of the Task Force
5 on Private Placement Brokers for the American Bar
6 Association, and I am also the chair of its task force
7 on assisting underserved entrepreneurs, which will color
8 some of my views.

9 I want to point out that the views that I
10 express today are my own and those of individual members
11 of those task forces and do not necessarily represent
12 the official views of the ABA or any of its officers.

13 The Task Force on Private Placement Brokers
14 was established in late -- in the late 90s to address
15 the lack of regulatory clarity around finders, and in
16 2005 the task force published its report on the subject.
17 In 2006, at the SEC's request, we submitted proposed
18 regulations for finders. Nothing really resulted from
19 that.

20 We worked with the SEC on a No-Action Letter
21 request for an exemption for finders operating as
22 business brokers. That relief was granted in February
23 2014 and codified by subsequent congressional action.

24 We responded to queries from members of
25 Congress regarding draft finder legislation, this has

1 gone on for years, responded to then Chairman Clayton's
2 request for comments on specific issues related to
3 exemptive relief for finders, the 2020 request, and most
4 recently commented on FINRA's query in their Regulatory
5 Notice 25-06 regarding regulation of finders.

6 I am her today in this long-running saga to
7 suggest points to consider in providing relief to
8 finders while enhancing investor protection and the
9 ability of regulators to review their activities.
10 What's wrong with the current status? Not all finders
11 are model citizens and some, as in the Ranieri case,
12 have been barred from the industry, subjecting that fund
13 to sanctions and adverse publicity.

14 When companies that have used finders fail
15 aggrieved investors may complain and regulators
16 occasionally jump into the fray. Currently transactions
17 involving unregistered finders are subject to rescission
18 under Section 29(b) of the Exchange Act, basically
19 giving the investors a free put for the duration of the
20 statute of limitations, giving the issuer a reason not
21 to pay the agreed upon fee to the finder, and providing
22 a basis for a regulatory enforcement action.

23 In addition, in one case a company canceled
24 its planned IPO because a portion of its capital had
25 been raised by an unregistered finder and in light of

1 the possibility of rescission of those investments the
2 accountants could not certify its financials. On the
3 other hand in SEC v. Kramer a federal court in Florida
4 found for the defendant finder and a few No-Action
5 Letters have been issued by the SEC that have permitted
6 finder activity.

7 Why some wonder don't finders just register as
8 brokers. Registering and operating a brokerage firm,
9 hiring compliance, AML and financial operations
10 principals, engaging a PCAOB accounting firm, and filing
11 financial reports with regulators evidencing compliance
12 with net capital requirements are very burdensome
13 expenses for someone who engages only occasionally in
14 helping an entrepreneur raise capital.

15 Added to that is the reluctance of regulators
16 to expend a substantial portion of their budget to
17 review the activities, so potentially thousands of new
18 brokerage firms that bring little in the way of fees to
19 support those regulatory efforts and expenses. Investor
20 protection, what if there's financial fraud cry the
21 naysayers.

22 Antifraud statutes are on the books federally
23 and in every U.S. jurisdiction, but regulators generally
24 only get involved when investors complain that they have
25 lost money in a failed company and a finder was

1 involved. Even then tens of thousands of whistleblower
2 complaints are not subject to fulsome investigation due
3 to staffing issues, and sadly in my own experience even
4 when regulators do get involved sometimes they give
5 relief only to a few of the most egregiously harmed
6 investors, the lowest hanging fruit. Regulators are not
7 proactively looking for unregistered finders, although
8 my simple internet searches in a variety of states
9 revealed hundreds if not thousands of persons and
10 companies offering to help raise capital in very
11 jurisdiction.

12 Smaller broker-dealers also cry foul. We obey
13 the law, why shouldn't the finders. However, many
14 broker-dealers and investment banks of all sizes do
15 small raises for startups and struggling companies as
16 just not worth it because the transaction-based
17 compensation on a smaller deal doesn't cover their costs
18 and salary structure. This leave smaller companies,
19 even relatively mature ones, with few options to choose
20 from in selecting among registered broker-dealers, and
21 often the lack of assistance from registered broker-
22 dealers is coupled with the company's lack of experience
23 in capital market transactions and a real need for
24 investment banking advice that could make the difference
25 in the type of deal they would be able to secure and

1 negotiate for themselves.

2 As was said earlier many communities do not
3 have broker-dealers engaged in capital formation. The
4 universe of unregistered advisors/finders tends to have
5 a lower cost structure but often has a plethora of
6 experience to offer as well as ties to the local
7 community.

8 I turn to my role for a minute as chair of the
9 Task Force on Assisting Underserved Entrepreneurs. In a
10 series of court cases programs limiting their services
11 and grants to entrepreneurs that belong to groups
12 historically subject to financial discrimination have
13 been found to be prohibited on a reverse discrimination
14 basis. Nevertheless financial discrimination continues
15 unabated. For example, one federal study found that
16 only 3 percent of venture backed companies were headed
17 by black females, and that is just one statistic.

18 Persons belonging to groups that have been the
19 subject of historic discrimination do not have access to
20 the resources or friends and family networks available
21 to those who historically have not been subject to that
22 discrimination, and this is why finders can be an
23 important component of the tools in the capital
24 formation toolbox.

25 Take for example a budding entrepreneur who

1 lives in a poor neighborhood. She has a great idea and
2 is well known and respected in the community. Why
3 shouldn't others in the community who have a wide
4 network of contacts be able to spread the word and get
5 compensated for their efforts? We know and promote that
6 our budding entrepreneur would be well advised to seek
7 the assistance -- to seek assistance in developing a
8 business plan, a budget, learning how to maintain
9 financial records, obtain necessary permits, leases and
10 the like, and become legally organized.

11 The SEC's Office for Small Business Capital
12 Formation has done a wonderful job in compiling a list
13 of resources available throughout the country, but more
14 is needed, and our hope is that accounting, legal and
15 business professionals will donate their time to these
16 efforts. One such lawyer told me that some of his pro
17 bono startup clients have become million-dollar
18 businesses that continue to use his services on a paying
19 basis.

20 I hope that I've begun to persuade you that
21 finders can be a value add and are not just shysters
22 promoting fraudulent deals.

23 Now I will highlight some of our suggestions
24 on how to regulate finders.

25 We know that the finders involved in certain

1 sales of securities involving the change of control of a
2 business have already obtained relief from registration.
3 The SEC has been -- has said several times it could
4 consider two different classes of finders. The first
5 tier could consist of persons and entities that limit
6 their activity to merely introducing an issuer to a
7 buyer of that issuer's securities, which should and can
8 involve contact, otherwise it's useless. This class of
9 securities -- of finders should not be considered
10 brokers under Section 3(a)(4) of the Exchange Act, but
11 to avail themselves of this relief they could be
12 prohibited from being bad actors and from taking
13 possessions -- possession of funds or securities and
14 could be required to disclose their interest in the
15 issuer as well as their compensation, whether cash or
16 securities.

17 Class two finders could be defined as persons
18 and entities that are permitted to engage in more than
19 mere introductions, such as participating in meetings,
20 but who are not subject to the full panoply of
21 requirements imposed on broker-dealers. They should be
22 subject to the same requirements as class one finders.
23 Consider, however, not subjecting them to the net
24 capital rule and its attendant books and records and
25 reporting requirements. Instead, and more effectively,

1 they could be required to purchase an appropriately
2 sized fidelity bond. A \$25,000 fidelity bond would
3 provide a far greater fund for defrauded investors than
4 being in a pool of creditors of a so-called nickel
5 broker. Limits could be set on the extent of their
6 activities such as those set forth in the Unlocking
7 Capital for Small Business -- Businesses Act of
8 19 -- 2000, pick your date, now 2025.

9 I just want to differ from Gary in one
10 respect. That bill has always included four levels of
11 gaining the exemption, and they're not all just based on
12 the size of the deal. They could be on the number of
13 transactions, for instance limiting the number of
14 transactions annually to 16. There are four different
15 categories. I suggest that the SEC consider all of
16 them.

17 The states. States could be permitted under
18 any SEC regulation, without totally preempting them,
19 which drives them crazy, to submit a notice filing
20 if -- require finders to submit a notice filing to them
21 if operating in their state, as Gary said, and charge
22 fees to the finders for collecting this information.
23 States would then be in a better position to monitor the
24 finder's activities and exercise their enforcement
25 powers when appropriate.

1 To avoid differing and confusing regulatory
2 regimes, however, states should not be permitted to
3 impose regulations more onerous than those contained in
4 the SEC's regulations that are developed, other than
5 these notice filings. It is not to say that all states
6 have to charge \$200. They can charge any amount they
7 want.

8 MS. DAWOOD: Linda, we want to thank you for
9 your comments. We're running close on time, so thank
10 you so much.

11 MS. LERNER: I just -- one more sentence.

12 MS. DAWOOD: Okay.

13 MS. LERNER: One more sentence. We
14 would -- regulatory clarity is long overdue. We'd be
15 happy to work with the SEC on the formulation of
16 proposed regulation to bring finders under the tent,
17 allay the concerns of other regulators, and enhance
18 investor protection.

19 MS. DAWOOD: Thank you so much. Appreciate
20 that.

21 We're going to hold questions for right now
22 and go right over to hear from Kelley Arena.

23 MS. ARENA: Hi, everyone, and thank you. I
24 think I have slides, but I also know we're close on
25 time, so I'm going to do my best to cut the fat.

1 Founder of Golden Hour Ventures. I'll give
2 you a little context on me and my background just
3 because I think I'm probably the person here that is the
4 accidental finder, so I would like to open myself out
5 for questions.

6 But I do three things under my scope at Golden
7 Hour. One is I do a lot of angel investing education.
8 So a lot of folks will come to me. They're accredited
9 investors. Generally they're not an investor by trade,
10 but they're curious about the private markets. They
11 have some capital to deploy. They're interested in
12 alternative investments.

13 And a lot of the folks that find me are
14 because they're interested in supporting companies that
15 they care about. So, you know, I feel like, you know,
16 I'm going through perimenopause and why isn't there any
17 companies that are innovating in this space? I want to
18 invest in them. Or, you know, people are passionate
19 about women's health or, you know, I'm a black woman who
20 can't find, like, the right foundation shade
21 can -- like, where are the companies that are raising in
22 this space?

23 They come to me because I also have an
24 accelerator where I focus on education in private market
25 capital for very early-stage companies. So these are

1 folks that are already operating. They're post-revenue.
2 Maybe they started with, you know, a small business
3 dream and found some traction and now realize that
4 they're a little bit stuck and they need capital to
5 scale. So often they haven't raised any capital before.

6 Frequently our folks don't have a very big
7 friends and family network, so they -- I call this,
8 like, the rich uncle method of fundraising where you hit
9 up that uncle. Hey, you know, I need -- I need \$100,000
10 to, like, get this idea off the ground. So, you know,
11 those folks in particular I care deeply about and
12 connecting them to the right capital source, whether it
13 be non-dilutive capital, like debt or grants, or the
14 investor landscape, which could be either early-stage
15 enter or angels.

16 And my friend, if you wouldn't mind advancing
17 slides that I've neglected. That's my very serious
18 headshot. You're welcome, y'all.

