## Speech

# Remarks to the Economic Club of New York

Chairman Jay Clayton

**New York, N.Y.**

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Thank you for having me and thanks to those who have contributed to today's event—in particular, the Economic Club, Chair, Marie-Josée [Kravis], President, Barbara [Van Allen], as well as panelists Bob [Pisani] and Harold [Ford].

I am grateful to be back. The Economic Club is where I gave my first public speech as SEC Chairman in July 2017. In that speech, I discussed the principles that would guide my SEC Chairmanship.[1] I believe we—and "we" is important to me—have followed those principles. We—our exceptional Division and Office heads and the approximately 4,400 dedicated women and men, who are the SEC—have accomplished a substantial amount.[2] Yet, let there be no doubt. There is more to do.

My remarks will proceed in three parts. First, an overview of some of our recent initiatives. Second, some observations on our efforts to combat offshore corruption, including the undesirable effects of a continuing lack of global coordination and commitment in this area. And third, a discussion of some of the current market issues we are monitoring. In addition, because this is the "Economic" Club, and more because I enjoy acknowledging the insights the field of Economics has provided us, I will mention some of the economic tenets and related luminaries we reference from time to time. For example, when we discuss issues of leverage and capital structure more generally, I will turn to our Chief Economist, S.P. Kothari, and say something like "Miller Modigliani."[3] Generally, S.P. smiles back. I know better than to ask if he's just humoring me.

Before I go further, I should note that my views are my own and do not reflect the views of my fellow Commissioners or the SEC staff.

## Recent Initiatives

### The Main Street Investment Advice Market—Preserving Access, Choice and Competition While Increasing Protection

In June, the Commission adopted a package of rulemakings and interpretations designed to enhance the quality and transparency of retail investors' relationships with investment advisers and broker-dealers.[4] This comprehensive package brings the standards of conduct and required disclosures of financial professionals in line with what a reasonable investor would expect. Said simply—from discount brokerage, to internet advisers, to full service commission brokerage, to a wrap fee combination of advisory and brokerage—(i) financial professionals cannot put their interests ahead of their client's or customer's interests; and (ii) they must tell their clients and customers, in plain language, the scope of the services they provide and how they are paid for these services.

This approach also is in line with the candor and commitment that sophisticated, institutional investors have long demanded and received. The combination of candor and consistent client commitment not only provides clarity and comfort on an individual level, it may foster competition and better pricing on a market level. This is fundamental economics—Vilfredo Pareto, Milton Friedman, Eugene Fama, Paul Samuelson, and my personal favorite as a student, Kenneth Arrow[5]—would all tell us that: (i) reducing opacity in pricing, (ii) adopting rules that can be observed efficiently and are enforced generally and predictably and (iii) otherwise providing for the ability of consumers to "shop" will improve consumer outcomes. Personally, I remain in awe of the combination of mathematical aptitude, market awareness and social optimism these luminaries possessed.[6]

Our final rulemaking package was the result of an organic process, drawing on the experience and expertise of our staff as well as input from an array of market participants—including from seven investor town halls around the country where, in an unscripted, take-any-questions environment, we heard directly from investors. We have continued these town halls.[7] I am so grateful to our staff for bringing long overdue regulatory rationality and clarity to this important market, which encompasses some 43 million American households.

## Main Street Investors — Revitalizing Our Public Capital Markets and Ensuring Main Street Access

I just spoke about the power of choice, competition, and clear, investor-oriented rules in investment services. However, in the absence of access to a meaningful range of investment opportunities, those key principles have less impact. This is an issue of growing concern. I'll explain. We now have two segments in our capital markets. One, public markets: mainly exchange-listed equities, and Treasuries and other classes of debt securities, including municipal bonds; and Two, private markets: private equity and venture capital investments and certain classes of debt securities.[8] Twenty five years ago, the public markets dominated the private markets in virtually every measure. Today, in many measures, the private markets outpace the public markets, including in aggregate size.[9]

Now, I'll invoke a common critique of economists—Harry Truman, and many others, have longed for a one-handed economist.[10] This issue needs multiple hands. I will attempt to use only two. On the one hand, the breadth, depth and nimble nature of our modern private capital markets—which is both unrivaled and coveted around the globe—has substantially contributed to the competitiveness of U.S. firms and the performance of the U.S. economy more generally. We should not impair this important source of capital formation. On the other hand, (i) we have roughly half the number of public companies we had twenty years ago; (ii) growing companies are staying private substantially longer; and (iii) public equity markets—e.g., IPOs—are being used more for liquidity by venture capital and private equity investors than for accessing new growth capital.[11]

The problem is, Main Street investors generally have access to only one hand—our public markets. They have extremely limited, and in many cases costly and otherwise less attractive, access to our private markets. This should surprise no one.

