**Testimony on the Future of Capital Formation**
**by**
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**Before the U.S. House of Representatives Committee**
**on Oversight and Government Reform**

**Tuesday, May 10, 2011**

Chairman Issa, Ranking Member Cummings, and members of the Committee:

Thank you for inviting me to testify today on the topic of capital formation.[1]

Facilitating capital formation, along with protecting investors and maintaining fair, orderly and efficient markets, is the mission of the SEC. Cost-effective access to capital for companies of all sizes plays a critical role in our national economy, and companies seeking access to capital should not be overburdened by unnecessary or superfluous regulations. At the same time, while we have an important responsibility to facilitate growing companies' access to America's investment capital, we must balance that responsibility with our obligation to protect investors and our markets. Too often, investors are the target of fraudulent schemes disguised as investment opportunities. In Fiscal Year 2010, offering frauds – cases where promoters, issuers or others defraud investors in the offer of securities – comprised 22 percent of the Commission's cases. Investor confidence in the fairness and honesty of our markets is critical to the formation of capital, and the protections provided by the securities laws are critical to large and small company investors alike.

Over the years, the SEC has taken significant steps, consistent with investor protection, to facilitate capital-raising by companies of all sizes and to reduce burdens on companies in making offerings. From the introduction of shelf registration in the 1980's, to the reduction of the eligibility threshold for shelf registration in the early 1990's, to modernizing communications and the offering process in 2005, to the 2007 small business reforms, the SEC regularly considers and, if appropriate, implements changes to our rules to reduce regulatory burdens on the offering process while maintaining important investor protections provided under the Securities Act.

[1] The views expressed in this testimony are those of the Chairman of the Securities and Exchange Commission and do not necessarily represent the views of the full Commission. Testifying with me today will be Meredith Cross, the Director of the Commission's Division of Corporation Finance. I have attached biographical information for Ms. Cross as an appendix to this testimony.

Recently, I instructed our staff to take a fresh look at some of our offering rules to develop ideas for the Commission to consider that would reduce the regulatory burdens on small business capital formation in a manner consistent with investor protection. In conducting this review, we will gather data and seek input from many sources, including small businesses, investor groups, the public-at-large, and a new Advisory Committee on Small and Emerging Companies that the Commission is in the process of forming, so that we consider a variety of viewpoints. Any rule proposals that result from this review, will, of course, be subject to a public comment period in advance of any rule changes being adopted.

I look forward to working with the staff and my fellow Commissioners throughout this process to ensure that our rules continue to provide small businesses with access to investment capital in a manner consistent with the Commission's investor protection mandate.

My testimony provides an overview of a variety of capital formation-related topics, as well as a more detailed description of what lies ahead in terms of the Commission's consideration of capital formation issues.

## Communications in Connection with Securities Offerings

Regulation of communications in connection with offerings, whether public or private, begins with the Securities Act of 1933 ("Securities Act"). The Securities Act provides that each offering of securities must be registered with the Commission unless an exemption from registration is available. The degree and means by which an issuer may communicate publicly during the offering process depend on whether the offering is registered under Section 5 of the Securities Act or exempt from registration and, if exempt, the conditions of the particular exemption on which the issuer is relying.

### Registered Offerings

Under the Securities Act, for registered offerings, an issuer's ability to communicate publicly varies as it proceeds through the registration process, which has three phases:

- the period prior to the filing of a Securities Act registration statement ("pre-filing period");
- the period between the filing of the Securities Act registration statement and the effectiveness of that registration statement ("waiting period" or "quiet period"); and
- the period after the effectiveness of the Securities Act registration statement ("post-effective period").

During the pre-filing period, an issuer may not "offer" securities.[2] The term "offer" is broadly-defined under the Securities Act and has been interpreted as going well beyond the common law concept of "offer." During the quiet period, an issuer can make oral offers but cannot make written offers other than through the use of a prospectus that complies with Securities Act Section 10.[3] The prospectus includes comprehensive, balanced information about the issuer and the offering which facilitates investment decisions. As the term "offer" has been broadly construed, in the absence of rules exempting particular communications, issuers should limit communications before and during offerings to avoid being deemed to make illegal offers. Failure to comply with these requirements is sometimes referred to as "gun-jumping."

