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SEC Commissioner Robert Jackson Fireside Chat

New York Financial Writers Association

<https://www.youtube.com/watch?app=desktop&v=pOIM0y4Hti4&feature=youtu.be>

Audio Runtime: 1:21:15

1 (Beginning of Audio Recording.)

2 MR. PODKUL: -- everyone. While
3 people are people are still settling down,
4 we'll get started with some brief
5 introductory remarks and housekeeping, just
6 to get started.

7 Thank you all for coming out tonight.
8 My name is Cezary Podkul. I'm a reporter on
9 the Wall Street Journal's financial
10 investigations team, and I'm president of the
11 New York Financial Writers Association.
12 Thanks.

13 On behalf of our board and our
14 membership, we're very happy to have all of
15 you here, both existing members and -- and
16 guests and others who have come out for this
17 event, so really -- it's a great pleasure to
18 host you here tonight, and we're very excited
19 to have Commissioner Jackson with us tonight.
20 And we want to thank you for making the time
21 to spend the evening with us and share your
22 views on a wide variety of subjects.

23 And we also want to thank our
24 executive director, Britt Tunick. Britt, can
25 you please stand up? Oh, there she is, yeah.

1 I want to thank Britt for putting on this
2 event, getting this excellent space, and if
3 any of you have questions about membership or
4 becoming a member, she is the person to
5 contact.

6 Before we get started, I just wanted
7 to quickly get a couple of housekeeping items
8 out of the way. For those of you who are new
9 to our events, just want to briefly say a
10 word or two about the association.

11 You may not know this, but the New
12 York Financial Writers Association is the
13 oldest organization devoted to business and
14 financial journalism in the country. We were
15 founded in 1938, and each year we do lots of
16 events, just like this one, where you get a
17 chance to network, meet newsmakers, attend
18 book talks, and lots more. If you're into
19 free apps and drinks, this is your place.

20 We also give out scholarships to
21 students who are interested in pursuing
22 careers in business and financial journalism.
23 I'm a former recipient of a scholarship, and
24 I think we have a couple more of you in the
25 room here. So raise your hand. There we go.

1 So each each year we pay out -- this
2 year I think it's twenty five thousand
3 dollars to five students, so it's a pretty
4 hefty scholarship. If you haven't applied
5 yet, please do, if you're in journalism
6 school, and we hope to increase that in
7 future years as our programming allows.

8 And you can help us with all of this
9 by getting involved. Dues are \$60 a year,
10 but if you pay today, you can still catch the
11 early bird pricing, which goes until tax day,
12 April 15th, today, of \$50 a year. If you're
13 interested in becoming a member, again, talk
14 to Britt, grab one of the postcards in the
15 back, or just check our Twitter at NYFWA. We
16 just tweeted the link on how to sign up and
17 become a member on there, and you can follow
18 us on Twitter, on Facebook, and on our
19 website for additional information about our
20 newest events and happenings.

21 So with that piece of housekeeping out
22 of the way, I'm pleased to introduce
23 Commissioner Jackson and welcome him to
24 tonight's event.

25 Since his appointment to the

1 Securities and Exchange Commission in January
2 2018, Commissioner Jackson has been an
3 outspoken advocate of bringing greater
4 transparency and oversight to U.S. capital
5 markets. He has been a vocal proponent of
6 the SEC's efforts to study the impact of
7 limiting stock trading fees and rebates
8 offered by exchanges, ensuring that exchanges
9 charge fair and reasonable prices for their
10 data feeds, and boosting disclosure on dark
11 pool operators.

12 He has also called on the SEC to
13 review rules governing stock buybacks by
14 company insiders. He did that after doing
15 some research and finding that the percentage
16 of insiders selling shares more than doubled
17 immediately following their company's buyback
18 announcements as many of the stocks popped,
19 and it's that kind of analysis that has
20 earned Rob a reputation for trying to bring
21 rigorous, data-driven, fact-based discussion
22 to our collective dialogue over the nation's
23 securities regulations and the SEC's role
24 overseeing capital markets.

25 It comes from Rob's previous

1 experience in academia at New York University
2 and Columbia Law School, where he headed up
3 Columbia's program on corporate law and
4 policy and has spent a lot of time thinking
5 about these subjects before being selected by
6 President Trump to join the Commission last
7 year.

8 So we're eager to hear your views on a
9 wide variety of subjects today, and we'll
10 structure this basically as a fireside chat,
11 although the fire is out, but let's not --
12 it's probably a good thing on a day like
13 today.

14 I'll ask a few questions to get the
15 conversation started, and then we'll open it
16 up to all of you to jump in with your
17 questions. Commissioner Jackson gets quizzed
18 by second graders whenever he sits in on his
19 mother's second-grade classroom and fields
20 many tough questions that are on their mind,
21 probably some a lot tougher than what we're
22 going to ask here. So he's used to tough
23 questions, so start thinking about those now
24 as we get started with a little bit of Q&A.