For a host of reasons, including our approach to regulating participation in these markets, the marginal cost to companies of including individual investors—other than perhaps "friends and family"—in private offerings is high. On the other hand, because individuals generally can commit substantially less capital than professional institutional investors, the marginal benefit to companies is low. Willing buyers and willing sellers cannot connect efficiently.

This is where I turn to S.P. and say "George Akerlof" "Market for Lemons." I love to cite this work in the area of information costs and other asymmetries. Akerlof explained why, for a long time, the used car market included mostly bad used cars—or "lemons." Because you could not tell a good used car from a bad used car, buyers assumed all used cars were bad and priced them accordingly. In turn, because buyers offered only "bad car" pricing, sellers offered mostly bad used cars.[12] This problem has been partially solved by incentive alignment and information gap bridging techniques, including enforceable used car guarantees.

I believe this situation—both the public hand and the private hand—should be addressed. We should: (i) increase the attractiveness of our public capital markets as places for companies to raise capital, and (ii) increase the type and quality of opportunities for our Main Street investors in our private markets.

On the public market hand, our Division of Corporation Finance, led by Bill Hinman, can boast many recent initiatives designed to increase the attractiveness of the public markets while maintaining or enhancing our unparalleled commitment to investor protection. I'll rattle off a few—(i) modernizing financial disclosure rules for business combinations and debt offerings, (ii) expanding key JOBS Act initiatives to more public companies, and (iii) recognizing that one size does not fit all, permitting scaled disclosures.[13] Last month's proposal to modernize core disclosure requirements also recognizes the significant changes that have taken place in our economy in the last thirty years, including that (i) firms vary widely—again, one size does not fit all—and (ii) intangible assets, and in particular human capital, often are a significant driver of long-term value in today's global economy.[14] In 1988, the largest 500 U.S. companies had a ratio of intangible assets to market capitalization of 8.5 percent—that ratio was 29.7 percent in 2018.[15]

Before I turn to our efforts to broaden investor access to our private markets, I want to make a point about our public markets. There is a product that we utilize countless times a day, has almost incalculable social value and often is overlooked or at least taken for granted. That product is market prices. Prices for stocks, bonds and other assets, generated by markets that are transparent, information rich and fair, are of immense value to our economy. They are—to cite Paul Samuelson again—"public goods."[16] Generally, once prices are published, we can all use them. Like light houses, they are in economic speak "non-excludable" and "non-rivalrous."[17] In most cases, I cannot keep you from using price information and my use of price information does not affect your ability to use that information.

There is more. Main Street investors can be confident that public company stock prices reflect the views of professional investors. This is the rare kind of "free riding" that economists adore and that underpins Burton Malkiel's "Random Walk Down Wall Street" and the rise of passive investing.[18] On the other hand, from the perspective of firms, managers making long-term decisions—such as whether to invest in human capital, equipment and research—rely substantially on metrics that are themselves dependent on today's public market-generated pricing information. These include EBITDA multiples and cost of capital estimates that, somewhat ironically, are essential to the efficient functioning of our private markets.

Now, Congress and the SEC have long sought to expand Main Street access to our private capital markets while preserving investor protection. Recent initiatives include (i) Regulation Crowdfunding, (ii) expanding Regulation A, and (iii) lifting the ban on general solicitation for Rule 506 offerings under Regulation D.[19] These various efforts have had benefits, but they also have added new patches to an already patchwork regulatory framework that remains rooted in income and wealth tests for investor access.

We are taking a fresh look at this framework, including examining whether appropriately structured funds can facilitate Main Street investor access to private investments in a manner that ensures incentive alignment with professional investors — similar to our public markets — and otherwise provides appropriate investor protections.[20] Stay tuned.

## Other Initiatives

Please note the common theme running through the work I have outlined so far—serving the interests of our long-term Main Street investors. We have a number of other initiatives underway that share this theme, including (i) modernizing our regulatory approach to investment funds,[21] (ii) increasing transparency in the corporate and municipal bond markets,[22] (iii) examining and improving our equity market structure[23] and (iv) increasing efficiency, transparency and accountability in the area of proxy voting.

In the area of proxy voting, areas that may benefit from additional Commission attention include: (i) our proxy "plumbing"—how shareholder votes are actually cast and counted, (ii) our framework for company-shareholder engagement, and (iii) the role of proxy advisory firms.[24] I look forward to considering the staff's recommendations in these areas in the coming months.