Once in the post-effective period, an issuer can sell and deliver securities as long as a final prospectus that complies with Securities Act Section 10(a) accompanies or precedes the delivery of the securities.[4] Issuers also can send written offers, such as supplemental sales literature, if they are accompanied or preceded by a Section 10(a) prospectus.

Over the years, the Commission has taken steps to facilitate continued communications by issuers and others around public offerings. For example, as early as 1970, the Commission adopted safe-harbor exemptions to make it clear that continued analyst research coverage does not constitute an unlawful offer. [5]

In 2005, the SEC implemented significant reforms to modernize the rules governing communications and the registered offering process, known as Securities Offering Reform.[6] The SEC recognized that communications in the capital markets had changed tremendously since the Securities Act was written and the shelf registration system[7] was designed in the 1980s. The changes to the offering and communication process provided in the Securities Offering Reform expanded an issuer's ability to communicate publicly during registered

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[2] *See* Securities Act § 5(c).

[3] *See* Securities Act § 5(b)(1).

[4] *See* Securities Act § 5(b)(2).

[5] *See* Release No. 33-5101, *Adoption of Rules Relating to Publication of Information and Delivery of Prospectus by Broker-Dealers Prior to or After the Filing of a Registration Statement Under the Securities Act of 1933* (November 19, 1970).

[6] *See Securities Offering Reform*, Release No. 33-8591 (July 19, 2005) and Release No. 33-8591A (February 6, 2006) available at http://www.sec.gov/rules/final/33-8591.pdf and http://www.sec.gov/rules/final/33-8591a.pdf.

[7] The shelf registration system allows a company that meet certain requirements to file a registration statement with the Commission that registers the sale of securities of the company in offerings that could occur later or on a delayed or continuous basis.

offerings, thereby allowing more information to reach investors, while at the same time preserving important investor protections. The changes included:

- *Pre-Filing Communications.* To avoid unnecessary limitations on communications by issuers prior to registered offerings, the Commission adopted Securities Act Rule 163A to provide eligible issuers with a bright-line safe harbor for communications made more than 30 days before the filing of a registration statement, thereby reducing the risk of these communications violating the gun-jumping provisions of the Securities Act.

- *Ordinary Course Business Communications.* The Commission adopted two new rules to provide issuers, including non-reporting companies, with greater certainty that their continuing communications of factual business information will not run afoul of the gun-jumping provisions of the Securities Act.[8]

- *Free Writing Prospectuses.* The Commission adopted new rules to permit written offers outside the statutory prospectus[9] – such as e-mails, faxes and pre-recorded electronic communications, called "free writing prospectuses"[10] – to be made to offer securities in certain circumstances.[11]

- *Media Communications and Publications.* Recognizing that the media can be a valuable source of information about issuers and to encourage the role of the media as a communicator of information, the Commission adopted new rules providing that when an issuer or offering participant gives information to the media about itself or a registered offering that ordinarily would be viewed as an "offer," the media publication is generally treated as a free writing prospectus of the issuer or offering participant in question (provided the media publication is unpaid and unaffiliated with the issuer).[12] As a result, press articles around the time of an offering that previously could have caused a delay in an offering because they could have been considered gun-jumping can now be published without subjecting an issuer to delay.

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[8] *See* Securities Act Rules 168 and 169.

[9] Prior to the adoption of the new rules, issuers were able to make written offers after the filing of a registration statement only in the form of a statutory prospectus.

[10] *See* Securities Act Rule 405.

[11] *See* Securities Act Rules 163, 164, and 433.

[12] *See* Securities Act Rules 164 and 433(f).

- *Relaxation of Restrictions on Written Offering-Related Communications.* The Commission expanded the scope of the existing safe harbors of Securities Act Rules 134 and 135 to allow issuers to communicate more details about contemplated offerings without those communications being deemed to be "prospectuses" or "offers," respectively.

- *Research Reports Safe Harbors.* The Commission adopted rule amendments that expanded the scope of the safe harbors for the use of research reports during registered offerings.[13] The amendments were designed to encourage the publication of research reports, which provide the market and investors with valuable information about issuers.