25 And one last piece of housekeeping,

1 we'll be keeping this conversation on
2 background for now. The Commissioner has
3 said he is happy to go on record with
4 anything he says here tonight, but he just
5 asks any press in the room to please contact
6 him before you run a story on his remarks
7 tonight. And we'll also post a video on our
8 website of the remarks tonight and all that
9 will be on our website within a couple of
10 days it'll be on record then.

11 So that's a bit of housekeeping out of
12 the way, and with that we'll just get started
13 with a couple of prepared questions, and then
14 we'll jump right into discussion from you all
15 because we're definitely very eager to hear
16 what's on all of your minds.

17 So just to kind of kick things off,
18 very curious before you became an SEC
19 Commissioner, you were, of course, on the
20 outside looking in as a legal scholar, as a
21 professor, academic. From now the year plus
22 that you've been on the commissioner and
23 having seen the agency from the inside
24 looking out, what is the thing you've learned
25 or a few things you've learned in terms of

1 you didn't realize before about how the
2 agency thinks, how it acts, how it reacts to
3 the environment outside?

4 MR. JACKSON: Well, first of all thank
5 you for that extremely kind introduction.
6 I'm thrilled to be here --

7 MR. PODKUL: Microphone a little
8 closer.

9 MR. JACKSON: Is that okay?

10 MR. PODKUL: Perfect. Yep. A

11 MR. JACKSON: I'm thrilled to be here,
12 and I was telling some of you earlier during
13 the cocktails that, you know, I started my
14 career on Wall Street a long time ago at a
15 firm called Bear Stearns. Not my fault. A
16 great place, I was very lucky to have great
17 mentors there, and I remember in the
18 orientation they would mention the New York
19 Financial Writers Association, and especially
20 the follies. And your goal on Wall Street
21 was to stay out of the follies.

22 MR. PODKUL: It's true.

23 MR. JACKSON: So I don't know what to
24 make of the fact that I ended up here. We
25 could talk about that over cocktails.

1 I want to just note that the -- you'll
2 -- you'll see I'm not long for politics, and
3 the reason is I wanted to have a very candid
4 conversation tonight, which is why I had
5 Cezary give the the caveat he did. Matter of
6 fact, a couple of weeks ago -- oh did you see
7 this? CQ did a very nice background on my
8 fam -- I come from a big Irish Catholic
9 family, and they described it. We could talk
10 more about that, if you like.

11 And in the profile -- I sat down with
12 the guy, and he said something to me, and I
13 kind of would -- just said to him, yeah, I
14 couldn't (bleeped) believe it, and he printed
15 it. Now normally, that wouldn't be that big
16 a problem, except my mother's still upset
17 that I didn't become a priest. So -- so
18 anyway, that's why I like to take a look
19 whenever I -- whatever I -- make sure I'm not
20 getting in trouble with my mother.

21 MR. PODKUL: Understood.

22 MR. JACKSON: So you said what are the
23 things I've learned since I got to the SEC.
24 So I'll give you -- I'll give you three
25 things. The first is the place is full of

1 people who dedicated their whole life to
2 trying to help financial markets work better.
3 And the reason I start with that is if you're
4 in this room, you probably have too. I know
5 a lot of the journalists in this room shine
6 light on the things they do because they
7 believe that those things need to be talked
8 about. And this organization -- but everyone
9 in the room has seen something in our markets
10 that's interesting or maybe it's troubling or
11 maybe it's just something that you didn't
12 understand and learned about, and you felt
13 like the -- sort of the Americans that the
14 market's supposed to work for should
15 understand that.

16 And you share a lot with the people
17 who go to work at the SEC every day, and let
18 me just say there's 4,000 plus staffers.
19 They were there before I got there. They
20 will be there long after I got there. These
21 are the people who really do that work, and
22 they're really -- they go to work every day
23 trying to do the right thing, number one.

24 Number two, it's an organization built
25 by and designed for lawyers, and it is proof

1 that lawyers should not design the world
2 because it's built in a way that is unlike
3 any other building I've ever worked in in my
4 life. And like I said, I worked on the
5 Street, I worked at Wachtell Lipton for a
6 while. It's built in a way that is designed
7 to minimize the risk that people in it take.

8 What I mean by that is it's a building
9 that systematically it's -- it's -- it's a
10 place that systematically favors inaction
11 over action, that takes as gospel that the
12 fact that we did it this way before is a
13 reason to do it that way again, and all I'll
14 say is that haven't worked -- my problem is I
15 went to business school before I went to law
16 school. Like those two things -- those two
17 points I just made if you spend any time in
18 business sound insane right? It's not the
19 way a business runs.

20 From a business point of view, if
21 someone's already doing it that way, it
22 probably means it's not profitable for you to
23 do it that way. All right? From a business
24 point of view, doing nothing can be just as
25 expensive or more expensive than doing

1 something. And one of the things I try to do
2 in the -- in the -- okay, let me give you one
3 example.