Building on decades of experience and extensive engagement, last month the Commission took an important, level-setting first step. We (i) issued guidance about the proxy voting responsibilities of investment advisers and (ii) provided an interpretation clarifying that proxy voting advice provided by a proxy advisory firm generally is a "solicitation" under our proxy rules.[25] Neither the guidance nor the interpretation changed our rules. The guidance emphasized longstanding and straightforward principles and rules: (i) voting is important; (ii) to the extent investment advisers take on voting responsibility for their clients, duties of care and loyalty apply, and (iii) while third parties can be engaged to assist advisers in discharging their duties, that engagement does not lessen those duties.[26]

## U.S. Enforcement of the Foreign Corrupt Practices Act (FCPA)

Turning now to the effectiveness of our efforts, together with our colleagues at the Department of Justice, to combat offshore corruption around the globe. For the past two plus decades we have vigorously enforced the Foreign Corrupt Practices Act or "FCPA." The SEC has brought nearly 80 FCPA cases in the past five years alone, involving alleged misconduct in more than 60 countries.

To be clear, I believe this is important work. Corruption is corrosive. We see examples where corruption leads to poverty, exploitation and conflict. Yet, we must face the fact that, in many areas of the world, our work may not be having the desired effect. Why? In significant part, because many other countries, including those that have long had similar offshore anti-corruption laws on their books, do not enforce those laws.[27] Couple this unique enforcement posture of the U.S. with: (i) the fact that U.S. jurisdiction generally is limited to areas where U.S. and U.S.-listed companies do business; and (ii) the reality that there are countries where the business opportunities are attractive but corruption is endemic, and the potential for undesirable results becomes clear.

Let's go to the economists. John Nash, Jean Tirole—and many of the other greats who developed and applied game theory to economics and regulation—could tell us a lot about the strong incentives for other countries not to enforce vigorously offshore corruption laws against their companies.[28] Assume a hypothetical country with business promise, but endemic corruption. If all other countries pursue the common, cooperative, morally grounded policy—or "strategy" in game theory terms—of not allowing their companies to engage in offshore corruption, the country with widespread corruption may change its practices and cross-border business would be conducted competitively and on the up and up. However, when this cooperative, anti-corruption strategy is being pursued by others, the benefits of playing a non-cooperative strategy are great, particularly if your company is the only one who is "cheating"—your company "wins" the lucrative offshore business with no competition.

This is not a new observation.[29] Speaking generally, the response to this observation has long been to acknowledge the need for greater international cooperation and cite a few isolated indicia of improvement. Speaking for myself, I have not seen meaningful improvement.

To be clear, I do not intend to change the FCPA enforcement posture of the SEC. We should, however, recognize that we are acting largely alone and other countries are incentivized to play, and I believe some are in fact playing, strategies that take advantage of our laudable efforts.

Taking a step back, this experience, including the FCPA-driven withdrawal of U.S. and U.S.-listed firms from certain jurisdictions, illustrates that globally-oriented laws, with no, limited or asymmetric enforcement, can produce individually unfair and collectively suboptimal results. I assure you that this reality is at the front of my mind when I engage with my international counterparts on matters where common, cooperative enforcement strategies are essential, including the recent calls for greater securities law-based regulation of environmental and social issues.

## Certain Market Issues We Are Monitoring

In the remainder of my time, I'll discuss the state of our corporate debt markets, the pending LIBOR transition and Brexit. I would note that related to each of these issues, the Commission strives to coordinate with our regulatory counterparts in other jurisdictions and not venture out of our lane.

## Corporate Debt Markets

In the United States, outstanding corporate debt stands at almost $10 trillion and now sits at almost 50 percent of GDP.[30] To quickly round out the picture, federal debt is approximately $22 trillion, mortgage debt is over $15 trillion, municipal debt is almost $4 trillion, and student loan debt is approximately $1.6 trillion.[31] Those are numbers that should attract our attention.

Two more facts: (i) debt securities accounted for approximately 62 percent of money market fund assets (i.e., liquidity-oriented products) as of the first quarter of 2019, which is close to its peak of 64 percent;[32] and (ii) low investment grade and high yield debt have been trading at some of the lowest spreads since the financial crisis.[33]

Should we be surprised about these debt levels and the increase in debt held by mutual funds, CLOs and other vehicles? Emphatically, no. Should we be cognizant of the growth in corporate debt, who holds that debt and the potential ramifications for our markets and our economy? Emphatically, yes.