19 Okay. So again where I sit, I'm the founder
20 of Funder ecosystem, the accelerator, angel education,
21 and then I also am a capital deployer in the way of
22 SPVs. So Gary touched on these generally, but again I
23 found myself to be an accidental finder, definitely not
24 a broker-dealer in a fake moustache.

25 But, you know, having this network of angel

1 investors who I've, you know, found over the years who
2 have come to me for education, access to deal flow with
3 this ecosystem of early-stage founders in the
4 accelerator. And then, you know, I have this huge
5 network of venture capital firms too that will come to,
6 like, what are you seeing out there? You know, we're
7 looking for early-stage, we're looking for the next
8 founder because of the accelerator. You know, I have
9 this network of VC funds.

10 So naturally I, like, sit at this place where,
11 you know, VCs know that I have access to deal flow,
12 angels know I have access to deal flow, and then
13 founders know that I have access to investors, so of
14 course I'm a finder. I never set out to be one, but
15 that's -- that's where I sit.

16 So I really want to speak to that landscape of
17 the folks who never set out to be founders -- finders.
18 They don't necessarily make their living out of placing
19 these communities together, but they do it because
20 they're real community builders and they just live at
21 this intersection.

22 So I'm making warm intros all of the time,
23 generally not compensated for them, but I'm approached
24 by founders all the time that are saying, like, could
25 you give me more attention. I feel like if you sat down

1 and you really understood my deal you could understand
2 what investors in your ecosystem would be the right,
3 what venture funds would care about this, and I would
4 love to pay you in recompense for that effort.

5 Generally because I am familiar with the
6 regulation around it I'm like, well, like it's kind of
7 not what I do. In some cases, though, I will form SPVs
8 around the deal that I particularly believe in, and that
9 I've done deep diligence, and then I'll open up a
10 vehicle, I'll market that to my network of angel
11 investors. I will charge a 2 and 20, and then it's
12 protected under the special purpose vehicle and all of
13 the disclosures and Blue Sky filings that come with
14 that. So that is I would say, like, the go-to work
15 around for people who have, like, the capabilities to
16 actually, like, move real capital.

17 And I can -- I do that to the scale of, you
18 know, quarter of a million to half million dollars per
19 deal, so I'm not -- I'm not moving millions and millions
20 and millions, and I'm certainly not getting rich off of
21 SPVs. But, you know, the point is I get really cool
22 people who wouldn't necessarily have access to these
23 deals but can make huge impact to these founders, like,
24 on to cap tables, and a lot of them might be, you know,
25 venture-backed as well.

1 Next slide, please.

2 So Linda touched on this, so I won't read you
3 a bunch of statistics. But the point is this is not an
4 efficient market. The private markets are not
5 efficient. There's huge barriers between the way
6 capital flows in this market. So less than 2 percent of
7 venture capital goes to women founded companies. I'm
8 sure you're all familiar with the statistic.

9 If you had any kind of intersectionality
10 between race it's dire, right. So, like, less than 1
11 percent of VC is going to black women, Latin X women.
12 It's just -- it's just not happening. And so, like, why
13 is that? I mean, I could spend another 15 minutes on
14 that, but I won't.

15 But really, you know, the traditional VC
16 investor or the traditional angel investor, like, looks
17 one way. They apply their bias to how they select
18 deals. So for me it's really important to engage a
19 different sector of people who may not be connected with
20 the private market traditionally, but they want to be
21 because they care about impact.

22 So that is a huge part of this ecosystem that
23 I think founders -- finders help grease. Also geography
24 is really important. I know -- I know founders who are,
25 you know, in different parts of the country that don't

1 have these blooming ecosystems of tech investors and
2 people getting together to share deal flow and gossiping
3 about the private markets. This is a very gossipy
4 ecosystem, right, like who's got alpha, who's got the
5 hot deal. Like, that is -- that's happening in certain
6 hubs across the country, but if you are not in those
7 hubs then you're several disadvantaged. So, like,
8 having finders that are tapped into that place is hugely
9 beneficial for either underrepresented founders or
10 founders who are living outside of these main hubs.

11 Next slide, please.

12 Okay. So my humble opinion on why regulation
13 should be calibrated here, and I say calibrated because
14 it's happening anyway. So this is where I think
15 regulation can be really beneficial.

16 There's this huge grey area where people are
17 often acting outside of the framework of the law but
18 don't know that they are for one. So that's -- that's
19 problematic in many ways. Two, I think it helps to have
20 some sort of incentive structure to be able to -- you
21 know, for someone to be able to use the power that they
22 have, which is their own communities, their own spheres
23 of influence and superpowers to connect the dots when
24 helpful. And if there's, you know, financial upside
25 then I just think we amplify the power and the impact of

1 that.

2 I had a really important third thought.
3 Right. Just there is a really meaningful difference
4 between Wall Street broker-dealers and people who are,
5 you know, in the market to sell these deals than people
6 like me. And there's so many people like me even in my
7 community that just have these networks. They could
8 easily connect the dots, but they're kind of unsure
9 about how to go about it in a way that makes sense.

10 You talked about equity compensation, I see
11 that happening a lot. You know, folks are, like, hey,
12 bring me a little bit of capital and I'll give you some
13 advisor shares, or just I'll give you some advisor
14 shares just to be involved in the fundraising process
15 and just tell me what you see in the marketplace.
16 There's -- you know, the private markets by definition
17 aren't transparent, right. It's not transparent how
18 capital moves. You don't necessarily have to disclose
19 your cap table. So having people that are just tapped
20 into the knowledge of how the private market works is
21 hugely beneficial to founders.

22 Next slide, please.

23 So I'm in agreement with a lot of your points.
24 I don't know that the activity is as problematic as the
25 dollar threshold. You know, after making your full

1 living by connecting these dots, by moving capital, then
2 there should be some, you know, regulatory framework in
3 place.

4 I want to acknowledge the Commissioner's point
5 earlier about protecting investors. That's an important
6 piece of it to me. It's why I do a lot of angel
7 education. It's an extremely risky asset class and
8 investors should be aware that, you know, 90 percent of
9 startups fail. When you're investing at the earliest
10 stage that investment horizon is five to ten years. So
11 it's the window of getting that capital back is quite
12 long and these are things that investors should know
13 when they're entering this space, and so I'm a believer
14 in disclosures. I do a lot of education around that.
15 I'm disclosing to -- you know, any time I have an SPV
16 and I'm, you know, technically working within that
17 framework, making sure that, you know, folks are
18 accredited, and they understand the risk profile. I
19 think accreditation is one thing, sophistication is
20 another.

21 I also have big thoughts on accreditation. No
22 one needs to be accredited to buy a Chanel bag, but also
23 I help folks that come to me that are really desperate
24 to support a company that they believe in, but they
25 can't because they're not accredited. But again maybe

1 invite me back another day.

2 But really I think that, you know, having some
3 clearly defined rules within this grey area would just
4 kind of take some of the anxiety and question mark out
5 of this activity that's happening anyway, you know,
6 maybe outside of the framework, and often, you know,
7 people not knowing that they're operating outside of
8 that framework, and again, you know, with a particular
9 lens towards supporting founders that wouldn't
10 necessarily be able to access this capital otherwise.
11 It really does stunt innovation, you know, for ideas
12 that I think are really important.

13 MS. DAWOOD: Great. Thank you for those
14 remarks, Kelley.

15 Questions. Jennifer.

16 MS. NEWTON: Well, Kelley, I'm glad that you
17 mentioned the accredited status because that's the
18 question that I had for you. Like, do you see a benefit
19 of broadening the investor type and is there a category
20 of investors out there that are -- don't meet that
21 accredited status but are maybe sophisticated in other
22 ways that could really provide capital and potential
23 revenue to startups that need it?

24 MS. ARENA: Yeah, I really do. I think
25 particularly in the startup ecosystem there are folks,

1 particularly founders, that are, you know, putting all
2 of their own capital into building their own startups.
3 These folks are so tapped in. They really understand
4 the ecosystem, they understand customer acquisition,
5 they understand growth, they understand scale.

6 So to invest in another startup that they find
7 to be really exciting for them, they may not be
8 accredited because of, you know, a cashflow situation,
9 net worth at that moment, but are hugely valuable on cap
10 tables. I see a lot of folks that are early-stage
11 operators that work in startups, and they just have the
12 bug, right. They want to invest in innovation. They
13 want to be a part of something. This is -- a lot of
14 times the capital moving in the space is a little bit
15 outside of financial return, right.

16 There's, like, such other formats of ROI one
17 gets from investing in early-stage companies. You know,
18 it's relationships, it's being, you know, a part of
19 innovation, it's building. So I think that there are
20 many cases where, you know, not being accredited is okay
21 if there was some sort of, like, attestation. Like, I
22 get it. I know I'm not making \$200,000 a year, but
23 here's where I can add value and I believe that this,
24 like, investment would be worth it. It's almost like a
25 sophistication disclosure in a way I think would be

1 extremely useful.

2 MS. DAWOOD: And Erica, I didn't forget about
3 you, but I did for five seconds, so go ahead.

4 MS. DUGNAN MINNIHAN: That's okay. So this
5 question was originally for Gary but, you know, Kelley
6 and even Linda as well, you know, feel free to weigh in.

7 In regard specifically to our contemplation of
8 a recommendation, I really appreciated what Gary sort of
9 put some numbers on around limits as to, like, the
10 number of size. I think he threw out, you know, 10 to
11 \$15 million and below-sized rounds to provide some of
12 these exemptions.

13 But one of the other things that I think is
14 really critical, number one, you know, is disclosure of
15 finder terms so that the investors understand how much
16 of their investment is actually going to a finder fee.
17 And within that what would you think would be a
18 reasonable possible limitation to set on the percentage
19 of cash compensation that a finder might be able to take
20 on behalf of facilitating the investment?

21 MS. ARENA: Do you want me to take that first?

22 MR. ROSS: Sure.

23 MS. ARENA: I think Gary probably has a better
24 point of view here, but I can tell you what I see
25 happening outside of the framework, which is, you know,

1 people will either charge a 2 percent because they could
2 charge that within an SPV structure or a VC structure.
3 So, you know, they kind of look for that 2 and 20 type
4 of structure that they can charge. And I see people
5 that are operating, like, purely as finders, anywhere
6 from, like, a 5 to 10 percent fee on total amount
7 raised, and often with some advisor shares or equity
8 shares too because they want the ultimate upside if
9 they, you know, really believe in the company.

10 And, you know, one thing to add too I
11 think -- you know, to talk about, like, the bad actors
12 in this space and the fraud component, you're highly
13 disincentivized as a finder to bring terrible deals to
14 your network, right. So if I bring a deal to my network
15 and it, you know, goes bust in two years those people
16 aren't going to pay attention to me anymore.

17 So there already is this, like, inherent, you
18 know, moral hazard of, like, wanting, wanting to, you
19 know, choose your deals wisely before you represent that
20 to, you know, your community.

21 MR. ROSS: When I started my legal career I
22 was still seeing the Lehman Scale a lot, which some of
23 you might be familiar with, getting 5 percent on the
24 first million, 4 percent on the second million, 3
25 percent on the third, and so on and so on until you get

1 to 1 percent and then that.

2 Some people say, well, now the Lehman Scale is
3 doubled, where, you know, you get 5 percent on the first
4 2 million and then, I mean -- yeah, 5 percent on the
5 first 2 million, and then 4 percent on the next 4
6 million, and so on. I think that's probably right. I
7 agree with Kelley, it's at 5 to 10 percent. I see that
8 a lot.