- *Relaxation on Restrictions on Offers for Well-Known Seasoned Issuers.* The Commission adopted Rule 163 to enable the largest of the reporting issuers ("well-known seasoned issuers," or "WKSIs"), which are likely to have the highest degree of market following, to make offers of securities before the filing of the related registration statements.[14]

Offerings Not Registered Under the Securities Act

In offerings that are exempt from registration under Section 5, the extent to which an issuer may communicate publicly depends on the requirements of the exemption upon which the issuer is relying. One of the most commonly-used exemptions is Section 4(2) of the Securities Act, which exempts transactions by an issuer "not involving any public offering." Currently, an issuer wishing to rely on Section 4(2) or its safe harbor – Rule 506 of Regulation D – is generally subject to a ban on the use of general solicitation or advertising to attract investors for its offering.[15] The ban was designed to ensure that those who would benefit from the safeguards of registration are not solicited in connection with a private offering.

The Commission and staff have acted to facilitate capital raising in private offerings by adopting safe harbor rules – such as Rule 506 – and providing guidance with respect to the scope of Section 4(2) and the ban on general solicitation and advertising.

For example, in 2001, the Commission adopted Rule 155, a safe harbor under the Securities Act, to address concerns about a company's ability to abandon a public offering and, instead,

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[13] *See* Securities Act Rules 137, 138, and 139.

[14] *See* Securities Act Rule 163.

[15] *See* Rule 502(c) of Regulation D.

raise money in a private offering. Without this safe harbor, the publicity from the public offering could be viewed as inconsistent with a private offering. Under the safe harbor, an issuer that filed a registration statement for a public offering but then determined not to proceed with the public offering can abandon the registration statement and proceed with a private financing provided certain conditions are satisfied.[16] Rule 155 also permits private offerings in certain circumstances to be abandoned and converted into public offerings.[17] Most recently, in 2007, the Commission clarified that filing a registration statement for an offering would not automatically be viewed as a general solicitation for a concurrent private offering. Instead, the analysis should focus on whether the private offering investors were actually solicited through the registration statement.[18] Finally, through its no-action letters, the staff has provided flexibility for the use of Internet and other modern communication technologies in private offerings without running afoul of the general solicitation ban.[19]

I recognize that some continue to identify the general solicitation ban as a significant impediment to capital raising for small businesses. I also understand that some believe that the ban may be unnecessary because those who do not purchase the offered security would not be harmed by the solicitation that occurs. At the same time, the general solicitation ban is supported by others on the grounds that it helps prevent securities fraud by making it more difficult for fraudsters to attract investors or unscrupulous issuers to condition the market. We need to balance these considerations as we move forward in analyzing this issue.

## Capital Formation for Smaller Companies

The SEC also has undertaken efforts specifically designed to facilitate capital formation for smaller companies by simplifying the regulatory environment for them. Most recently, in 2007 the SEC adopted a variety of rules impacting small business capital raising and private

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[16] Release No. 33-7943, *Integration of Abandoned Offerings* (January 26, 2001), http://www.sec.gov/rules/final/33-7943.htm.

[17] In addition, the Commission adopted Securities Act Rule 135c, a safe harbor allowing reporting issuers to notify the public of their planned exempt offerings. Rule 135c allows issuers to disclose basic information about themselves and their offerings, so long as the conditions of the rule are satisfied. *See* Release No. 33-7053, *Simplification of Registration and Reporting Requirements for Foreign Companies; Safe Harbors for Public Announcements of Unregistered Offerings and Broker-Dealer Research Reports* (April 19, 1994).

[18] *See* Release No. 33-8828, *Revisions of Limited Offering Exemptions in Regulation D* (August 3, 2007), http://www.sec.gov/rules/proposed/2007/33-8828.pdf.

[19] *See, e.g.*, IPONET (July 26, 1996) (general solicitation is not present when previously unknown investors are invited to complete a web-based generic questionnaire and are provided access to private offerings via a password-protected website only if a broker-dealer makes a determination that the investor is accredited under Regulation D); Lamp Technologies, Inc. (May 29, 1998) (posting of information on a password-protected website about offerings by private investment pools, when access to the website is restricted to accredited investors, would not involve general solicitation or general advertising under Regulation D).

offerings, a number of which were based on the recommendations of the SEC's then-serving Advisory Committee on Smaller Public Companies. The rules adopted by the Commission:

- simplified the disclosure and reporting requirements for smaller companies and expanded the ability to use less burdensome, scaled disclosure to more companies;[20]

- liberalized the eligibility requirements for certain short-form registration statements and shelf registration to allow eligible smaller public companies to benefit from the greater flexibility and efficiency in accessing the public securities markets;[21]