Domestically, and particularly internationally, corporate debt growth has been fostered through a decade of accommodative monetary policies.[34] We want businesses to hire and invest and consumers to spend, and globally we are using favorable interest rates and other tools to encourage that behavior. Contemporaneously, global regulators have encouraged banks to hold less debt, particularly less low- and sub-investment grade debt. The result: more corporate debt and a greater percentage held outside banks, including by funds.

But, if this is not at all surprising, should we worry? To be clear, I am not sounding alarm bells –many economic indicators are strong.[35] But, it is my job to worry, so the question for me is where should we focus our attention? Before I discuss those areas, for balance, I will provide a few comforting facts. Recently, the U.S. has seen its balance sheet and GDP ratio stay flat and actually start to decrease in the past three years as it has slowed and stopped quantitative easing.[36] Other advanced economies' ratios of central bank balance sheets to GDP—including those of the EU, Japan, and the UK—have continued to increase as they continue to aggressively intervene in the capital markets.[37] In addition, for the past few years, the size of the mortgage, student loan and municipal debt markets has been generally flat in relation to GDP.[38]

Turning to areas of focus, we certainly should monitor (i) the size of corporate debt in aggregate and by industry, (ii) the location and type of holders, and (iii) credit quality. And we should consider the likely actions of market participants if market sentiment or other circumstances change. We should recognize what prices and price movement in the corporate debt market are telling us. For example, on a total return basis, the upside has become more limited while the downside has not improved.

Together with our fellow regulators, we should also monitor banks' exposure to non-banks through, among other things, (i) credit lines to investment funds, (ii) clearing banks' supply of balance sheet capacity to permit client clearing, (iii) banks' exposure to funds through derivatives, and (iv) overlapping portfolio holdings and holdings susceptible to similar liquidity shocks. We also should monitor flows into and out of credit funds, and various portfolio characteristics, including concentration, liquidity and leverage.

On these and other topics, I am pleased to note that the level of interagency coordination, particularly among the Treasury, Federal Reserve, CFTC, OCC and FDIC, has been strong and, I think, helps all of us to better understand the broader trends and market implications. I am particularly grateful to Secretary Mnuchin, Chairman Powell, Vice Chairman Quarles, former Chairman Giancarlo, Chairman Tarbert, Comptroller Otting and Chairman McWilliams for their efforts to work candidly, cooperatively and proactively.[39]

## LIBOR

Finally, I wanted to give you a brief update on some of the Commission's work relating to the LIBOR transition and Brexit, which I identified as key macroeconomic risk areas last year.

LIBOR is expected to cease publication after the end of 2021.[40] There are approximately $200 trillion in notional transactions referencing U.S Dollar LIBOR, and the Federal Reserve estimates that more than $35 trillion of these

obligations will not mature by the end of 2021.[41] This is not a small issue, and it will not resolve itself. In July, the SEC Staff issued a statement emphasizing the importance of this issue for market participants of every type. [42] I will say again, market participants should assess their exposure to LIBOR and decide how to actively manage that risk, and they should ensure that any contracts that extend beyond 2021 either (i) reference LIBOR and have effective fallback language or (ii) do not reference LIBOR.[43]

## Brexit

The Commission also continues to closely monitor the potential effects of Brexit on markets and market participants. Here, I encourage our issuers, financial services firms and other market participants to fight off the complacency and fatigue that is endemic to situations of this type. I encourage you to continue to prepare for—and reasonably inform your investors of—the potential impacts of Brexit. At the SEC, we continue to work with our domestic and non-U.S. counterparts to identify and plan for potential Brexit-related impacts.[44]

Thank you very much for inviting me to speak today. I would be happy to take questions.

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[1] Chairman Jay Clayton, Remarks at the Economic Club of New York, July 12, 2017, https://www.sec.gov/news/speech/remarks-economic-club-new-york.