4 Any of you ever come to the
5 headquarters at the SEC, you ever been to the
6 building? Yeah, all right. So the
7 management of the building, the
8 commissioners, where do we sit? Yeah, we sit
9 on the top floor. Now any other business
10 I've ever worked for, all right, if you're --
11 if you work in that business and you run it,
12 you want to be with the people who make
13 decisions. Like at Bear, Ace -- Ace
14 Greenberg used to work on the trading floor,
15 and he would tell us the reason I do that is
16 so if I can bump in someone in the bathroom
17 or on the way to coffee or whatever, I can
18 say, hey, what do you see in the market
19 today, what are you learning. Like, that's
20 how you run a place.

21 But we at the SEC, the commissioners
22 sit on the top floor because we're in charge
23 and don't want you to forget it.

24 MR. PODKUL: It's like that with most
25 government agencies. The top floors.

1 MR. JACKSON: Yeah, and the problem
2 with that is that if you're like me and you
3 want to know what (bleep) is going on, it's
4 kind of hard to find out because the staff
5 who make the decisions and sit on the floors
6 below you don't come up to the tenth floor
7 that often because nothing good happens to
8 them when they do.

9 So another thing to know about the SEC
10 is it's a building built by lawyers over 80
11 plus years. It's a wonderful place, but it's
12 built in a way that is designed to be
13 reactive, and that can be tricky on our
14 financial markets, second.

15 And third, whatever you think about
16 what's happening in Washington right now, the
17 SEC in my opinion -- I'm a biased guy because
18 I'm working there -- but in my opinion, it's
19 working as well right now as it has for
20 years. And the reason is that the Chairman I
21 have, the chairman I work with Jay Clayton,
22 who I -- I don't always agree with, but I
23 have great respect for -- is taking the job
24 as a way to make sure that government runs as
25 it should.

1 There's just basic things we do at the
2 SEC that have to happen. If you submit a
3 registration statement, you need to get
4 prompt comments. If you are trying to figure
5 out -- if an exchange wants to make a filing
6 and understand what the rules of the game are
7 going to be for whether we're going to
8 approve it, they need to get a prompt answer.
9 The government needs to set obvious, clear
10 expectations for the market so the market can
11 respond and without -- I don't speak for Jay,
12 but I think that's a big part of what he
13 brings to the job, and because of that the
14 trains do run at the SEC.

15 And frankly, that makes me a very
16 fortunate guy in Washington because, like I
17 said, I don't agree with everything the
18 Chairman does, but I always get heard. I get
19 a chance to make my pitch. And look, as a
20 former banker, that's all you could ask for.
21 You know, I didn't get every mandate either,
22 but at a minimum I get to go in and say
23 here's the things I'm focused on, here's why
24 we should care about them, and at the moment
25 in the government, I think we can all agree

1 that's not bad, and it's the kind of agency
2 the markets deserve.

3 MR. PODKUL: So last year, one of the
4 pitches you made and said one of the things
5 we should be focusing on was looking at the
6 rules surrounding corporate stock buybacks,
7 and it kind of goes to that point I mentioned
8 in my introductory remarks about the data-
9 driven mindset that you bring to the job as a
10 former academic and really studying the data,
11 understanding it, and crafting rules from
12 from that.

13 So I understand you've recently asked
14 your staff to review data on companies'
15 restatement announcements and how they bundle
16 some of those with (inaudible). Could you
17 tell us more about that analysis and what you
18 found?

19 MR. JACKSON: Sure, yeah, happy.
20 Maybe I'll talk about both things.

21 MR. PODKUL: Sure.

22 MR. JACKSON: So one thing I do -- so
23 like basically the way to think about my job
24 is I'm a fulltime (bleep), and here's the way
25 I go about that. So because I was a banker

1 and a corporate lawyer, I remember a lot of
2 the stuff I saw that maybe wouldn't come into
3 the mind of someone in the government because
4 they weren't in the markets. So they don't
5 -- you know what I mean? Like -- and the
6 people -- trust me the people who come to DC
7 on behalf of the banks, they don't tell you
8 -- they give you one side of that story.
9 They don't tell you all the things that
10 really go on in the market.

11 So one thing I do is I just document
12 like obvious things that everyone on Wall
13 Street knows, and then I give a speech where
14 I say, hey, this is a thing that's happening,
15 and you know, I care about it, you should too
16 because like -- all I'm doing is pointing to
17 it -- so I'll give you an example.

18 My first speech -- one of my first
19 speeches when I joined the SEC, when I was a
20 banker, I took a company public. Everybody
21 on Wall Street charged. The fee they charged
22 for taking a company public was exactly seven
23 percent of the value of the company. It's a
24 seven percent spread. Everyone's known this
25 like forever in the history of Wall Street.