- adopted a rule that allows a company to grant stock options to more than 500 employees without triggering the requirements under Exchange Act Section 12(g) to become a reporting company;[22]

- implemented electronic filing of the information required by Form D, making it possible once the states complete implementation of the electronic filing system, for companies to enjoy the benefits of "one stop" filing in private and other exempt offerings;[23] and

- amended Rule 144 – the rule that relating to resales of privately placed securities – to shorten the holding period and provide other regulatory simplifications.[24]

In addition, the Commission has been mindful of the impact of its rules on small business in connection with its other rulemaking activity. For example, in connection with adopting rule amendments implementing the "say-on-pay" provisions of the Dodd-Frank Act, we provided a two-year phase-in period for smaller reporting companies.[25] This phase-in is a balanced

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[20] *See Smaller Reporting Company Regulatory Relief and Simplification*, Release No. 33-8876 (December 19, 2007) *available at* http://www.sec.gov/rules/final/2007/33-8876.pdf.

[21] *See Revisions to the Eligibility Requirements for Primary Securities Offerings on Forms S-3 and F-3*, Release No. 33-8878 (December 19, 2007), http://www.sec.gov/rules/final/2007/33-8878.pdf.

[22] *See Exemption of Compensatory Employee Stock Options from Registration Under Section 12(g) of the Securities Exchange Act of 1934*, Release No. 34-56887 (December 3, 2007), http://www.sec.gov/rules/final/2007/34-56887.pdf.

[23] *See Electronic Filing and Revision of Form D*, Release No. 33-8891 (February 6, 2008), http://www.sec.gov/rules/final/2008/33-8891.pdf.

[24] *See Revisions to Rules 144 and 145*, Release No. 33-8869 (December 6, 2007), http://www.sec.gov/rules/final/2007/33-8869.pdf.

[25] *See* Release No. 33-9178, *Shareholder Approval of Executive Compensation and Golden Parachute Compensation* (January 25, 2011), http://www.sec.gov/rules/final/2011/33-9178.pdf

way for us to determine whether our rules would disproportionately burden smaller reporting companies and make any needed changes before the rules become applicable to them. In addition, as required by the Dodd-Frank Act, we recently issued a rule proposal to modify the calculation of "net worth" for purposes of the "accredited investor" definition to exclude the value of an individual's primary residence when calculating net worth.[26] In drafting the proposal, we sought to balance concerns relating to the impact on small businesses and the regulatory purpose of the proposal by allowing debt secured by a individual's primary residence, up to the value of such primary residence, to be excluded from the net worth calculation, thereby deducting only the equity value in the primary residence in the net worth calculation. Before we adopt the final rule, the Commission and staff will carefully weigh the public comments to ensure we strike the right balance.

Finally, just last Friday, the Commission approved a proposal by Nasdaq OMX BX to establish a new listings market, the "BX Venture Market." The BX Venture Market is designed to allow the securities of smaller companies that are unable to meet the more rigorous listing standards of NYSE and Nasdaq to list and trade on a national securities exchange. We expect that the BX Venture Market will provide an opportunity for smaller businesses to have their securities traded in an environment that offers the potential for enhanced transparency, liquidity and regulatory oversight, which could make these companies more attractive to potential investors. While care must be taken to ensure that less-seasoned issuers are appropriately vetted and surveilled, and that investors understand the differences between these securities and those that are listed on a traditional exchange, the prospect of trading on an exchange could facilitate the ability of smaller companies to raise capital and invest in the growth of their businesses.

**Initial Public Offerings**

The Commission seeks to minimize the costs of being a public company in the United States and provide a regulatory environment that encourages companies considering going public while at the same time maintaining important investor protections to ensure that investors can responsibly make capital allocation decisions. A vibrant initial public offering market requires that investors have the confidence to invest and that issuers view the benefits of conducting an initial public offering as outweighing the costs.

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[26] *See* Release No. 33-9177, *Net Worth Standard for Accredited Investors* (January 25, 2011), http://www.sec.gov/rules/proposed/2011/33-9177.pdf. Section 413(a) of the Dodd-Frank Act requires the Commission to exclude the value of an individual's primary residence when determining if that individual's net worth exceeds the $1 million threshold required for "accredited investor" status. This change was effective upon enactment of the Act, but the Commission is also required to revise its rules to reflect the new standard. We proposed rule amendments in January that would implement this provision, and would clarify the treatment of any indebtedness secured by the residence in the net worth calculation.