[2] Our Division and Office heads include: William Hinman of the Division of Corporation Finance; S.P. Kothari of the Division of Economic and Risk Analysis; Stephanie Avakian and Steven Peikin of the Division of Enforcement; Dalia Blass of the Division of Investment Management; Brett Redfearn of the Division of Trading and Markets; Pete Driscoll of the Office of Compliance Inspections and Examinations; Martha Miller of the Office of the Advocate for Small Business Capital Formation; Sagar Teotia of the Office of the Chief Accountant; Kenneth Johnson of the Office of the Chief Operating Officer; Jessica Kane of the Office of Credit Ratings; Peter Henry of the Office of Equal Employment Opportunity; Danae Serrano of the Office of the Ethics Counsel; Robert Stebbins of the Office of the General Counsel; Carl Hoecker of the Office of Inspector General; Raquel Fox of the Office of International Affairs; Rick Fleming of the Office of the Investor Advocate; Lori Schock of the Office of Investor Education and Advocacy; Holli Heiles Pandol of the Office of Legislative and Intergovernmental Affairs; Pamela Gibbs of the Office of Minority and Women Inclusion; Brenda Murray of the Office of Administrative Law Judges; Rebecca Olsen of the Office of Municipal Securities; John Nester of the Office of Public Affairs; and Vanessa Countryman of the Office of the Secretary. We also have 11 regional offices that are headed by dedicated directors.

[3] Franco Modigliani and Merton H. Miller, "The Cost of Capital, Corporation Finance and the Theory of Investment," American Economic Review, Vol. 48, No. 3 (June 1958), pp. 261-297.

[4] Specifically, these actions include new Regulation Best Interest, the new Form CRS Relationship Summary (Form CRS), and two separate interpretations under the Investment Advisers Act of 1940 (Advisers Act). *See* Press Release 2019-89, *SEC Adopts Rules and Interpretations to Enhance Protections and Preserve Choice for Retail Investors in Their Relationships with Financial Professionals* (June 5, 2019), *available at* https://www.sec.gov/news/press-release/2019-89.

[5] *See, e.g.,* Vilfredo Pareto, *Manual of Political Economy* (New York: Augustus M. Kelly, 1971, translated from Italian into English); Milton Friedman, "The Case for Flexible Exchange Rates," *Essays in Positive Economics*, (Chicago: Chicago University Press, 1953), pp. 157-203; Eugene F. Fama, "Efficient Capital Markets: A Review of Theory and Empirical Work," *The Journal of Finance,* Vol. 25, No. 2 (May 1970), pp. 383-417; Paul A. Samuelson, "Proof That Properly Anticipated Prices Fluctuate Randomly," *Industrial Management Review,* Vol. 6, No. 1 (Spring 1965), pp. 321-351; Kenneth J. Arrow, "The Role of Securities in the Optimal Allocation of Risk Bearing," *Review of Economic Studies,* Vol. 31, No. 2 (April 1964), pp. 91-96; Kenneth J. Arrow, "Insurance, Risk and Resource Allocation," *Essays in the Theory of Risk* Bearing (Chicago: Markham, 1971), pp. 134-143.

[6] *See, e.g.*, Stanley Fischer, "Paul Samuelson" (Jan. 4, 2010), *available at* http://economics.mit.edu/files/5230 (providing a discussion of these traits in Paul Samuelson).

[7] I most recently hosted a roundtable with the Director of the Office of Investor Education and Advocacy and the Director of the Chicago Regional Office on August 20, 2019 in Chicago, which was the latest in a series of investor outreach events in Boston, Philadelphia, Denver, Miami, Baltimore, Atlanta, and Washington, D.C. Firms should engage with our Standards of Conduct Implementation Committee as questions arise in planning for implementation. Firms may submit questions by email to IABDQuestions@sec.gov.

[8] Some investment vehicles, such as mutual funds, exchange-traded funds and other pooled investment vehicles, may have investment strategies that overlap in these two segments of the markets.

[9] Based on an analysis by staff in the Commission's Division of Economic and Risk Analysis, in 2018, registered offerings accounted for $1.4 trillion of new capital compared to approximately $2.9 trillion that the staff estimates was raised through exempt offering channels.

[10] Steven R. Weisman, "Edwin Nourse, 90, Dies; Truman's Economic Aide," *The New York Times,* Apr. 10, 1947, p. 44, *available at* https://www.nytimes.com/1974/04/10/archives/edwin-nourse-90-dies-trumans-economic-aide-sought-anonymity-top.html.

[11] There are approximately 4,400 exchange-listed public companies. *See* Chairman Jay Clayton, Testimony before the Financial Services and General Government Subcommittee of the U.S. Senate Committee on Appropriations (May 8, 2019), *available at* https://www.sec.gov/news/testimony/testimony-financial-services-and-general-government-subcommittee-us-senate-committee.

[12] George A. Akerlof, "The Market for `Lemons': Quality Uncertainty and the Market Mechanism," *Quarterly Journal of Economics*, Vol. 84, No. 3 (Aug. 1970), pp. 488-500.