1 And you know, if the company was worth less
2 than a billion dollars and all the companies
3 I was doing the dotcom boom of the 90s, so
4 all the companies I were doing were three,
5 four, five hundred million. You just paid
6 seven percent.

7 And I remember going out with my
8 friends on Wall Street in my 20s and being
9 like this cannot continue. First of all,
10 there's going to be technological change,
11 it's going to get cheaper to bring a company
12 public. But forget about -- this is like --
13 it's weird it's not seven and a half percent,
14 it's not six and a half percent, it doesn't
15 vary by deal. It's seven percent. I was
16 like that's weird.

17 So when I got to the SEC, I had my
18 economist look into it. I was like, hey man,
19 what's the IPO spread these days. He comes
20 back, and he tells me last year in 2017 the
21 IPO spread ninety-seven percent of the time
22 was exactly seven percent. So I gave a
23 speech, and I was like that's weird because
24 you guys are capitalists, and it doesn't
25 sound -- this doesn't sound like competitive

1 pricing to me. So they were like, shh, like
2 stop telling people (bleep). Yeah, this is
3 how I get myself in trouble.

4 So I gave a speech -- then stock
5 buybacks, like, that's a big thing right now.
6 So forever, everyone on Wall Street has known
7 for years that the day of a stock buyback
8 it's very common for the executives at the
9 company to choose that day to sell their
10 stock. I always thought that was a little
11 weird because you're saying two different
12 things at the same time.

13 On the one hand, you're saying, look,
14 the stock is cheap. That's why the
15 shareholders should spend their money buying
16 it. On the other hand, my personal shares
17 I'm going to sell them, and CEOs don't sell
18 cheap things -- expensive things cheaply. So
19 they're sending two different signals about
20 the value the company. In fact, this has
21 been known since there's a paper about this
22 back in 1992.

23 So when the buybacks issue arose, I
24 just said, look, let's see -- you know, we
25 got all these buybacks happening because of

1 the tax cuts. Let's see what's happening
2 with executive selling, and it turns out that
3 executives sell on average more than twice as
4 much stock on the day they announce a buyback
5 as any other day during the year. And what
6 they're doing, of course, is they're taking
7 advantage of the fact that the stock pot --
8 stock price pops after their announcement and
9 they're capturing the gains.

10 So I got a question from a US senator
11 -- and by the way, whenever I do this, I put
12 the data online. I'm like, look, if you want
13 to take a look and come to a different
14 conclusion, 100 percent, take a look. Like
15 just tell me what you think, and it's a funny
16 thing because everyone calls me up and
17 they're like, you know, you suck, stop
18 telling people this. I go on Squawk Box, and
19 I talk about it, and they're like shh.

20 But I'm like, look man, the data is
21 online, just -- just take a look, and tell me
22 if I'm wrong. I'm very open to that. And
23 nobody does that, you know what I mean.
24 Like, so it's kind of -- I don't do -- do
25 they do that with you?

1 MR. PODKUL: Well, we like to put our
2 data online too, and we do a massive data
3 analysis. That's -- that's certainly the
4 trend in data journalism.

5 MR. JACKSON: But they never, like, do
6 their own -- I'm like, why don't you run your
7 own thing and call me up and be like, see, I
8 found something different. That would be
9 compelling. Just you suck -- that's not an
10 argument.

11 MR. PODKUL: Yeah, and then Twitter
12 wars are legendary.

13 MR. JACKSON: Yeah. So then -- then
14 they asked me to rerun the analysis, and I
15 did something else, which I always thought
16 would be interesting, which is when the CEO
17 sells at the time of a buyback what the CEO
18 is sometimes saying is, look, I don't like
19 the long-run prospects of the company. Not
20 every CEO is saying that when they sell
21 stock. They get stock as compensation;
22 they've got lots of reasons.

23 But a lot of the time, a CEO who's
24 selling shares is saying I don't love the
25 long-run prospects of the company. If I did,

1 I would hold the stock. So the Senator asked
2 us to run this new analysis, and we did. We
3 showed that in the cases where they do a
4 buyback and the CEO sells, 90 days after the
5 -- after this -- after the buyback, the gains
6 from the buyback disappear. And in fact, the
7 company underperforms.

8 Whereas, when a buyback is conducted
9 and the CEO holds the shares, in the long run
10 the company outperforms. Now again, you
11 could look at this and say this is totally
12 unremarkable. All it shows is that CEOs know
13 a lot about the future of the company, right,
14 and that's not news to anybody in this room.

15 But I put it out there -- and again I
16 got -- you saw you know, like stop -- stop
17 putting data out there. I think this might -
18 - what's that? Well, so I think there are
19 folks who would rather not have these facts
20 out in the ether.

21 MR. PODKUL: Yeah.

22 MR. JACKSON: So no one at the SEC
23 says this to me, but the CEOs do, and
24 basically their lobbyists, right. And again,
25 I just -- they'd do better -- they should

1 hire you. Like get us some -- a data guy to
2 take a look.