9 The management fee of 2 percent, like I said,
10 I mean, a lot of times people are saying, hey, this SPV
11 is going to be going for five years, and it's 2 percent
12 a year, so I'm going to charge you, you know, 10 percent
13 upfront, and so we see that a lot. So I'd say it's
14 around 5 percent, I mean as low as 2, as high as 10.

15 I mean, really -- I mean, 10 seems a little
16 high to me for a finder's fee. I tell people anything 5
17 or above seems kind of suspect. You know, under that,
18 you know, maybe we can that it's, you know, management
19 fee or whatnot. When you start getting 5 and above that
20 looks like a broker commission.

21 MR. BOLEN: I'd like to go back to one of
22 Kelley's --

23 MS. DUIGNAN MINNIHAN: Thank you.

24 MR. BOLEN: I'd like to go back to one of
25 Kelley's slides. Could we pull one up? Would that be

1 possible, the slide on areas of concentration for
2 investment? Yeah.

3 So in your opinion with your experience in
4 this field as well as your expertise, going off of that
5 slide would you say adding this exemption would unleash
6 innovation in economically underdeveloped areas?

7 MS. ARENA: Unleashed feels strong, but I
8 would say that any additional regulations certainly
9 hampers the ability for, you know, connectors to make
10 connection, yes. But what I really see is this
11 happening anyway, right. I think that's the thing I
12 want to emphasize, that this is -- this is happening
13 anyway, not because there's so many people who are dying
14 to be finders, because this is how communities work,
15 this is how relationships work. This is a very much
16 relationship-based way of moving capital. It looks very
17 different than the public markets, right.

18 So, you know, in the accelerator we talk to
19 founders all the time and the biggest thing we advise
20 them to do is to start growing their network because
21 their network is their net worth. So, you know, what's
22 the fastest way to do that is, like, to connect to
23 people who are finders who can kind of bridge those gaps
24 for you, make those warm intros for you. You know, like
25 a warm intro is so much more likely to be responded to

1 if someone is making that connection for you than if
2 you're just cold-blasting people who identify on
3 LinkedIn as an angel investor or an early-stage VC Fund.

4 MR. MARISCAL: Yeah. So I had a couple of
5 questions. So I'm curious, Kelley, how -- so for
6 context, so I lead 2Gether International. It's the
7 largest accelerator for founders with disabilities.

8 And just for context I'm curious, Gary, you
9 mentioned kind of problematic issues on finders, finders
10 fees and finder structures, and Kelley you kind of the
11 opposite, right, like a vehicle that's working. So I
12 kind of gathered from both of your remarks kind of how
13 to go about it, but I'm wondering for clarity purposes,
14 like, what is the distinction between your point of
15 views and where this would intersect. I think that
16 would be useful.

17 And second, Gary, I'm curious, you mentioned
18 that a lot of folks are using finders fee structures
19 perhaps inappropriately, right. And so what are the
20 penalties or challenges both for the investor but also
21 for the entrepreneur?

22 MR. ROSS: I'll take the first one first. I
23 mean, we can talk about special purpose vehicles because
24 that's, that's a big one. As I said if somebody secures
25 a certain allocation in a company, you know, 1 or 2

1 million, and they don't have 1 or 2 million but they're
2 going to open it up and charge economics on it, charge
3 the 2 and 20, that seems okay to me.

4 What I kind of view as against the idea of a
5 fair, orderly and efficient market is sort of the
6 unnecessary SPVs when there's only one or two -- one or
7 two LPs in there. And my specific issue is that that
8 ties the finder and the investor together for a long
9 time, until there's a liquidity event, which could be
10 years and years and years away.

11 Also an SPV, as with any fund, you know, it's
12 typically going to be a Form ADV filing requirement. A
13 lot of times the finder who is a manger of an SPV, they
14 don't want to do a Form ADV, or they'll just do the
15 initial one and they won't do the -- they won't do the
16 annual renewals.

17 So you have a situation with, okay, you didn't
18 violate the broker-dealer rules, but you did violate,
19 you know, generally your state investment advisor rules.
20 So I think that it would just be a lot cleaner and more
21 efficient and orderly just, you know, get what they're
22 supposed to get, a finder's fee, and then move on.

23 Now a finder's fee you're just getting the
24 percentage, you're not getting the upside on the carried
25 interest, so I understand that. But I think a lot of

1 finders would just prefer, hey, go ahead and get the
2 compensation and then you don't have to deal with having
3 an SPV structure and keeping that going kind of for
4 forever and forever.

5 Do you want to go ahead and comment on the SPV
6 part or should we go ahead and -- and then -- okay.
7 Okay.

8 The -- and then the second question was about
9 finder fee of uses was that it?

10 MR. MARISCAL: Yeah, the distinction, right,
11 between what you guys were -- you know, between the
12 different approaches, and then what are the consequences
13 both for the investor and the entrepreneur when
14 those -- when there's violations of that.

15 MR. ROSS: Well, when there's violations,
16 yeah, the investor has a rescission right. They don't
17 always exercise that. I mean, you don't have -- you
18 know, you don't have a lot of people suing in the space,
19 but you have angry letters going back and forth, and
20 I've definitely seen people latch on. I can't say it
21 happens a lot, but people do -- you know, some
22 investor's legal counsel does figure out that there was
23 somebody involved and then they'll get an angry, an
24 angry letter demanding rescission, which people are only
25 going to exercise if they lost their money, right.

1 Nobody is going to want rescission if it's -- if it's a
2 good deal. So usually it's when the company is broke
3 anyway and it just creates, you know, it creates kind of
4 a headache, a headache for everyone.

5 MS. DAWOOD: Linda, do you have a comment? I
6 think you're on mute. We can't hear you.

7 MS. LERNER: I just want to touch for a moment
8 on the issue of accredited investors because part of my
9 heart lies with community investing. I think that
10 there's a way that unaccredited investors can invest
11 safely in these startups, and I think we can overlay the
12 limitations found in Reg Crowdfunding, with Reg CF, to
13 allow them to get in. And this really responds to
14 Jennifer's question earlier, that's how they can get in,
15 limit how much they can put in.

16 MS. DAWOOD: All right. No further questions,
17 it is time for us to break for lunch. So we will back
18 at 1:45 p.m. Eastern Time. Thank you all.

19 (Whereupon, at 12:33 p.m., a luncheon recess
20 was taken.)

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

22 MS. DAWOOD: Welcome back, everyone to the
23 SEC's Small Business Capital Formation Advisory
24 Committee meeting here on July 22nd. We are back and we
25 are going to spend the afternoon having a discussion

1 about some of the amazing speakers that we heard earlier
2 today.

3 We were very fortunate to have such a breadth
4 of knowledge come and talk to us about all the things
5 that were said in the 2020 proposal that did not go
6 through to the Commissioners, and then also three
7 speakers who are working out in the field with everyone.

8 So let's just maybe start off, a couple people
9 I'd love to hear from, how is -- how are you seeing
10 finders out in the world right now? I know, like,
11 George, for example you're crowdfunding space, do you
12 see it -- I know you see it a lot, so maybe just start
13 with that.

14 MR. COOK: Yeah, happy to jump in. I don't
15 see it a lot within crowdfunding. As an entrepreneur
16 myself I see it all the time. I get approached a lot by
17 finders and I don't know how reputable they are. That
18 credibility gap and the fact that it is such a grey area
19 kind of deters me from working with them.

20 I guess my perspective as a founder
21 is -- like, I'm pretty good at small business lending.
22 That's what we do. I am not great at fundraising,
23 right. Fundraising is a job in and of itself. When I
24 think about my company, I hire someone to do our taxes
25 because you don't want me doing our taxes. I hire

1 someone to do graphic design because, trust me, you
2 don't want me doing graphic design.

3 Fundraising is a full-time job. It is hard,
4 it is, I mean, incredibly intensive. And so the idea
5 that you can't really hire someone to help you fundraise
6 seems kind of silly to me. And broker-dealers, I mean
7 for a Series A stage company broker-dealers are not in
8 that space, right. We talk to broker-dealers, and they
9 don't want to get involved with a deal that's under \$25
10 million in size.

11 So when you're talking about a 2, 3, \$10
12 million deal broker-dealers are not playing in that
13 space. So it seems to me like there is real opportunity
14 to let founders build and let them plug into finders.
15 And I think as we discuss what the role of a finder is,
16 you know, the prohibition on not being able to negotiate
17 terms, well that -- that's one of the challenging parts
18 of fundraising. For founders they only ever -- most of
19 them have only ever dealt with the transactions of their
20 own business, so it's hard for them to know what the
21 value of their business is.

22 In terms of supporting sales materials, I
23 mean, I've only ever built pitch decks for Honeycomb
24 Credit. Most -- most of these finders come across pitch
25 decks all the time. They know what goes into a good

1 presentation for a startup.

2 And engaging in due diligence, this kind of to
3 me comes back to this notion of the credibility gap. If
4 finders aren't somewhat selective of who they're working
5 with and doing some of their own diligence then we're
6 kind of back to ground zero.

7 So I'm very excited for this conversation and
8 I think there's tremendous opportunity to bring finders
9 into the ecosystem in a kind of clear, legally defined
10 way to let founders build and get the assistance they
11 need for this entirely different job of fundraising.

12 MR. DILLASHAW: Yeah. So my experience with
13 finders is I think very similar to Gary's. This is
14 something that I see a lot, and very often as a
15 practitioner I'm being asked to sort of what is the way
16 that we can do this because, you know, they can't just
17 pay somebody directly transaction-based compensation.

18 But from a company's perspective they're
19 basically saying, hey, this is somebody that can get me
20 access to investors that want to invest in my type of
21 company, that are appropriate for my type of company.
22 They are reasonably being asked to get something in
23 return for putting in what is a fair amount of work. I
24 think you heard that from Kelley as well. And so we are
25 coming up with ways to try to structure transactions

1 that get compensation to folks in an otherwise
2 regulatory framework that is not clear.

3 So what Gary was talking about, do it flat
4 fee, you know, put it into a fund so you can get a
5 management fee, which really just sort of shifts the
6 issue to the registered investment advisor regulations
7 away from the broker-dealer regulations. But those are
8 real problems. This is a very real issue that I see in
9 my practice. I think this is also something
10 consistently that this committee has heard. You know,
11 you heard, you know, this is sort of, like, decades.
12 People sort of keep talking about this.

13 So I think it's a real issue that the market
14 would benefit from at least some sort of guidance on.

15 MS. DAWOOD: So since we do have all of the
16 information that was put together by our predecessors on
17 this committee back in 2020 are there things from that
18 proposal that people really liked? Did we -- do we
19 think this -- we like this tier one, tier two idea, or
20 are we thinking maybe it would be better to simplify?
21 Are there thoughts on what was proposed in 2020 that we
22 could build on instead of starting from scratch?

23 MS. NIKLASON: Well, you know, I guess I would
24 agree from -- from what Hester Peirce said from her
25 recorded comments and then everything else we heard. It

1 seems like tier one is such a restrictive and narrow
2 category as to be not helpful. I don't know what value
3 it adds.

4 So if it were me I would be thinking, okay,
5 what should tier two look like and how can we make it so
6 that somebody who is a tier two person who can operate
7 under some legal framework without being in the shadows,
8 how can they be genuinely helpful. So to your point
9 about, you know, should they be allowed to help put
10 together sales materials, or, you know, stuff like that.