[13] *See* Press Release 2019-65, SEC Proposes to Improve Disclosures Relating to Acquisitions and Dispositions of Businesses (May 3, 2019), *available at* https://www.sec.gov/news/press-release/2019-65; Press Release 2018-143, SEC Proposes Rules to Simplify and Streamline Disclosures in Certain Registered Debt Offerings (July 24, 2018), *available at* https://www.sec.gov/news/press-release/2018-143; Press Release 2019-14, SEC Proposes to Expand "Test-the-Waters" Modernization Reform to All Issuers (Feb. 19, 2019), *available at* https://www.sec.gov/news/press-release/2019-14; Press Release 2018-116, SEC Expands the Scope of Smaller Public Companies that Qualify for Scaled Disclosures (June 28, 2018), *available at* https://www.sec.gov/news/press-release/2018-116. Per recommendations from the Division of Corporation Finance, the Commission also has modernized other company disclosures and proposed amendments to more appropriately tailor which issuers are required to obtain an attestation of their internal control over financial reporting (ICFR) from an independent outside auditor.

[14] *See* Press Release 2019-148, SEC Proposes to Modernize Disclosures of Business, Legal Proceedings, and Risk Factors Under Regulation S-K (Aug. 8, 2019), *available at* https://www.sec.gov/news/press-release/2019-148.

[15] Modernization of Regulation S-K, Items 101, 103, and 105, Securities Act Release No. 10668 (Aug. 8, 2019), 84 Fed. Reg. 44358 (Aug. 23, 2019), n.279.

[16] Paul A. Samuelson, "The Pure Theory of Public Expenditure," *The Review of Economics and Statistics,* Vol. 36, No. 4 (Nov. 1954), pp. 387-389; Paul A. Samuelson, "Diagrammatic Exposition of a Theory of Public Expenditure," *The Review of Economics and Statistics,* Vol. 37, No. 4, (Nov. 1955), pp. 350-356.

[17] Richard A. Musgrave, "Provision for Social Goods," in Julius Margolis and H. Guitton (eds.), *Public Economics: An Analysis of Public Production and Consumption and their Relations to the Private Sectors* (London: Macmillan, 1969).

[18] Burton G. Malkiel, *A Random Walk Down Wall Street: The Time-Tested Strategy for Successful Investing*, (New York: W.W. Norton & Company, 2019). *See also* Investment Company Institute, *2019 Investment Company Fact Book, Table 42*, *available at* https://www.ici.org/research/stats/factbook (estimating that index funds accounted

for 31.6 percent of U.S. domestic equity mutual fund assets in 2018, up from 15.7 percent in 2008 and 3.7 percent in 1993).

[19] *See* Staff Report to the Commission, Regulation Crowdfunding (June 18, 2019), *available at* https://www.sec.gov/files/regulation-crowdfunding-2019_0.pdf.

[20] *See, e.g.,* Concept Release on Harmonization of Securities Offering Exemptions, Release Nos. 33-10649, 34-86129, IA-5256, IC-33512, 84 Fed. Reg. 30460 (June 26, 2019), *available at* https://www.federalregister.gov/documents/2019/06/26/2019-13255/concept-release-on-harmonization-of-securities-offering-exemptions. In connection with the recent statement issued by our staff and the North American Securities Administrators Association (NASAA) explaining the potential application of state and federal securities laws to fundraising for Opportunity Zones, I asked whether we can make changes to our rules to provide a simplified path to allow individuals who live in or near the Opportunity Zone to invest in the project on a basis that provides appropriate alignment of interests and other investor protection. *See* Chairman Jay Clayton, Statement on Opportunity Zones (July 15, 2019), *available at* https://www.sec.gov/news/public-statement/clayton-statement-opportunity-zones.

[21] *See, e.g.,* Press Release 2018-103, *SEC Modernizes the Delivery of Fund Reports and Seeks Public Feedback on Improving Fund Disclosure* (June 5, 2018), *available at* https://www.sec.gov/news/press-release/2018-103. This initiative is particularly important as Main Street investment is increasingly established through funds. *See, e.g.,* "Changes in U.S. Family Finances from 2013 to 2016: Evidence from the Survey of Consumer Finances," *Federal Reserve Bulletin,* Board of Governors of the Federal Reserve System, Vol. 103, No. 3 (Sept. 2017), *available at* https://www.federalreserve.gov/publications/files/scf17.pdf (Table 3 on page 18 estimates that while only 13.9 percent of households held stocks directly in 2016, and only 1.2 percent of households held bonds directly, 52.1 percent of households held retirement accounts). Similarly, my colleagues in DERA tell me that while only 13.9 percent of households held stocks directly, 51.9 percent held equities either directly or indirectly, such as through mutual funds, ETFs, or retirement accounts.