3 So I did another recent thing I
4 thought you might find interesting, and I
5 wanted to -- you know, man, whenever I come -
6 -

7 MR. PODKUL: Yeah.

8 MR. JACKSON: -- to something like
9 this --

10 MR. PODKUL: Of course, yes.

11 MR. JACKSON: -- I like to have
12 something new to talk about. So I've been
13 working on this for a couple of weeks, you
14 could tell me. Yeah, I got a chart and
15 everything.

16 MR. PODKUL: Yeah.

17 MR. JACKSON: So one of the
18 interesting things that's happening in
19 corporate America right now is when a company
20 has to disclose that they did that they had a
21 restatement, like the corrective disclosure
22 -- hey, we gave you a number a couple of
23 years ago. It was wrong. A lot of the time
24 -- so you know, when they disclose that, the
25 stock price will respond. And in the last 10

1 or 15 years have become very clear that the
2 stock's drop, to the degree there is one,
3 will be the measure of damages in a lawsuit
4 that follows. Does that make sense?

5 So like if there's a stock drop, the
6 lawyer's going to say, well, that -- the
7 restatement caused that drop, so those are my
8 damages. So this hasn't been true for that
9 long.

10 So what companies have started to do
11 is bundle good news and bad -- good news and
12 bad news together, and you all know this
13 because I'm sure you've had sources over the
14 years who came to tell you something really
15 bad but like wrapped it in some good news.
16 Like they're trying to be like, yeah, I think
17 I'm getting fired, but you know, time with my
18 family. You know like -- like -- like -- so
19 what we -- we did a study where we basically
20 looked to see how often, when a company
21 announces a restatement in corporate America,
22 how often do they wrap it in good news like
23 the fact that they have new earnings and they
24 beat expectations.

25 In the year 2000, the answer was less

1 than 5 percent of the time. Last year in
2 2017, they did it 20 percent of the time, and
3 it's just a straight increase. They wrap bad
4 news in good, and the reason they do it is
5 they think if I wrap bad news in good, the
6 stock won't fall and the damages will be
7 zero.

8 And one of the things I'm pushing for
9 and calling for in the SEC is not to let
10 corporate managers do this because what I
11 want is a clean signal from the market. Some
12 -- look, things go wrong in companies. But
13 when you disclose it, the market will tell
14 you what damage was caused, and we shouldn't
15 let corporate managers control that, right?
16 Those things should have to be disclosed
17 separately so you get a clean signal from the
18 market about what damages have been caused.

19 And if we did that, if we forced
20 companies when they have a restatement to
21 come out and say it clean, rather than wrap
22 it in good news, I think we'd have a much
23 better functioning market.

24 MR. PODKUL: And we can't do that in
25 the news business. Our editor would tell us,

1 you know, you're burying the lead. You know,
2 you got to always lead with the most
3 important. You can't bundle, you know, too
4 much stuff in the -- in the lead paragraph.

5 But -- so this is pretty fascinating.
6 What are you proposing the SEC should do
7 about this?

8 MR. JACKSON: So we should have a
9 rule, in my opinion, and you know, I'm open
10 to all kinds of -- in the details, but we
11 should have a rule that says you can't stuff
12 bad news -- wrapped -- in good wrapping. If
13 you have a restatement you need to make,
14 you've got to come out with a clean
15 disclosure that provides that bad news to the
16 market to see what it's worth.

17 If you want later to add some good
18 news, okay, but first come out -- come out
19 with these things separately so we get a
20 clean signal from the market as to what the
21 damages really are.

22 Look, another approach, if you really
23 want to go further, is not to use the stock
24 price reaction as the measure of damages.

25 Does that make sense? Because then

1 executives wouldn't have this reason to
2 bundle this all together. But I'll tell you
3 that idea is not going to be too popular with
4 my colleagues. They really like the idea of
5 using this measure. I got feelings about
6 that.

7 But the short version is if you --
8 look, this is what bothers me about this. If
9 you tell corporate managers we're going to
10 measure the damages by the stock price drop,
11 then they're going to do things to prevent
12 the stock price from dropping. I'm not mad
13 at them. They're just doing what the -- the
14 incentives are under the law that we have.
15 That's why we have to change the law to give
16 them incentives to tell the market the news
17 cleanly so that we can actually respond to
18 what's -- what's happened.

19 MR. PODKUL: And on that point while
20 we're talking about corporate disclosures,
21 are you a fan of not requiring companies to
22 report quarterly but making -- maybe making
23 them report just half a year, every half year
24 so that managers can focus more in the long
25 run as opposed to the short term thinking, as

1 the theory goes?

2 MR. JACKSON: Long-termism, short-
3 termish. What do you guys think of this?
4 You guys don't get to see this. It's very
5 funny, but someone in the back just literally
6 went.