11 And so, you know, that might -- if it were me,
12 you know, I think I would just focus on what should tier
13 two look like because this is -- this is also about
14 democratization of capital. I mean, you know,
15 investment banks take 6 percent, right. They're allowed
16 to do that, right. But they won't -- but they won't do
17 a small deal, so what is that.

18 MR. BOLEN: I think the tier one is so
19 restrictive that it's impractical. I've made a lot of
20 introductions in my private sector career as well as in
21 my public sector career. It's very rare that I provide
22 just contact information to someone and say, oh, tell
23 them you know me. There's a reputational risk of doing
24 so. You don't know what's going to go into that
25 communication, you don't know what promises could be

1 claimed.

2 So realistically I would imagine we would see
3 kind of an uneven enforcement of tier one. Most folks
4 may play by the rules, but it's so narrow that if they
5 contact both parties later on, it comes up at a dinner,
6 you never know, they're then liable for a very large
7 enforcement penalty.

8 So I would recommend combining tiers one and
9 two and creating a new category of finder, simplifying
10 this.

11 MS. DAWOOD: Yeah. Basically just get rid of
12 the tier space because that was -- that was their
13 proposal. I'm just making sure we're all on the same
14 page.

15 MR. DRAYTON: Marcia, I'd like to simply add
16 that I agree getting rid of tier one. It's hard to have
17 communications without some sort of -- well, it's hard
18 to pass on contacts without communications, it's hard.

19 And I think Kelley said it earlier, and I
20 think Kelley -- Kelley may be for tier one a little bit
21 because she said that she likes to reach out to folks,
22 but she wants the ability to look at the deck, make sure
23 all the marketing material is fine. So I got the sense
24 that she was okay with tier one without the limitations.

25 I've never gotten a deck and -- well, I would

1 simply -- I would more -- I'm more inclined to tell
2 folks send me your deck and then we can have a
3 conversation about who I know within my network as
4 opposed to saying here's some names. There's -- you're
5 leveraging your social, your reputational, and your
6 financial capital when you're making those connections.

7 And I will say that, you know, just
8 between -- during our lunchbreak I checked my email, and
9 I had three finders reaching out with deals that they
10 want to share. I think one of the risks, Commissioner
11 Peirce and I think all of us agree, is that we need the
12 finders, but we need -- we also need the guardrails.
13 But we can't have -- we can't put up -- we can't make it
14 too restrictive that folks don't want to engage.

15 And the last thing I will say, if it's
16 possible some sort of soft registration process. I
17 think Gary said, I think it was Gary, that when he gets
18 a list, you know, he's got links to everyone so you can
19 instantly check the credibility of folks before you will
20 need it. That would be great if folks are reaching out
21 to me. I've got a centralized database with -- and I
22 say soft registration, not nothing that's onerous. You
23 know, this is what I'm doing, these are the areas where
24 I'm focused on.

25 MS. DAWOOD: Erica.

1 MS. DUIGNAN MINNIHAN: Yeah, thanks. Yeah, I
2 very much agree. I mean, I think, you know, one of the
3 things that we want to do is, like, facilitate people to
4 be able to make these introductions aboveboard and feel
5 like they're doing it within, you know, the existing
6 regulation. And I would be thinking as we are looking
7 to make a regulation around areas where we're just
8 making sure that there's a true alignment, you know,
9 between the finders and the investors beyond just, well,
10 if I give them bad deals they won't come back, right. I
11 think, you know, we probably -- you know, we can take
12 that as a given and also make sure that there is some
13 layers on top of it.

14 You know, I would particularly think about
15 potentially limiting the amount of commission on a
16 percentage basis that they could charge because I could
17 very easily see founders, you know, who are in a very
18 desperate situation who might say, okay, great. You
19 know, I'll give you half of the money and then, you
20 know, without disclosures there's sort of expectation of
21 that, very little money actually ends up going to the
22 success of the company and making sure that the company
23 is well capitalized.

24 And beyond that, you know, I do think it's
25 important that there are disclosures to the investors

1 around how the finder is being compensated just as in an
2 investment banking transaction, you know, everyone is
3 aware that they're getting the 6 percent.

4 MS. DAWOOD: Yeah, I think that --

5 MS. DUIGNAN MINNIHAN: I think that was one of
6 the differentiating, you know, missed checkmarks on tier
7 one is that it doesn't require the written disclosure.
8 So, yeah, I think that's, that's key if we're going to
9 lump folks together.

10 MS. DAWOOD: Uh-huh. I mean, when I think
11 about finders I'm thinking about just the fact that they
12 are getting compensated for the money that they're
13 raising, like a direct compensation. I mean, we heard a
14 bunch of workarounds that people are using today, the
15 SPVs, the consulting fee. I hear that all the time.

16 And so how can we get it to a point where
17 instead of the workarounds, to your point Erica, like
18 everybody is on board of knowing because, like, if I'm
19 an angel investor I don't want to -- or any investor, I
20 don't want to be investing in a company that's going to
21 use the money that I'm investing in the company to pay
22 back taxes, to pay off some kind of debt. I also don't
23 want it to go to a finder unless I know upfront that
24 that's what's happening and how much, right.

25 So I think it's to your point, like, you don't

1 go have somebody else -- you don't do your taxes
2 yourself, right. You have -- like, it has to be a
3 little bit more legitimized. So, like, what -- what can
4 we realistically do to put those guardrails around so
5 that we can say, okay, if you're going to accept
6 compensation this is what really needs to happen in
7 order for the investor to feel comfortable?

8 Vincent.

9 MR. CORDERO: No, I was just going to say
10 that -- that I think the disclosure aspect is right. I
11 think -- I doubt anybody will disagree with that. It's
12 been said by a few people.

13 I think the percentage is interesting. I
14 mean, generally I've -- you know, if you're out there
15 it's happening, and I've seen, like, 2 to 4 percent is
16 what I've seen myself. So, you know, if you want to say
17 a threshold you could say, you know, no more than 4
18 percent I think is probably right, and I think even Ross
19 had said that, you know, anything above 5 for him was
20 kind of concerning.

21 So just from a standpoint of what's out there
22 I've seen, you know, I've seen to 2 to 4, and that's
23 over a long period of time.

24 MS. DUIGNAN MINNIHAN: And Vincent, just to
25 really quickly weigh in on that number, and George you

1 might be more familiar with this. I think that for the
2 smaller deals, you know, what I was seeing when I was a
3 little bit more exposed to that area was that it was
4 around 7 percent for the crowdfunding platforms that
5 were doing, like, a million.

6 MR. CORDERO: I'm talking about ventures
7 specifically. I'm talking about VCs.

8 MS. DUIGNAN MINNIHAN: Yeah, correct.

9 MR. CORDERO: So VC it's 2 to 4 is what I've
10 seen, and I think that's really --

11 MS. DUIGNAN MINNIHAN: Yeah, yes.

12 MR. CORDERO: -- you know, it is what it is.

13 But again, you know, at the same time, you
14 know, people should have a right to negotiate what they
15 negotiate. So I'm all for -- you know, it's like not
16 trying to get into other people's business of their
17 business and how they -- how they do it, but I'm just
18 saying what I've seen. I'm not necessarily saying there
19 should be thresholds on it.

20 I do think that this is something that, you
21 know, again going back to some kind of first principals
22 of what we've talked about for some time is that we're
23 trying to democratize the marketplace. We're -- you
24 know, we have to recognize that the private market is
25 now -- you know, it's different than maybe it was five,

1 ten, definitely twenty years ago. It's very much its
2 own marketplace.

3 And, you know, Commissioner Uyeda, you know,
4 referred to this from a standpoint that if, you know,
5 that marketplace needs to be a very fluid marketplace,
6 both entry and exit. And so if you want to have that
7 capacity then, you know, I think these are kind of some
8 of the players that help create that kind of ecosystem
9 of fluidity.

10 So I'm very much an advocate for, you know,
11 anywhere we can kind of take off the shackles. Mind you
12 they're -- you know, we clearly need to have some
13 guardrails, but in many cases, you know, I'm sure people
14 here are more knowledgeable than I and some guest
15 speakers would tell you, and they alluded to it, there
16 are already guardrails elsewhere, so we don't
17 necessarily need to be duplicative, and we don't want to
18 add new, you know, kind of burdensome, you know,
19 prohibitions or requirements, you know, that may not be
20 additive.

21 So, you know, I think it's great if we can,
22 you know, allow these kind of new class of -- you know,
23 to acknowledge and kind of let this new class of I would
24 say market players and resources both to investors and
25 founders to kind of come out into the light from the

1 shadows and, you know, support -- support that, that
2 kind of new capital that would flow from that activity.

3 So it's more just saying that I think that,
4 you know, as I -- and I read -- when I read through all
5 the materials in preparation, you know, it's like -- I
6 think I asked Ross, you know, I think that
7 there's -- what's been done in the past was kind of
8 tinkering with certain things. I would recommend we
9 kind of take a fresh look at it and say where the market
10 is today, what do -- what would we propose. You know,
11 again, let's not have any legacy infrastructure there to
12 work with, you know, what would we propose for something
13 like this, to really get the best out of it, you know,
14 for everyone.

15 And I know there was, like, \$15 million
16 thresholds, and \$30 million thresholds. There were a
17 number of deals. You know, for me I see that so
18 honestly very limiting and very burdensome. So I
19 just -- I would say let's just take a fresh look would
20 be my recommendation and really kind of try to empower
21 these market players instead of inhibit them.

22 MS. DAWOOD: So let's just say 2 to 4 percent,
23 we can debate that exact percentage later, but then what
24 would the limit be to raise 5 million, 10 million, 25
25 million? What --

1 MR. CORDERO: Well, I mean, so when we're
2 talking -- you know, again I'm speaking from a venture
3 standpoint. You know, seed -- you know, seed rounds
4 you're talking, you know, 5, \$10 million range. You
5 know, you're seeing Series A's, you know, in some cases
6 20 to \$50 million. So I'm just saying at that early
7 stage, you know, I think -- and if we're talking about
8 opening capital to players who would otherwise maybe not
9 have access or difficult access and, you know, clearly,
10 you know, that's probably earlier stage than later
11 stage, but at the same time I'm sure these, you know,
12 finders could be very helpful even in later stages too.

13 I think, you know, Robert alluded to something
14 in terms of the type of capital raising needs that he's
15 seen out in the marketplace. So, I mean, honestly I
16 would -- yeah, I just -- I'm always, at least on my
17 side, again understanding that there are other
18 guardrails and other protections in other places, I'm
19 always more to --

20 MS. DAWOOD: So instead of -- so instead of
21 putting a dollar amount around it maybe say something,
22 like, the raise that comes from finders can only be a
23 certain percent of your raise?

24 MS. BOWERS: Just kind of a question for the
25 room. I'm curious for those of you who interact with

1 finders sometimes and have that relationship when are
2 they usually coming into the mix when you're thinking
3 about it from the company issuer perspective, sort of to
4 build on kind of getting some more information about
5 what Vincent is getting to?

6 MR. DRAYTON: I've seen them come in as late
7 as Series A. I haven't seen any beyond that.

8 MR. DILLASHAW: Yeah, I'd say primarily it's
9 the early angel, generally pre-VC, because once you tap
10 into the VC networks those are pretty robust
11 connections. But there are people that do it for the
12 VCs also.