[22] *See, e.g.,* Exchange Act Release No 34-83885 (Aug. 20, 2018), 83 FR 44700 (Aug. 31, 2018), *available at* https://www.gpo.gov/fdsys/pkg/FR-2018-08-31/pdf/2018-18279.pdf. *See* MSRB Regulatory Notice 2016-28, New Disclosure Requirements Under MSRB Rule G-15 and Prevailing Market Price Guidance Pursuant to Rule G-30 (Nov. 29, 2016), *available at* http://msrb.org/~/media/Files/Regulatory-Notices/Announcements/2016-28.ashx?n=1; FINRA Regulatory Notice 17-08, Pricing Disclosure in the Fixed Income Markets (Feb. 2017), *available at* http://www.finra.org/sites/default/files/notice_doc_file_ref/Regulatory-Notice-17-08.pdf.

[23] For a more detailed discussion of this issue, see Jay Clayton, Chairman, and Brett Redfearn, Director, Division of Trading and Markets, Remarks at the Gabelli School of Business, Fordham University (Mar. 8, 2019), *available at* https://www.sec.gov/news/speech/clayton-redfearn-equity-market-structure-2019.

[24] In November 2018, SEC staff held a proxy roundtable to discuss: (1) the proxy solicitation and voting process; (2) shareholder engagement through the shareholder proposal process; and (3) the role of proxy advisory firms. *See* November 15, 2018: Roundtable on the Proxy Process, *available at* https://www.sec.gov/proxy-roundtable-2018.

[25] *See* Press Release 2019-158, SEC Clarifies Investment Advisers' Proxy Voting Responsibilities and Application of Proxy Rules to Voting Advice (Aug. 21, 2019), *available at* https://www.sec.gov/news/press release/2019-158.

[26] *See* Chairman Jay Clayton, Statement at Open Meeting on Commission Guidance and Interpretation Regarding Proxy Voting and Proxy Voting Advice (Aug. 21, 2019), *available at* https://www.sec.gov/news/public-statement/statement-clayton-082119.

[27] Of the 44 countries that are members of the OECD Anti-Bribery Convention, signed in 1997, nearly half had not yet sanctioned foreign bribery by the end of 2015. OECD, Fighting the Crime of Foreign Bribery: The Anti-Bribery Convention and the OECD Working Group on Bribery (Dec. 2018).

[28] *See, e.g., Theory of Games and Economic Behavior, with Morgenstern, O.,* Princeton Univ. Press, 1944; Nash, John Forbes (1951). "Non-cooperative Games" Annals of Mathematics, 54(2): 286-95 and Nash, John Forbes (1953). "Two-person Cooperative Games," Econometrica 21(1): 128-40; Jean Tirole, "Theory of Industrial Organization," The MIT Press, 1988.

[29] *See* The Association of the Bar of the City of New York, Committee on International Business Transactions, "The FCPA and its Impact on International Business Transactions – Should Anything Be Done to Minimize the Consequences of the U.S.'s Unique Position on Combating Offshore Corruption?," Dec. 2011.

[30] Board of Governors of the Federal Reserve System, Nonfinancial corporate business; debt securities and loans; liability; Level [BCNSDODNS], retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/BCNSDODNS, Sept. 8, 2019. *See also* U.S. Bureau of Economic Analysis, Gross Domestic Product [GDP], retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/GDP, Sept. 8, 2019.

[31] U.S. Department of the Treasury, Fiscal Service, Federal Debt: Total Public Debt [GFDEBTN], retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/GFDEBTN, Sept. 8, 2019. *See also* Board of Governors of the Federal Reserve System, Mortgage Debt Outstanding, retrieved from https://www.federalreserve.gov/data/mortoutstand/current.htm, Sept. 8, 2019; Board of Governors of the Federal Reserve System, Domestic nonfinancial sectors; municipal securities; liability, Level [DNSMSL], retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/DNSMSL, Sept. 8, 2019; and Board of Governors of the Federal Reserve System, Student Loans Owned and Securitized, Outstanding [SLOAS], retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/SLOAS, Sept. 8, 2019.

[32] Board of Governors of the Federal Reserve System, Table L.121 of the Federal Reserve Financial Accounts, Money Market Funds, retrieved from https://www.federalreserve.gov/apps/fof/DisplayTable.aspx?t=l.121, September 8, 2019.