7 So did you first of all, did you guys
8 see -- the President himself tweeted on the
9 subject.

10 MR. PODKUL: Yes.

11 MR. JACKSON: He met with the CEO of
12 Pepsi, whom I know -- she's an extraordinary
13 leader, actually. He met with her, and she
14 mentioned it, and so he tweeted, you know,
15 the short-termism quarterly thing might be a
16 real problem. SEC needs to look into it.

17 And of course, like, it was a funny
18 thing because for the next three days, my
19 phone was -- like people were like he tweeted
20 about -- about the SEC. But you know, it's
21 unbelievable the news that this guy creates -
22 - it just -- it's incredible, yeah.

23 Now, the good news is the SEC had been
24 looking into this subject for a long time,
25 and we've been studying for a long time

1 whether we should change the frequency of
2 reporting. Here's my two cents.

3 MR. PODKUL: Sure.

4 MR. JACKSON: I think, in general, if
5 you're going to convince me that quarterly
6 reporting is leading to a problem like this,
7 you have to convince me there's a market
8 failure. In other words, you have to
9 convince me that giving people information
10 causes them to make bad decisions, and that
11 is not my intuition, right? My intuition is
12 you give people information to make better
13 decisions, and that -- you know, that's --
14 that's not me that's like Brandeis.

15 But I will say the following -- one
16 thing has happened that we should all think
17 about, and people in this room -- because
18 this organization has great history -- should
19 think about it. Remember that earnings --
20 quarterly -- forgetting about the 10-q and
21 quarterly reporting, I don't think that's
22 actually the important -- where -- where the
23 action is here. I think where the action is
24 is in the quarterly earnings guidance and the
25 earnings call that happens.

1 Remember, guys, this is not always how
2 this worked, right? It wasn't always that
3 the CEO guided to it multiple times a quarter
4 and then you had the call and you kind of
5 tried to get a sense on the call how
6 confident does this guy feel and does he
7 really feel like he's doing well. It wasn't
8 always like that. This practice grew up over
9 time partly because investors wanted it.
10 They wanted to know are you going to hit this
11 bogey that you've set.

12 But we haven't looked at that at the
13 SEC in a long time. Also remember the
14 analyst settlements from 2003 are now 15
15 years old. We haven't looked for a long time
16 at how well that's working, whether analysts
17 still have conflicts, what kind of feedback
18 they give at the earnings call, how much
19 earnings pressure there is. I'm open to
20 looking at that.

21 I will say something does disappoint
22 me in the journalistic coverage of this. So
23 in my office, the thing we talked about the
24 day the President tweeted about it was the
25 incredible irony of describing a problem of

1 short-termism on Twitter, and nobody wrote
2 about that. Come on, man.

3 MR. PODKUL: I -- I -- I'm a long-term
4 focus journalist so I'm very sorry, I -- my
5 stories take months.

6 But speaking of bringing information
7 to people so they can make better decisions,
8 you know, the SEC is doing an exercise like
9 that of its own. It's called the transaction
10 fee pilot, which for any of you in the room
11 who aren't familiar with it, it's a huge
12 first-of-its-kind data gathering and analysis
13 exercise that the SEC plans to use to gauge
14 the impact of fees and rebates that stock
15 exchanges impose on brokers for taking and
16 making liquidity available on their venues.

17 Now, this has been the subject of much
18 debate from both sides of the issue, and it
19 often turns into a he-said/she-said
20 discussion over whether rebates and fees are
21 good for investors or not.

22 You know, putting your data hat on,
23 what do you think is the objective truth of
24 this rebate make-or-take system as it stands
25 today? Do you think it opens investors to

1 conflicts of interest with brokers and
2 exchanges that may cost them when it comes to
3 best execution, or do you think it benefits
4 them through tighter spreads and better
5 execution?

6 MR. JACKSON: So just -- I thought
7 maybe we'd give a little background --

8 MR. PODKUL: Sure.

9 MR. JACKSON: -- for those who have --

10 MR. PODKUL: Definitely. This is one
11 of those issues that needs background, for
12 sure.

13 MR. JACKSON: Yeah, man. It took me
14 like six months to under --

15 MR. PODKUL: Oh, same here.

16 MR. JACKSON: Yeah. So the way this
17 basically works is the major exchanges make
18 payments or charge fees to investors who
19 bring trading to them. And the degree to
20 which this -- this has been a subject of
21 study for a long time. There's an argument
22 that this causes a conflict. The conflict it
23 causes is that the person who's made doing
24 the stock trading is going to bring the
25 transaction to the place where they get paid

1 the most instead of the place where the
2 investor is going to get the best price. And
3 that's going to be true except in -- to the
4 degree the law forces them to get the best
5 price.

6 And we have a rule about this. It's
7 the best execution or the order of
8 protection. These -- these rules are meant
9 to work together to ensure investors get the
10 best price. The problem is that they don't
11 -- they're not very binding. So there's a
12 lot of room, within best price there's a lot
13 of room to make those judgments, and the fear
14 is that there's this conflict of interest.