13 MR. CORDERO: Remember, family offices will
14 play into this. A lot of connections -- that's what I'm
15 saying. So see -- I would say comfortably through
16 Series A. Because you're still tapping into -- you
17 know, you're talking about in some cases 5 to \$10
18 million checks, if not more.

19 MR. DRAYTON: Yeah.

20 MR. CORDERO: And that's feeding into, you
21 know, a 20, to 30, to \$50 million round up and through
22 Series A.

23 MR. DILLASHAW: Yeah, I would agree with that.
24 I'd say -- and again the bell curve it sort of peaks at
25 that sort of angel pre-VC level, but it definitely

1 extends. And frankly there are folks that can connect
2 you to the highest echelons as well. Mostly you're kind
3 of in the broker-dealer world at that point, but
4 it -- it spans the whole scope.

5 MS. DAWOOD: Dennis and then Erica.

6 MR. SUGINO: I think Erica was first.

7 MS. DAWOOD: Oh, Erica and then Dennis.

8 MR. SUGINO: Go ahead, Erica.

9 MS. DUGIGNAN MINNIHAN: Okay. Sorry, I was
10 saying you could go ahead, but I'll go.

11 So, you know, one thing that I was just going
12 to mention and, yes, I love that, you know, we're
13 talking a little bit around, you know, what would the
14 typical deal size look like for somebody to use an
15 unregistered finder, right, like a non-broker-dealer
16 finder. You know, I agree. I think it would be
17 generally for transactions that are on the smaller side,
18 particularly rounds of 5 million or less, but maybe, you
19 know, to sort of include a wider range, probably rounds
20 of 10 million or less.

21 And, you know, just on the expectation around
22 the fee side of it, so certainly in venture capital,
23 right, to use a finder to raise capital for a venture
24 fund it's generally a 2 percent fee, right, which is one
25 year of management fees essentially. But in my

1 experience if we're talking about actual portfolio
2 companies the fee ends up being a bit higher, right. If
3 somebody helps you raise \$1 million, you know, they're
4 probably not going to do all of that work for 20 grand.
5 They're going to want, you know, closer to 5 percent
6 there.

7 So, you know, sort of two different asset
8 classes simply because, you know, people raising for
9 venture funds know that this is kind of like a fees on
10 fees situation and we're already -- you know, we're
11 basically sharing some of our management fee in the
12 future with them.

13 So just a thought to consider as we're trying
14 to get our minds around, like, who are the majority of
15 people that would fall into these categories as clients.

16 MS. DAWOOD: Dennis.

17 MR. SUGINO: So this whole issue of finders is
18 new to me. I'm an institutional guy, and so I've not
19 had a lot of dealings with them, so my question might be
20 a little, a little naïve.

21 But why isn't this a broker-dealer issue? I
22 mean, I've heard some people say the cost structure is
23 too high, the size is too small, or maybe the margins
24 aren't big enough. But you could size a section of your
25 firm, like Major League Baseball you could have a minor

1 league, and so you could -- you could put together a
2 group that, you know, mainly the structure will work,
3 will work for this particular product, couldn't it?

4 MR. DILLASHAW: To date the market has not
5 done that. The -- yeah, I'm sure we could sort of dig
6 into the reasons and whether or not that's opportunity
7 cost or compliance cost. But I will say the market as
8 it exists right now is the brokers they just won't go
9 down into that level. My suspicion is because there's
10 too much overhead and the cost is not worth it.
11 But -- but, you know, again to date it's not happening
12 in the broker-dealer world. I don't know all of the
13 reasons why.

14 MR. CORDERO: Yeah, I would say generally
15 those broker-dealers are looking, like, you know, plus
16 100 million essentially for the deal flow that they're
17 looking for, Dennis. I mean, they're looking at a deal
18 where they're, you know, out in the marketplace trying
19 to raise 100 plus. I mean, I could be wrong, but I
20 think generally that's kind of directionally right.

21 MS. NEWTON: Yeah. I was just going to add I
22 think what Kelley explained, I don't think that's the
23 paradigm. I think what she's been seeing is that there
24 are community organizations that organically function
25 this way, where they serve as intermediaries. And so,

1 you know, they create relationships and serve as, like,
2 connectors.

3 And so they probably wouldn't want to go down
4 the broker-dealer regime because it's just -- it's
5 onerous and it's -- you know, it requires, you know,
6 having a huge compliance overhead, and it probably
7 wouldn't be feasible for that kind of paradigm, at least
8 that she's -- she's seeing, and I think from what I'm
9 seeing with a lot of the early-stage startups. They
10 would most certainly benefit from having someone or
11 resources that can facilitate connections, and networks,
12 and especially accredited investors. They usually don't
13 have access to a whole list of references or investors
14 that can provide significant capital.

15 And so having folks, whether they're in the
16 community or individuals that could potentially provide
17 those connections would be incredibly resourceful. I
18 don't know that the tier one introduction would be of
19 any value to what some other folks have mentioned. I
20 think, you know, it doesn't -- it's akin to just having
21 a database of contacts or LinkedIn introductions. You
22 might as well just, you know, start there.

23 But I think there is some value in at least
24 the tier two structure in terms of the type of
25 compensation. One of the things that I've seen

1 with -- at least in the private placement world, is
2 folks who are serving as a connector, or finder, or
3 accidental finder, how Kelley put it, sometimes they get
4 equity, and I think that was something that someone
5 mentioned as a potential to consider in terms of
6 compensation structure, looking at equity as an
7 alternative to transaction --

8 (Audio drop.)

9 MR. BOLEN: -- where someone would have 50
10 percent of the company as a finder fee because that
11 contract wouldn't execute. If you're looking at a deal
12 and you can see that your finder is getting 50 percent
13 of whatever that deal is then it's just not going
14 to -- it's not going to execute and they're not going to
15 get it anyway.

16 So if you have let's say a 5 percent cap for
17 this -- whether we do tiers or category, they're going
18 to remain reasonable so long as there is a disclosure
19 process in there because the accredited investors
20 reviewing this will know the red flag of, wow, that's 40
21 percent to make this transaction happen. So I don't
22 feel there is a need.

23 MS. NIKLASON: Yeah, I guess I would also add
24 I agree. I think that limiting the ways in which
25 finders can be compensated does put limitations on how

1 much this would democratized and used. You know, so
2 obviously I believe the stock should be an option, and
3 again as was raised earlier I think by Erica, for a
4 smaller raise, for half a million or a \$1 million, 2 or
5 4 percent is not, is not going to cut it. You're not
6 going to get much value from \$20,000.

7 So, you know, I agree with Vincent that taking
8 a fresh look at maybe the items in this column and say,
9 you know, how relevant should they be to a tier two
10 finder. You know, certainly I would agree that, you
11 know, tier two finders who are not broker-dealers should
12 not handle customer funds or securities, probably
13 shouldn't because they're not a bank.

14 You know, I think there is some clear things
15 where could all agree, say, yeah, you know, if you're
16 not a registered broker-dealer you probably shouldn't be
17 doing that. But yeah, I think taking a fresh look at it
18 makes sense.

19 MS. DAWOOD: So along those lines then what
20 about the marketing materials? That was one of the
21 things I thought was pretty interesting about what Gary
22 said. You know, he's like, hey, if I look at a pitch
23 deck I'm not going to forward it on if it doesn't look
24 good, right. So at what point then do you become a
25 finder even if you're not taking compensation, you know.

1 So, like, what -- how do we feel about a finder being
2 part of that?

3 Erica and Dennis. Do you still have your hand
4 up or no? Okay, Erica.

5 MR. SUGINO: Well, I wanted to finish my
6 comment.

7 MS. DAWOOD: I'm sorry. Go ahead, Dennis.

8 MS. DUGIGNAN MINNIHAN: Yeah, I --

9 MR. SUGINO: So -- so I guess I'm hearing from
10 folks here they're a little pessimistic about maybe
11 opportunities that broker-dealers to have their cost
12 structure adjusted to make it more feasible for them to
13 participate in this area?

14 MS. NIKLASON: Yeah. I think we haven't seen
15 that. I mean, I've raised personally amounts of money
16 ranging from half a million dollars to \$245 million and
17 I can tell you that the banks I've worked with would
18 never help me raise half a million dollars under no
19 circumstances.

20 MR. SUGINO: Well, what about 5?

21 MS. NIKLASON: No way.

22 MR. SUGINO: No way, okay. Thank you.

23 MS. DAWOOD: Erica.

24 MS. DUGIGNAN MINNIHAN: Yeah. So, you know, on
25 the marketing materials, right, it's a really good

1 question because, you know, while I agree with you, you
2 know, I mean we could all say obviously we want to be
3 able to say to, you know, a company, hey, you know, here
4 are the things you need to provide, here are sort of the
5 level of professionalism it needs to reflect. You know,
6 as we think about why that might be there in the first
7 place is perhaps to discourage the idea of finders, you
8 know, producing these materials themselves and just
9 making sure that there's something in place to be sure
10 that everything that the finder has sent comes with the
11 reps and warranties of the company, right, so to
12 prevent, you know, the possibility that a finder could
13 kind of whip up some things, making statements about the
14 opportunity, about the company that perhaps, you know,
15 the company was not internally generated. You know,
16 they do a transaction and they're kind of new free of it
17 and then, you know, years later the investor is saying,
18 hey, you told me x, y, z was going to happen or, you
19 know, that you had this.

20 And, you know, they're, like, we didn't even
21 make those.

22 So, you know, I think if I'm trying to think
23 about why it's on the list it's probably to prevent some
24 of that behavior, which feels like it could be really
25 common if someone is very incentivized to try to get a

1 deal done, you know, is to make changes to make it look
2 appealing as possible, that now the issuer would
3 technically not really have ultimate responsibility for.
4 So I thought that --

5 MS. NIKLASON: But it isn't -- isn't that
6 fraud?

7 MS. BOLEN: Yes.

8 MS. NIKLASON: So is that not --

9 MS. DUIGNAN MINNIHAN: I mean, it is, right.
10 But, you know, I think what I'm pointing to here is that
11 once the transaction has sort of happened now, you know,
12 instead of the company itself being liable you've sort
13 of got this independent person, you know, who may or may
14 not be able to make restitution to you. So I think it's
15 creating a little bit of a fold there for that activity
16 to happen. So just something for us to be thoughtful
17 of.

18 MR. DILLASHAW: Piggybacking all that, I think
19 another aspect of that that Gary mentioned on is also it
20 means that there would be direct communication between
21 the company and the investor, which certainly affording
22 the realm of early-stage VC. I do think that is
23 something that would cut down on fraud or
24 miscommunication when, you know, when the issuer has
25 direct communication with the investor. So I think a

1 side benefit of telling the brokers that they're not
2 allowed to manipulate the message is also you're
3 creating that direct one. So I think it's not exactly
4 the same issue, but I think it's related.

5 MR. BOLEN: That would -- that would still be
6 fraud if they manipulated the terms of the company to
7 make it more enticing for an investor. And I'd like to
8 point out the investor isn't buying it from a tier one
9 or tier two finder. So you don't have that third party
10 liability from the example. It wouldn't exist. It
11 would be they're coming to the table under circumstances
12 which are fraudulent. They would have to be discovered
13 before anything is signed or any money changes hands
14 because that's how -- that's contract law, that's UCC.