We appreciate concerns raised by smaller companies about the costs of compliance with SEC regulations for both public offerings and for ongoing reporting. As described above, the Commission has revised its regulations over the years in an effort to reduce these costs in a manner consistent with investor protection. While more potentially could be done, it is clear that many small companies considering the costs and benefits have elected to become SEC registrants. For example, in fiscal year 2010, approximately 40 percent of first-time registrants identified themselves as smaller reporting companies under our rules, and a similar percentage of all of our reporting companies were identified as smaller reporting companies at the end of fiscal 2010. In fiscal year 2010, nearly half of the registered offerings conducted by first-time registrants (excluding offerings by asset-backed and investment company issuers), were to raise less than $10 million, and most of those were transactions in which less than $1 million was raised.

**Triggers for Public Reporting**

Section 12(g) of the Exchange Act was adopted in 1964 following a rigorous special study of the securities markets in the early 1960s, commissioned by Congress and conducted by the Commission. Section 12(g) was enacted to "improve investor protection by extending to the larger companies in the over-the-counter market the registration, reporting, proxy solicitation, and insider trading requirements . . . applicable to companies listed on an exchange."[27] Section 12(g) requires a company to register its securities with the Commission, within 120 days after the last day of its fiscal year, if, at the end of the fiscal year, the securities are "held of record" by 500 or more persons and the company has "total assets" exceeding $10 million.[28] Shortly after Congress adopted Section 12(g), the Commission adopted rules defining the terms "held of record" and "total assets."[29] The definition of "held of record" counts as holders of record only persons identified as owners on records of security holders maintained by the company in accordance with accepted practice. The Commission used this definition to simplify the process of determining the applicability of Section 12(g) by allowing a company to look to the holders of its securities as shown on records maintained by it or on its behalf, such as records maintained by the company's transfer agent.[30]

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[27] Report of the Committee on Banking and Currency to Accompany S.1642, S. Rep. No. 88-379, at 1 (1963).

[28] *See* Exchange Act § 12(g)(1); Exchange Act Rule 12g-1. When Section 12(g) was enacted, the asset threshold was set at $1 million. The asset threshold was most recently increased to $10 million in 1996. Release No. 34-37157, *Relief from Reporting by Small Issuers* (May 1, 1996), http://www.sec.gov/rules/final/34-37157.txt.

[29] Release No. 34-7492, *Adoption of Rules 12g5-1 and 12g5-2 Under the Securities Exchange Act of 1934* (January 5, 1965).

[30] *See* Release No. 34-7492, *Adoption of Rules 12g5-1 and 12g5-2 Under the Securities Exchange Act of 1934* (January 5, 1965).

Securities markets have changed significantly since the enactment of Section 12(g). Also, since the definition of "held of record" was put into place, a fundamental shift has occurred in how securities are held in the United States. Today, the vast majority of securities of publicly-traded companies are held in nominee or "street name." This means that the brokers that purchase securities on behalf of investors typically are listed as the holders of record. One broker may own a large position in a company on behalf of thousands of beneficial owners. However, since the shares are all held "in street name," those shares count as being owned by one "holder of record." This shift has meant that for most publicly-traded companies, much of their individual shareholder base is not counted under the current definition of "held of record." Conversely, the shareholders of most private companies, who generally hold their shares directly, are counted as "holders of record" under the definition. This has required private companies that have more than $10 million in total assets and that cross the 500 record holder threshold – where the number of record holders is actually representative of the number of shareholders – to register and commence reporting. At the same time, it has allowed a number of public companies, many of whom likely have substantially more than 500 shareholders, to stop reporting, or "go dark,"[31] because there are fewer than 500 "holders of record" due to the fact that the public companies' shares are held in street name. I believe that both the question of how holders are counted and how many holders should trigger registration need to be examined.

The Commission has exercised its authority in the past to liberalize the application of Section 12(g). For example, in 2007, the Commission adopted Rule 12h-1(f) under the Exchange Act, which provides an exemption from the held of record threshold for compensatory stock options. As described above, this exemptive rule allows private companies to provide compensatory stock options to employees, officers, directors, consultants and advisors without triggering the need to register those options under the Exchange Act.[32] In addition, in developing an approach for Section 12(g) with respect to foreign issuers, the Commission recognized the practical problems of enforcement and compliance and of differing foreign laws.[33]

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[31] A company can "go dark," or terminate the registration of a class of securities under Section 12(g), by certifying to the Commission either that the class of securities is (1) held of record by less than 300 persons or (2) held of record by less than 500 persons where the total assets of the company have not exceeded $10 million on the last day of each of the company's most recent three fiscal years. *See* Exchange Act § 12(g)(4); Exchange Act Rule 12g-4.