15 Now the question she's already asked
16 me is what's the truth of this, is this
17 really good or bad, and the answer -- the
18 truthful answer is I don't know. I have no
19 idea, which is why we're doing the
20 transaction fee pilot because the question
21 really is do -- are those payments necessary
22 to create the kind of liquidity that we need
23 to run a good stock market? The exchanges
24 are -- have argued that it -- they are
25 necessary. Others have argued -- powerfully,

1 I think -- that they're not necessary. We're
2 going to test it.

3 And remember, I said earlier that
4 because the Chairman is -- is so focused on
5 running the place that the trains are running
6 on time? This is something we should have
7 done a long time ago, and we didn't because
8 it is hard. It's hard for the SEC to come
9 out and say, hey, we don't know whether this
10 is good or bad for investors. We're going to
11 -- we're going to get some data and find out.
12 That's a hard thing for a chairman to say,
13 but it was the right thing for him to say,
14 and he did.

15 MR. PODKUL: Yeah.

16 MR. JACKSON: And I'll say something
17 else, he brought in a guy, Brett Redfern,
18 who's the director of division of trading and
19 markets, who left -- gave up a lot here in
20 New York to come down to Washington and run
21 this. And he's -- look, he's trying very
22 hard to get this right, and sometimes he goes
23 further than I'd like; sometimes he doesn't
24 go as far as I like. You don't agree every
25 night, but at the end of the day he is trying

1 to get to the truth of do you need -- what
2 kind of transaction fee, what kind of
3 payments do you need to create the liquidity
4 we want. And once he understands that truth,
5 he can come up with a rule that makes more
6 sense for investors.

7 So I really admire them, and I've been
8 very supportive of this. I came out
9 aggressively in favor of it, and the reason I
10 did that is Jay and Brett are trying to do
11 the right thing, and I want to support that.

12 Let me say one more thing about that.
13 There's one move in this debate that really
14 makes me mad because I just think it's wrong.
15 The argument is to say this is a debate, this
16 is a -- a -- a -- a food fight among very
17 wealthy people. The exchange is on the one
18 side who are doing great, it's the banks on
19 the other side who are doing great, who
20 cares? I do, and here's why.

21 Everyone in this room knows that those
22 fees that get charged, they get taken bit by
23 bit from investors because if you spent 15
24 minutes on Wall Street you know if they
25 charge a fee, whoever's paying that fee, it's

1 not them. You know that. That's getting
2 passed on to an investor, and my problem is
3 I'm a kid who wasn't supposed to have a job
4 like this or go to law school, and the reason
5 I did is because my parents put money away,
6 and I can see that the system we have today
7 is meant to take bit by bit -- you don't
8 notice it, but little by little, and then you
9 look up and it's 20 years later and you want
10 to send your kid to college or you want to
11 retire, and that number's not as big as it
12 should be.

13 And for me -- that's why I care. This
14 is not a food fight among among rich kids.
15 This is a fundamental question over do we
16 have a system that's fair to the Americans
17 the markets are supposed to work for, and I
18 think Brent and Jay are doing the right
19 thing, and that's why I support it.

20 MR. PODKUL: Now on March 20th, the
21 SEC unexpectedly halted part of the
22 transaction fee pilot as the US Court of
23 Appeals for the District of Columbia is
24 considering legal challenges to the proposal,
25 the big exchanges. NYSE, NASDAQ, and CBOE

1 have sued. They're trying to obviously stop
2 the pilot from going forward, and I guess
3 there's two ways to look at it. Either this
4 is a big win for the exchanges, or it's a
5 savvy move by the agency to basically go
6 ahead with the least controversial part of
7 the pilot, the data gathering, while the
8 courts decide on the more controversial
9 aspects of it. What are your thoughts on the
10 SEC's move to lit?

11 MR. JACKSON: This is the part of my
12 job that I hate because it's ongoing
13 litigation, so I really can't say much about
14 it. I'm just going to say --

15 MR. PODKUL: Still got to ask.

16 MR. JACKSON: Yeah. No, ask for sure.
17 I'm happy to be asked. I just wish I could
18 say more. I legitimately, seriously wish I
19 could say more.

20 It's ongoing litigation. I think I
21 understand -- look, the key to me is to do
22 it, and I can tell you, there are powerful
23 forces who would like to wait us out. Like I
24 said, we have a few key people in good spots
25 right now who are trying to do the right

1 thing, and I -- my concern would be delay
2 because I don't think it's healthy for people
3 to say, you know what, we don't really like
4 the policy you came up with. So we're going
5 to hire a law firm to hold you up for the
6 next two years, and we hope we get someone
7 else who does -- who does something we like
8 better. I don't think that's a good way for
9 the railroad to run.