15 So it really just comes back to fraud, and
16 we're seeing the same fraud protections across all three
17 categories. I don't believe an additional guardrail is
18 needed.

19 MS. DAWOOD: But what about the finder that
20 makes the pitch deck look better or, I mean, not in a
21 fraudulent way but just to enhance what the company is
22 talking about? Do you -- are you saying you think that
23 they should be allowed to do that, or they should not?
24 I'm just trying to clarify.

25 MR. BOLEN: Is the question whether they

1 should be allowed to make the changes themselves or to
2 say to the company, hey, you've got two type of --

3 MS. DAWOOD: To say to the company, but that
4 would -- either way it would still make them involved in
5 the marketing materials, right?

6 MR. BOLEN: I would argue a finder is
7 marketing the company, whether for their benefit or the
8 company's, and it would not be unreasonable for them to
9 say, hey, you have a typo in this, just so you know.

10 MS. DAWOOD: Oh, Erica. Sorry.

11 MS. STEVENS: Wendy.

12 MS. DAWOOD: I said Erica.

13 MS. STEVENS: All right. I'm just going to
14 weigh in on this tiny issue. In my world words matter.

15 So when we're using the word "participate"
16 what does that mean? So what Gary described this
17 morning if you -- he read it, he read it for clarity, he
18 read it. He found some typos. To me that's not
19 participating. To me the company prepared it.

20 And I also live in a world of disclaimers.
21 Like, I would expect that the document said this was
22 prepared by the issuer. And so, you know, maybe
23 participate isn't the right word. You know,
24 maybe -- maybe there's some other word that we should be
25 using. But I didn't -- his description to me, and I

1 also agree with what Robert said, to some degree it's
2 not that he's promoting it, but he's also living on his
3 reputation that's not going to hand over a piece of
4 garbage to somebody who might be interested in
5 investing.

6 So -- so I think the word needs to be played
7 with, but the activity is going to be in a spectrum.

8 MS. DAWOOD: I think that's what you were
9 saying, right, Robert?

10 Erica, did you have a comment? No, sorry.

11 And then, okay, so I think we've kind of
12 established that about marketing. But what about in the
13 due diligence process itself?

14 MR. DRAYTON: I'm not the attorney here, but I
15 see -- they mentioned the limits on the structure of the
16 transaction, preparation of docs, due diligence, and
17 financing advice. I think a finder will want to do all
18 of those things. They all fit in that marketing sales
19 bucket from my perspective.

20 MR. CORDERO: Yeah. And that's exactly right
21 because I think in most cases, I mean Gary -- I think
22 all three referenced it. At the end of the day for the
23 most part the way it functions organically is people are
24 connecting you with people that you know.

25 And again on the reputational basis, I mean

1 she alluded to it, she was, like, you know, if I
2 burn -- if I burn a relationship, or if a relationship
3 gets burned through a referral it's not that, you know,
4 things -- some things are going to work out, some things
5 aren't, but getting burned is something else, right. If
6 I make a bad intro, you know, that person is never going
7 to trust me again.

8 So I think for the most part the way -- it's
9 really about people connecting people within their
10 network. I mean, everybody has kind of alluded to that.
11 And, you know, I think at the end of the day the biggest
12 thing for me is just that disclosure aspect, and I would
13 say everything else, truth be told, I think should be
14 left to whatever is, you know, agreed to between the
15 parties. If someone has some recommendations for how to
16 enhance a, you know, a piece of material that's going to
17 help market that company, I mean I -- you know, I would
18 just kind of let it be, meaning let the parties decide
19 what they want to decide and just whatever is agreed to,
20 you know, just disclose it.

21 As long as that's there, I mean, I think for
22 the most part everything will take care of itself, and
23 then you'll have these other safeguards and guardrails
24 elsewhere that I don't think we need to kind of try and
25 recreate three tiers of the wheel here.

1 MR. DILLASHAW: So I'm curious as to what the
2 other guardrails are. So one thing that I heard that,
3 in sort of legal speak what I hear is no general
4 solicitations, meaning you can only introduce to folks
5 that you know, which sort of prohibits the let's get on
6 late night TV and have an infomercial or, you know, a
7 pump and dump scheme type of stuff.

8 So I think -- and I think that was one of the
9 messages that we heard, which also dovetails in with our
10 offering exemption where we're talking about these angel
11 roles, largely 506(b) for sort of our previous one. I
12 think one other aspect of that that is somewhat related
13 would be do we want to limit it only to accredited
14 investors within the network, right. Is that -- that
15 sort of dovetails with this general solicitation
16 widespread or within a 506(b) realm, and then the other
17 guardrails that you're talking about that would provide
18 sort of limitations against fraud or bad actor.
19 What -- what were you thinking of as those limitations?

20 MR. CORDERO: Well, I mean, the disclosure,
21 the -- I think within the network of people you know, so
22 it's not a general solicitation, I think that's right.
23 You know, I mean, I -- a part of me -- because again a
24 couple of the speakers spoke to it and, you know, I like
25 the idea of having more people be able to participate,

1 right, so accredited, unaccredited. I mean, but at the
2 same time, you know, if the committee was, like, you
3 know, we need to have something here, let's keep it to
4 accredited because we are already making an exemption, I
5 mean that's -- I understand that, that's fine.

6 But I -- beyond that, I mean, I don't know
7 what other -- what other things would you want to put on
8 it? Because I -- because I think this is -- for me the
9 only thing when I see this, like some of the things that
10 we talked through in prior conversations,
11 it's -- there's a -- there's a lot of kind of trying to
12 create a very tight box and the marketplace doesn't
13 quite function that way generally speaking. So I'm just
14 saying that outside of, like, the disclosures within
15 your network if you want to -- you know, the accredited,
16 that's -- right.

17 MS. DAWOOD: So kind of going back to what
18 Robert said earlier, so if I'm thinking about all of
19 this are we talking about, like, marketing and diligence
20 really is on the owners. It's -- it's the issuer that
21 needs to be the one to give that information and a
22 finder should not be manipulating, I guess might be a
23 good word, to change any of that or have it be any
24 different, right.

25 And then when it comes to the general

1 solicitation point I would agree that, no, there
2 shouldn't be general solicitation, but I also think it
3 should go back to whether or not the company -- how the
4 company is filing their offering. So if they're a
5 506(b) offering then the finder needs to stay within the
6 parameters of the 506(b) offering just like they would
7 with the marketing materials being from the issuer not
8 from the finder. And then if they were, happened to be
9 a 506(c) offering then general solicitation is allowed
10 and that would be a different story.

11 So I see the finder being beholden to how the
12 offering is being made. Do people agree with that?

13 Wait, wait, wait. Okay, so my next question
14 then is -- and we touched on it a little bit earlier,
15 but I can see where this would be a very sticky topic,
16 which is about should the definition of a finder be
17 limited to "natural persons" and should it be limited to
18 "natural persons" in the U.S.?

19 Talk amongst yourselves. No, I'm just
20 kidding.

21 MR. DRAYTON: Marcia, while folks are talking
22 amongst themselves as you just directed them, I just got
23 a tangential question. Today was the first time I heard
24 about the Small Business Act of 2025. Does anyone
25 else -- was it new to anyone else other than

1 those -- it's new to you as well? Does that play a role
2 in anything we're discussing here or just put that in
3 the parking lot for later? You ever heard -- no one has
4 ever heard of it?

5 MR. DILLASHAW: I've heard of it. There's
6 always some version of it every year.

7 MR. DRAYTON: Okay.

8 MR. DILLASHAW: It's kind of deregulate. If
9 it gets passed as law then it would create an exemption,
10 or an open window, or eliminate it. So it is relevant
11 to this discussion to the extent it gets passed.

12 MR. DRAYTON: The parking lot.

13 MR. DILLASHAW: So parking lot.

14 MR. DRAYTON: Parking lot.

15 MS. BOWERS: And let me add on too, remember
16 part of the role of the committee is making
17 recommendations to the Commission and Congress. So when
18 you're thinking about the fact that Congress is
19 considering different pieces of legislation I think what
20 this committee talks about in regard to finders might be
21 something, you know, that catches their attention as
22 they're moving down. So just to add that into the mix.

23 MR. BOLEN: I want to go back for a second to
24 the natural person only in the U.S. To the best of my
25 knowledge the U.S. cannot have a regulatory enforcement

1 really materially affect someone in another country
2 where there is no jurisdiction. I mean, you could kind
3 of tether that, but it would be in a -- it would be a
4 very odd process to try to create an enforcement network
5 for such a thing. So --

6 MS. DAWOOD: I guess it was more for what if
7 there was a natural person, would they have to be a
8 resident in the U.S. or, like, what if somebody was
9 coming into the U.S. to operate here and they are not a
10 resident.

11 Anyway, back to -- let's start with just
12 natural persons.

13 MS. NEWTON: Yeah. So I initially brought it
14 up because I was thinking about the backdrop of AI and
15 some of the technology and innovation around autonomous
16 agents and the use of platforms and various types of
17 technologies that might be potentially operating in this
18 space to serve as a connector, facilitator of
19 opportunities in the investor space.

20 And so in light of this proposed exemptive
21 order we should probably just think about that
22 innovation and how it would impact that definition. I
23 think it's something that is being considered with
24 regard to various other types of regulations pertaining
25 to cryptocurrency, and DeFi, and considering who

1 is -- who is operating some of those platforms. So
2 maybe that's how you would approach it here, right.

3 So if it's an autonomous agent that is acting
4 as a finder then perhaps, you know, we would look at
5 who -- is the operator the person. So it just requires
6 a lot of thought process because there is a lot of
7 innovation and technology happening that we just
8 definitely want to consider when we're talking about
9 natural persons in this day and age.

10 MR. CORDERO: The one thing I would say on
11 that is I don't want a robo finder. I get enough,
12 enough emails and telephone calls all day as I'm sure
13 everybody here does for a variety of things. So -- and
14 if the idea is a connector connecting you with their
15 network it's different than, you know, I think something
16 artificial reaching out on a mass basis.

17 But having said that I want to -- you know,
18 you want to utilize technology to help in the process,
19 but I just -- like, I guess the only thing I -- I guess
20 in some way so it could help create more capital onto
21 the capital market, but it just feels a little bit
22 more -- you know, it feels a little bit more on the
23 general solicitation framework. It feels a little bit
24 more in the robo finder framework and I don't know that
25 that was the kind of spirit in which we were talking

1 today about this.

2 MR. DILLASHAW: So I think that's a good
3 issue. My suspicion in the initial drafting, and I
4 won't speak on behalf of the stuff, is that really what
5 they had in the back their mind was more it's an
6 individual or an entity with the distinction being the
7 entity wouldn't have the transparency, and for issues
8 like fraud, you know, you could hide -- you could use a
9 limited liability shield in an entity to hide around
10 fraud.

11 So without knowing my guess is that was more
12 what they were getting at than some of this -- the
13 newfangled stuff, which should still be addressed but
14 may fall into the --

15 MS. NEWTON: Yeah. I think that the order
16 preceded, like, just the evolution of technology and
17 where we are today. And so I just think that it's
18 something that we would have to continuously explore and
19 understand the technologies that are being developed,
20 especially, you know, in the DeFi space and, you know,
21 even off chain.