[33] ICE Benchmark Administration Limited (IBA), ICE BofAML U.S. High Yield Master II Option-Adjusted Spread [BAMLH0A0HYM2], retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/BAMLH0A0HYM2, Sept. 8, 2019.

[34] Central banks have held interest rates at historic lows for over a decade, and we are witness to the largest central bank balance sheets in history—$19.4 trillion between the U.S., Europe, Japan, and China. *See, e.g., Central Banks: Balance Sheets,* Yardeni Research, Inc. (Sept. 6, 2019), *available at* https://www.yardeni.com/pub/peacockfedecbassets.pdf. The European Central Bank continues its unprecedented intervention in the markets as it holds interest rates negative and considers additional stimulus measures and asset purchases. *See* Account of the Monetary Policy Meeting of the Governing Council of the European Central Bank, July 24-25, 2019, *available at* https://www.ecb.europa.eu/press/accounts/2019/html/ecb.mg190822~63660ecd81.en.html. In addition, tax policy, globally, has continued to favor debt financing in many circumstances.

[35] *See, e.g.*, Remarks by Jerome H. Powell, Chairman, Board of Governors of the Federal Reserve System (Aug. 23, 2019), *available at* https://www.federalreserve.gov/newsevents/speech/powell20190823a.htm.

[36] *See, e.g., Central Banks: Balance Sheets,* Yardeni Research, Inc. (Sept. 6, 2019). *See also* World Bank, Central Bank Assets to GDP for United States [DDDI06USA156NWDB], retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/DDDI06USA156NWDB, Sept. 8, 2019.

[37] *See, e.g., Central Banks: Balance Sheets,* Yardeni Research, Inc. (Sept. 6, 2019). *See also* World Bank, Central Bank Assets to GDP for Euro Area (DISCONTINUED) [DDDI06EZA156NWDB], retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/DDDI06EZA156NWDB, Sept. 8, 2019; World Bank, Central Bank Assets to GDP for Japan [DDDI06JPA156NWDB], retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/DDDI06JPA156NWDB, Sept. 8, 2019; World Bank, Central Bank

Assets to GDP for United Kingdom [DDDI06GBA156NWDB], retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/DDDI06GBA156NWDB, Sept. 8, 2019.

[38] *See supra* notes 30-31.

[39] While not directly within the Commission's purview, we also are monitoring trends, as well as regulatory and legislative developments, in the housing finance and student loan markets. In the housing market, while certain products and underwriting practices that were used in the pre-crisis era have been eliminated, there are signs of credit risks today similar to then, namely the government sponsored enterprises, Fannie Mae and Freddie Mac, increasing the percentage of acquisitions of mortgages with higher loan-to-value and debt-to-income ratios. We should recognize that, particularly at a time when housing prices are twenty percent above prior highs in nominal terms, highly leveraged homebuyers who are the "last in" could again encounter the most significant challenges from shocks to home prices or income and employment conditions.

[40] *See* Speech by Andrew Bailey, Chief Executive of the FCA, at the Securities Industry and Financial Markets Association's (SIFMA) LIBOR Transition Briefing in New York, July 15, 2019, *available at* https://www.fca.org.uk/news/speeches/libor-preparing-end.

[41] These estimates are as of the end of 2016. Of the $200 trillion in notional exposure, approximately 95 percent relates to derivatives products. Over $8 trillion of exposure relates to business loans, consumer loans, floating/variable rate notes, and securitizations. *See* Second Report of the Alternative Reference Rates Committee (Mar. 2018), *available at* https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2018/ARRC-Second-report.com.

[42] *See* Division of Corporation Finance, Division of Investment Management, Division of Trading and Markets, and Office of the Chief Accountant, Staff Statement on LIBOR Transition, July 12, 2019, *available at* https://www.sec.gov/news/public-statement/libor-transition.

[43] To the extent required, the risk may need to be disclosed to the market, counterparties and/or investors.

[44] For example, the Commission and the UK Financial Conduct Authority signed two updated supervisory memoranda of understanding to allow us to continue our oversight of regulated entities in the UK without interruption. Press Release 2019-47, The Securities and Exchange Commission and the UK Financial Conduct Authority Sign Updated Supervisory Cooperation Arrangements (Mar. 29, 2019), *available at* https://www.sec.gov/news/press-release/2018-47-0. The Commission is also monitoring whether Brexit-related information and material risks are being effectively communicated to investors. We continue to see a variety of disclosures, ranging from boilerplate and generic to thoughtful and appropriately detailed, as companies relate how they may be impacted by Brexit.