[32] Release No. 34-56887, *Exemption of Compensatory Employee Stock Options from Registration Under Section 12(g) of the Securities Exchange Act of 1934* (December 3, 2007), http://www.sec.gov/rules/final/2007/34-56887.pdf. The staff of the Division of Corporation Finance also issued a no-action letter extending the relief to restricted stock units due to the similarities between them and stock options. *See Facebook, Inc.* (October 14, 2008).

[33] Release No. 34-7427, *Adoption of Reg. §240.12g3-1* (September 15, 1964).

The Commission and staff have been informed by a wide range of proposals relating to possible amendments to Section 12(g) reporting standards that have been advanced by a variety of proponents. Some of these proposals seek to reduce the number of issuers required to report pursuant to the Exchange Act by, for example, raising the shareholder threshold, or by excluding accredited investors, qualified institutional buyers ("QIBs") or other sophisticated investors from the calculation. On the other hand, other proposals would increase the number of issuers required to report. For example, the Commission has received a rulemaking petition requesting that the Commission revise the "held of record" definition to look through record holders to the underlying beneficial owners of securities that would prevent issuers from ceasing to report in certain circumstances.[34]

To the extent that the Commission and the staff develop recommendations or proposals regarding changes to reporting thresholds, the consequences of any such proposed change will be subject to rigorous analysis as to the impact on investor protection and capital formation and the other costs and benefits of any proposed change.

**Future Steps**

As discussed above, I recently asked the staff to take a fresh look at our offering rules in light of changes in the operation of the markets, advances in technology and the acceleration in the pace of communications. I also requested that the staff think creatively about what the SEC can do to encourage capital formation, particularly for small businesses, while maintaining important investor protections. Areas of focus for the staff will include:

- the restrictions on communications in initial public offerings;
- whether the general solicitation ban should be revisited in light of current technologies, capital-raising trends and our mandates to protect investors and facilitate capital formation;
- the number of shareholders that trigger public reporting, including questions surrounding the use of special purpose vehicles that hold securities of a private company for groups of investors; and
- regulatory questions posed by new capital raising strategies.

[34] *See* Petition for Commission Action to Require Exchange Act Registration of Over-the-Counter Equity Securities (July 3, 2003), http://www.sec.gov/rules/petitions/petn4-483.htm. On February 24, 2009, Mr. Lawrence Goldstein, writing on behalf of Santa Monica Partners L.P., an institutional investor, submitted a follow-up rulemaking petition urging the Commission to count beneficial owners instead of record holders to prevent companies with large numbers of holders from exiting the reporting system. *See* Petition from Lawrence Goldstein to SEC (February 24, 2009), http://www.sec.gov/rules/petitions/2009/petn4-483-add.pdf.

In conducting this review, we will solicit input and data from multiple sources, including small businesses, investor groups and the public-at-large. The review will include evaluating the recommendations of our annual SEC Government-Business Forum on Small Business Capital Formation, as well as suggestions we receive through an e-mail box we recently created on our website.[35] In addition, I expect our efforts to benefit from the input of the new Advisory Committee on Small and Emerging Companies the Commission is in the process of forming, which will provide a formal mechanism for the Commission to receive advice and recommendations about regulatory programs that affect privately held small businesses and small publicly traded companies.

We look forward to working closely with Congress, the investing public, and members of the business community as we explore the possibilities and challenges in these areas, and work to fulfill our mandate to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation.

I thank you for inviting me here today, and I look forward to answering your questions.

[35] The Commission recently created an e-mail box through which we solicit questions, comments and suggestions from the public on "modifying, streamlining, expanding or repealing our existing rules to better promote economic growth, innovation, competitiveness and job creation" while still adhering to our investor protection and fair and orderly markets mandate. *See Reviewing Regulatory Requirements to Ensure They Continue to Promote Economic Growth, Innovation, Competitiveness & Job Creation*, http://www.sec.gov/spotlight/regulatoryreviewcomments.shtml.