22 So -- because there -- there is a lot of
23 innovation happening in this. Any time you're talking
24 about, like, marketing, referring, connecting, there's a
25 lot of potential there for -- whether it's just leverage

1 AI or what they classify as a GenTech AI, where there
2 are autonomous agents that have the intelligence and the
3 ability to source through, and not just do it on a robo,
4 but a much more effective way. Yeah, not an advocate of
5 AI here, but just, you know, just throwing it out there.

6 MS. BOWERS: Jennifer, can I put you on the
7 spot a little bit if you can answer. Do you know what
8 some of those technologies might look like? Can you
9 give us a little bit more insight without --

10 MS. NEWTON: Sure, sure, I can just throw
11 some, some of the things that I've seen percolating. So
12 I think that there is the ability of technology
13 platforms to develop on-chain and DeFi platforms, AI
14 technologies that can -- to source opportunities within
15 a platform space that they create, so like a separate
16 world in the DeFi space that allows people to transact
17 and conduct transactions.

18 And so a part of that I think is the
19 opportunity to leverage AI agents to act on their
20 behalf. And so one of the questions that has come up
21 with regard to those technologies are these brokers, are
22 these finders. And so because those questions are still
23 percolating, you know, folks are wanting to explore and
24 innovate in that regard. But there's a lot of
25 uncertainty around that, and so it -- I think it

1 involves conversations that we're having, but also in
2 some of the areas where it might be more prevalent,
3 especially on-chain.

4 MS. NIKLASON: Sorry, one other thing on the
5 natural person thing that actually just occurred to me,
6 and it was based actually on something that Dennis said.
7 You know, why don't -- why don't investment banks have a
8 little side arm that does this. You know, my guess is
9 that if we did not limit this to natural person, that if
10 we created a pathway that was much less regulated,
11 investment banks would do this probably.

12 Yeah. So -- and maybe -- maybe that's fine.
13 Maybe that's fine. Maybe that contributes to
14 democratization. So I just wanted to advance that.

15 MS. STEVENS: Couple of things. What I get
16 out of this is naturalized -- natural person is an
17 actual term that's used, and this regulation follows.
18 You know, if we're going down artificial intelligence I
19 think that would not be part of this regulation or could
20 be, you know, could refer to other regulations.

21 But my question for you is in the
22 circumstances that you're talking about is there a
23 natural person at the top of the food chain? You know,
24 is there a human who is managing the AI and --

25 MS. NEWTON: Yeah, and that's what I think it

1 might come down to is the operator, right, and figuring
2 out who owns the platform. But then it can get -- it
3 can get complicated even with that because there could
4 be an entity that owns the platform.

5 So -- but again not to overcomplicate the
6 issue, I just wanted to identify it because I
7 do -- there are some technologies emerging, especially
8 with soliciting finders, referring, recruiting,
9 brokering, just -- and so -- and AI has the ability to
10 do those things, especially autonomously under the
11 operation of a platform. And so it may not be here now,
12 but it's probably going to come soon.

13 MS. STEVENS: Soon. It's a really important
14 point in 2025 for sure. I mean, this regulation is
15 generally about accountability, so that will need to be
16 explored at some point, but I don't think that should
17 prohibit moving forward with this regulation.

18 MS. BOWERS: Okay. And building on
19 Wendy's -- and again I apologize because I'm sure some
20 of this is my lack of knowledge. So is it even -- so
21 thinking about this sort of box they've created with AI,
22 is it even possible to identify the natural person or if
23 it's an entity sitting at the top?

24 MS. NEWTON: I think it depends how they
25 structure it, but I think -- you know, if -- if there is

1 a person that owns the platform that's the easiest way
2 to identify the owner. But there might be, especially
3 on-chain, a different multi-layered ownership structure
4 because platforms can be owned by communities, and DAUs,
5 and it can get complicated there. But there's
6 definitely a way to identify the owner or owners and
7 that might be a way to kind of, to get around this.

8 So at the end of the day it's -- it will
9 likely lead to a natural person, which, you know, may
10 be -- is consistent with, you know, having this be
11 limited to a natural person that can be identified.

12 MR. BOLEN: I don't know how you would -- so
13 if you did a natural person only that wouldn't prevent
14 this hypothetical AI from doing it, it just wouldn't let
15 you hold them accountable. So that's kind of the
16 difference, because you wouldn't then have a set of
17 enforcement actions associated with that. So if you
18 were to say, oh, a tier one finder can only be a human
19 being you're not stopping a chatbot from making an
20 introduction and getting a commission. You're just
21 saying that's not a tier one finder.

22 MS. DAWOOD: So how do you prevent that? Can
23 you prevent that?

24 MR. DILLASHAW: I think the question becomes
25 who is getting the commission. My suspicion is there's

1 probably a human somewhere getting paid.

2 MS. DAWOOD: Yeah. Yeah.

3 MS. NEWTON: And it's probably the platform,
4 so it's probably going to be whoever owns the platform.
5 But that's a great point because that's -- that's what
6 it comes down to. It doesn't mean that the AI agent
7 can't operate, it just means that they would not fit
8 this definition.

9 And so, you know, there's a -- there might be
10 there's a loophole there that folks will go through. So
11 it's just something to consider.

12 MS. DAWOOD: All right. What were some of the
13 other pieces then of -- let's take tier one out of this.
14 I think we've kind of all determined that.

15 So the first thing that was on the -- in the
16 proposal before was about the natural person,
17 transaction-based compensation. I think we talked a
18 little bit about accredited investor, but I think we
19 were basically saying if it's an offering by the company
20 it has to be, like a 506(b) for example, and they have
21 to be accredited then that would be the case, right.

22 MR. COOK: Well, the --

23 MS. DAWOOD: But is there any instance where
24 we would think that non-accredited investors could be
25 approached by finders, like a broker-dealer, yeah,

1 registered brokers can? Go ahead.

2 MR. COOK: I mean, it's interesting to think
3 about if we're talking about they could use whichever
4 exemption, and they just had to follow the rules of that
5 exemption, I don't see why Regulation Crowdfunding would
6 be off the table. I don't know if there's a scenario
7 where the economics do make sense in Regulation
8 Crowdfunding, but if they're following all the rules of
9 Reg CF it would seem to me they could also apply there.

10 MS. DAWOOD: Okay. So then you're saying you
11 just don't know if it would make sense from the
12 standpoint that they'd paying the finder and then they'd
13 be paying the platform in your scenario?

14 MR. COOK: Correct. Right, yeah.

15 MS. DAWOOD: Yeah.

16 MR. DILLASHAW: Yeah. And I think that then
17 does dovetail back to the general solicitation question.
18 So if the underlying exemption allows for general
19 solicitations do we want to allow brokers to do general
20 solicitations?

21 MR. COOK: Finders.

22 MR. DILLASHAW: Finders, sorry. Yeah, not
23 brokers to do a general solicitation, or do we think
24 that is a significant guardrail for the finders that we
25 wouldn't to encourage them to venture into general

1 solicitation lanes?

2 MR. CORDERO: My own gut is that if it's -- a
3 finder probably shouldn't be doing general solicitation.
4 It's, like, instinctually I feel that way
5 because -- but -- because then there's something else.
6 If they're doing that then there's probably something
7 else.

8 MR. DILLASHAW: That's where my gut is as
9 well, but I think it's -- I think it's part of the
10 discussion in terms of the parameters and I think that's
11 part of the discussion so --

12 MS. NEWTON: I was going to say that's an
13 interesting question. What if they are not receiving
14 compensation? Because, like, in Kelley's instance she
15 was talking about how some of the connections and some
16 of the relationships that she's connected her
17 entrepreneurs with she's done it -- she hasn't received
18 any compensation at all.

19 And then she -- she did mention that there was
20 that class of potential capital out there where they're
21 not necessarily -- they don't fit that category of
22 accredited status, but they might have the ability, or
23 they may be invested in the specific venture or the
24 unique business proposition. And so there was all that
25 opportunity that, you know, that doesn't fall neatly

1 under the accredited status and there might be a way to
2 allow organizations that don't receive any kind of
3 transaction-based compensation but are really doing this
4 kind of work just because that's what they do. That's
5 part of being community builders and connectors in the
6 community, and accelerators, folks that like to connect
7 folks with people that can potentially help with, you
8 know, their entrepreneurial needs. I think that might
9 be one of the ways where, you know, it could be
10 something to look at where we allow general solicitation
11 for organizations that aren't really for profit, but
12 maybe they're in the space just to facilitate
13 connections and relationships.

14 MR. BOLEN: If you don't receive compensation
15 can you -- are you still a finder?

16 MR. DILLASHAW: That is an excellent question.

17 MS. NIKLASON: You're just a friend.

18 MR. DILLASHAW: Well, so --

19 MS. NIKLASON: A connection, right.

20 MR. DILLASHAW: Yes, you can -- pardon me on
21 this. I believe in the marketplace it is generally
22 viewed that if you are not getting transaction-based
23 compensation that you would not be considered a finder
24 or a broker. To my knowledge there has not been
25 definitive guidance on that point. Maybe somebody else

1 knows of some. So I think it is a generally accepted
2 position, but I can't point to the statute that says
3 that definitively.

4 MS. DAWOOD: It's a good point, though.
5 Erica.

6 MS. DUIGNAN MINNIHAN: Yeah, absolutely. So,
7 yes, it -- you know, what we're kind of discussing to
8 day is this idea of allowing a certain category of
9 people who would be wanting to get transaction-based
10 compensation to perhaps be able to operate under some
11 exemptions. If you are not taking any sort of
12 commission or transaction fee, or you're one of these
13 local groups, you're free to organize, you know, and
14 make introductions. You're now not under the specific
15 regulation that a broker-dealer would be under.

16 So those folks can already do this level of
17 introductions. You know, whether or not they're allowed
18 to somehow participate in facilitating a general
19 solicitation the company would be also responsible for
20 making sure that they're operating under regulations
21 that permit general solicitation, like, period.

22 So, you know, I think what's
23 important -- like, I feel like we're exploring a lot of
24 different topics today, but I also think it's really
25 important for us to, you know, sort of focus into the

1 specific issue at hand around, you know, folks who would
2 like to be able to take a commission, are currently
3 unable to, and the fact that broker-dealers generally
4 will not service clients that are doing fundraises of,
5 say, less than 20 to \$30 million, you know, or probably
6 \$20, how do we fill in that gap economically.

7 MS. DAWOOD: Yeah. And I think, you know, so
8 far we've talked about a lot of the things that were
9 listed in the proposal from 2020. The one thing that we
10 really haven't touched on yet is how do we think that
11 this would need to be disclosed. Like, what -- what is
12 the -- so if we're saying that -- so far what I've
13 gotten from this, and you guys can correct me if I'm
14 wrong, that as long as the company is -- and the finder
15 is abiding by the offering of the company, so again
16 506(b), they have to do all the things. 506(c), they'd
17 then be allowed to do more things, the marketing
18 material, the diligence is being issued directly from
19 the company, that the finder is not creating their own
20 essentially.

21 So I think we've talked quite a bit about
22 that. If there's anybody that does not agree with what
23 I just said please speak. But I think the real thing
24 then, to your point Erica, is, like, how do we then say
25 it's okay for somebody to take compensation,

1 transaction-based compensation for these introductions.

2 And in my opinion part of what we heard today
3 is that we really need to know through a disclosure of
4 some sort what is going. I know I as an investor would
5 want to know if there's a finder involved that I'm not
6 even a part of, but I'm an investor in that company,
7 like, so I think there's disclosures on both sides. The
8 finders have to be able to disclose, but then I think
9 the people who are also a part of the company -- the
10 company has to be on the up and up too about what's
11 going on. But I would love hear thoughts on them.

12 MR. COOK: I think what Gary Ross recommended
13 was having something within the Form D, which seems to
14 make a lot of sense to me. I think that helps reduce
15 some of the asymmetric information here, right, like to
16 build a trusted marketplace of finders, to be able to
17 see -- to look someone up and see what deals they were
18 associated with and the outcomes of those deals, that's
19 how you build trust in the market.

20 So -- and that's -- a Form D is getting filed
21 for every one of these raises, so it seems like a
22 relatively easy place to insert this.

23 MR. OORLOFF SHARMA: I have a question if I
24 may. How scrupulous are issuers at filing Form Ds? You
25 know, do they all file Form Ds when they're supposed to?

1 MR. SHARIFI: No, they do not. We
2 have -- yeah, we have a lot of clients that come to us,
3 and they've had prior raises or whatever, and they don't
4 have Form Ds on file. As a law firm if a client comes
5 to us we're filing a Form D for them, but a lot of
6 issuers do not.

7 So that's one reason why I think it's a good,
8 a good thought from Gary, but I don't think in practice
9 we're going to have full information or the information
10 that we think we should have.

11 I think -- this is just a thought, and I think
12 Herbert had mentioned it, but some sort of soft
13 registration or something that these finders could put
14 on file with the SEC that allows them -- that allows the
15 SEC to scrutinize, or regulate, or somehow keep
16 oversight on these finders might be a protection for the
17 investors but also helps create some level of trust or
18 certainty among the finders. Because as it would stand
19 we wouldn't have any information on the finders aside
20 from maybe a link in the Form D.

21 So maybe if it's centralized and the SEC is
22 actually keeping a database, they have to have certain
23 credentials or something else, something else that
24 qualifies them, it might add a level of trust to who
25 these finders are because I think the underlying fear is

1 these unscrupulous actors, these wolves of Wall Street
2 that are going to call, and to help avoid that maybe
3 having an extra step of registration. I don't how much
4 of a burden that is or what that would look like, but
5 maybe it would help limit or curtail some of the
6 potential downsides.

7 MR. CORDERO: Yeah, I'm -- I would -- myself I
8 don't -- I wouldn't recommend that. I would say again
9 from the way I'm thinking about it these finders are
10 going into their own network. So when you talk about
11 building trust that trust is preexisting within their
12 own network. So it's not as if you're trying to build
13 market trust in this person and the market is unaware of
14 this person. This person's kind of marketplace
15 relationships that they've leveraging for the given
16 startup is their own given network of people that they
17 know and have dealt in the past with.

18 Well, that's more applicable if it's somehow
19 general solicitation in my mindset versus within your
20 own network. But --

21 MR. DILLASHAW: The one caveat I would put on
22 that is you need this ability from the issuer side as
23 well, which may not -- which may not have the -- that's
24 where the blind spot may be, not on the -- within the --

25 MS. DAWOOD: Robert, then Erica, then Wendy,

1 and then Laura.

2 MR. BOLEN: All right. So just going back for
3 a second. If we do make them register in advance of a
4 transaction or credential we're just -- would you not
5 then just be creating two tiers of registered brokers,
6 which in my mind is separate and distinct from the
7 example proposed earlier, which was a record of
8 transactions in the past, soft registration following a
9 transaction. Which if I understand correctly Gary's
10 point was someone says, oh, I've done a dozen of these,
11 and you can look them up and you can say I see no other
12 transactions under this person. So that wouldn't be a
13 hurdle in advance, it would be accountability and
14 oversight following success as a finder.

15 MS. DAWOOD: Erica. You're on mute.

16 MS. DUIGNAN MINNIHAN: I press hand lower
17 instead of unmute.

18 So, you know, to me the one thing that I think
19 would be critical is that the finders, you know,
20 disclose to the investors in writing, you know,
21 preferably --

22 (Audio drop.)

23 MS. DUIGNAN MINNIHAN: -- behalf of the issuer
24 and that they are being compensated in x, y, z manner by
25 the issuer. You know, to me I think that's somewhat

1 important so that, you know, folks just know from the
2 very beginning that I'm a representative of the company
3 and technically working for them. You know, I am not
4 your agent, and just to really have that clarity.

5 MS. STEVENS: Okay, so I'm struggling with
6 what's already in regulation and what is being proposed
7 for regulation, but I will figure that out.

8 The question that I had for both of you is
9 isn't this Form D already required?

10 MR. SHARIFI: Yes. It's required, yes, but
11 it's not always filed. It's not --

12 MS. STEVENS: Right. So I didn't know what we
13 were proposing since it's already required. That's
14 where my struggle is. It's already required. Are we
15 looking for greater enforcement or are we looking for
16 Kelley's suggestion is there needs to be more education,
17 so people understand what the requirements are, what a
18 finder is, some of the things that we're talking about.

19 MR. SHARIFI: So the Form D is going to be
20 filed for any security. So it's going to have all the
21 information about the raise, not just with respect to
22 the finder. So the finder is just one line item in this
23 Form D, and a lot of times that's just going to be blank
24 right now because there is no framework, legal framework
25 for finders. So a lot of times unless there's a

1 registered broker, which is going to be rare again
2 because of the deal sizes we're talking about under Form
3 D and things like that, so what we're talking about,
4 we're just not going to see a lot of that finder line
5 will just be blank.

6 MS. STEVENS: And reject the form. That --

7 MR. SHARIFI: Well, and right now it's just
8 commission amount, so it wouldn't have the identity.

9 (Audio drop.)

10 MR. DILLASHAW: And right now nobody ever pays
11 a commission because that would be illegal broker-dealer
12 activity.

13 MS. NIKLASON: No, the only thing I was going
14 to emphasize is that -- and I agree with Erica here, I
15 think that -- I think that for finders having a suitable
16 list of items that they disclose to investors early in
17 the process and also, you know, a list of either
18 disclosures or whatever to the people who are flowing
19 them to the sponsors. You know, I think if you have
20 that in place then you can create this tier of, you
21 know, this single tier of finders that so long as
22 they're, you know, operating in good faith and with
23 suitable disclosures I think it's -- I think you could
24 do that without creating a tremendous amount of burden,
25 and make it very clear, and bring people into the light.

1 MR. COOK: My only point on that would be I am
2 100 percent in favor of making sure that finder fees are
3 disclosed to issuers. I would say as an entrepreneur
4 before I would agree to work with a finder I would make
5 them prove to me that they could actually get me
6 introductions before I'm signing a contract with them.

7 And so I don't want to be overly prescriptive
8 on saying, oh, you must be in contract with a finder
9 before they can actually do any work with you, so just
10 thinking about how the market might settle itself.

11 MS. DAWOOD: Yeah, that's a little bit -- I
12 was a little bit confused on that too with the Reg D,
13 because when they file that at the time of the offering
14 and what if they started working with a finder later.

15 MR. SHARIFI: Are you talking about the Form
16 D?

17 MS. DAWOOD: I'm sorry, Form D.

18 MR. SHARIFI: Oh, yeah. So Form D you would
19 file it after your first capital commitment.

20 MS. DAWOOD: Oh, got it.

21 MR. DILLASHAW: So 15 days.

22 MS. DAWOOD: 15 days, okay.

23 All right, so then back to disclosure if I'm
24 hearing what we're talking about. We're basically
25 saying that we would want the finder to disclose to the

1 potential investor that they're a finder, that they're
2 working with the company, and that they are getting
3 paid, getting a transaction-based compensation for
4 working with the company, right?

5 But George to your point, you're saying that
6 you would want to know the history of the finder or if
7 they're able to find what they are finder-ing?

8 MR. COOK: I think the implication was that we
9 would require someone up front before the intro happened
10 to disclose it to an issuer, or to a funder. I would
11 say maybe it happens later in the process because I
12 don't know the finder and the entrepreneur might -- and
13 the issuer might not be in contract before some of those
14 introductions happen.

15 MS. DAWOOD: Oh, I see, I see. Okay.
16 So -- so -- but what about introduction wise? But what
17 about before they actually -- before funds
18 are -- before --

19 MS. NIKLASON: Right, before the transfer,
20 before money moves.

21 MS. DAWOOD: Yeah, before money moves is what
22 I'm trying to say. Okay.

23 Other pieces of the disclosure. We're talking
24 and we just lost half our team here. That's okay.
25 We're about -- we're about out of time for today anyway.

1 So -- okay. So let me just see if I can wrap
2 this up and everybody can tell me if I'm on the right
3 track, all right.

4 So we like the idea of having an exemption for
5 finders as long as they are beholden to the offering of
6 the company and they abide by the rules of the offering
7 of the company. That includes marketing materials,
8 diligence, general solicitation if not allowed, and we
9 would want said finder to disclose before any money
10 changes hands that they are getting a transaction-based
11 compensation for bringing the parties together. Did I
12 have that right?

13 (No verbal responses.)

14 MS. DAWOOD: Okay. My job here is done. No,
15 I'm just kidding. Okay.

16 So is there anything else that we missed here?
17 The one thing that -- so with the written disclosure to
18 investors being required we would then say that that was
19 something -- so we would basically -- if we're looking
20 at what was proposed in 2020, and I'm just using this is
21 a guide because they did obviously talk a lot about this
22 too, we would just take away the tier one idea and say
23 this is finders exemption, right.

24 And the time that we would have the written
25 disclosure to investors would be before there was any

1 closing within the offering. All right.

2 Well, then shall we say that we're going to
3 continue this conversation in November and maybe even
4 come back with some type of recommendation. But in the
5 meantime until our November 4th meeting, which hopefully
6 we'll back in this room together, we mull this over,
7 think about it, and then we can come back together with
8 a little bit of structure around that.

9 If in the meantime people end up talking to
10 others we can bring that up at the next meeting and have
11 a little bit more discussion.

12 Everybody okay with that? All right.

13 MS. NIKLASON: Can we get an electronic
14 version of this so that we can mark up this last page?
15 Do we have it?

16 MS. HASSELEY: Yeah, it's right -- it's part
17 of the preparatory materials. You got a copy of those.

18 MS. NIKLASON: Got it. Sorry.

19 MS. HASSELEY: Yeah. Sorry.

20 MS DAWOOD: Excellent. And I would like to
21 just say thank you so much to Courtney and Stacey for
22 helping to facilitate today. Everything that we saw
23 today was definitely helped through their office. We
24 got to hear some amazing speakers. They were extremely
25 informative.

1 And I would also like to thank the committee
2 for your participation, and we will see you on November
3 4th. And so now I move to adjourn the meeting.

4 (Whereupon, the meeting was adjourned at 3:00
5 p.m.)

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REPORTER'S CERTIFICATE

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I, Lee Ann Tardieu, reporter, hereby certify that the foregoing transcript of 178 pages is a complete, true and accurate transcript of the testimony indicated, held on July 22, 2025, at Washington, D.C. in the matter of: SMALL BUSINESS ADVISORY COMMITTEE MEETING.

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

Date: 7/29/2025

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