10 As you pointed out, a very important
11 point here is that we're still going to be
12 able to collect the data.

13 MR. PODKUL: Right.

14 MR. JACKSON: So we haven't actually
15 slowed down the process, and in a way that
16 worries me yet. And I'll leave the rest to
17 the courts and to our general counsel to work
18 through, but fundamentally from me -- my view
19 on the transaction fee pilot is we should
20 have done this a long time ago. It's time to
21 test these payments and how they really work,
22 these fees and how they really work, and I'm
23 going to be a guy who pushes very hard that
24 that happens soon.

25 MR. PODKUL: One more question, and

1 we'll open it up to the Q&A from the
2 audience. You mentioned that there's some
3 people are saying this is just an argument
4 between rich people on Wall Street about who
5 should make more money, and that's almost
6 exactly the same thing I heard when I went to
7 the SEC in October for the roundtable on data
8 feeds.

9 I forget who it was, but one of the
10 round tables someone mentioned that this is
11 -- this is not about apple pie and hotdogs.
12 This is about BMWs versus whatever car make
13 was -- I think it was a Maserati or whatever.
14 But you know, that was within context of data
15 feeds, which are another hugely controversial
16 issue, and you know the the cost of
17 connecting to data and acquiring data from
18 the exchanges just keeps going up and up and
19 up.

20 IEX has publicly disclosed its cost to
21 provide market data and connectivity. I'm
22 just wondering do you think other exchanges
23 should do the same?

24 MR. JACKSON: So again I -- without
25 commenting too specifically on things that

1 might come before me, we have said some
2 things that are still subject to litigation
3 about data, so I don't want to say too much
4 about data.

5 Here's what I will say. I'm -- like I
6 said, I started my career on Wall Street.
7 When someone tells you, don't worry, this is
8 not about you, I'm stealing for -- I'm
9 fighting with somebody else over here,
10 usually they're taking from you. And what
11 they prefer you do is focus on this other
12 thing over here like Mercedes and BMWs,
13 right?

14 Like -- so to me, what frustrates me
15 about this argument is that it's not engaging
16 with the facts. Like if you want to say we
17 are doing the right thing for investors, say
18 that. This is the right system. We believe
19 it and defend it. Instead of turning it into
20 a political game about these are two sets of
21 rich people fighting so don't pay any
22 attention.

23 Look, here's my problem. Right now in
24 our country, we have a moment where there are
25 a lot of people who feel like what we do in

1 finance does not work for them. It's a game
2 that's rigged against them. It's not meant
3 to include them, and it is driving enormous
4 -- I mean, even in my own family, it is
5 driving an enormous divide between people who
6 feel like they're part of that club and
7 people who aren't.

8 And to me, there's no more hurtful
9 argument to the progress of debate in this
10 country than to say, don't worry about it,
11 this is just rich people fighting. Like I
12 don't -- I don't -- that's not an argument
13 about whether or not we are doing the right
14 thing for you, whether we have created a
15 system that works for you, whether you have
16 the market you deserve as the American
17 public.

18 So to me, that's -- that's not an
19 argument. That's a claim about -- that's
20 like a political smokescreen. It's not a
21 serious argument about the -- about the
22 degree to which investors deserve the markets
23 -- are getting the markets they deserve.
24 Bless you.

25 MR. PODKUL: And with that, questions

1 from the audience. Myron, please introduce
2 yourself who you are.

3 MR. KANDEL: I'm Myron Kandel,
4 formerly of CNN. I have a question Cezary
5 mentioned that you were appointed by
6 President Trump. What he didn't say is that
7 he had to appoint a Democrat because the
8 Commission is usually two people in the
9 minority party and three in the White House
10 party, right? If President Trump was sitting
11 here tonight he would disagree with
12 everything you said. Okay.

13 We know very well from what we read
14 and hear about his influence or his
15 unhappiness with the Federal Reserve, which
16 all of us journalists know was previously
17 considered untouchable by politics. So my
18 question to you is are you feeling the
19 influence of President Trump on the work of
20 the SEC.

21 MR. JACKSON: So we're starting with
22 an easy one. So Myron, I -- I remember
23 sitting in an audience like this watching a
24 guy like -- in a job like mine talk, and I
25 saying to myself, I wish they'd just give a

1 straight answer. So you asked a
2 straightforward question, am I feeling the
3 pressure of a particular White House view,
4 and there's a yes or no answer to that
5 question. The answer is no.

6 And I understand from the outside
7 looking in why you might think that. I'm
8 here to tell you that that does not influence
9 my day-to-day work. I'm not saying it never
10 will. I'm saying I am very fortunate to work
11 in a building where the independence of the
12 regulators is taken very seriously, and I
13 work for a chairman who has a deep reservoir
14 of respect on both sides, and I don't
15 speculate, but also I believe at the White
16 House so that we are permitted to make the
17 decisions that we think are best for the
18 market.

19 Now, if you're wondering more
20 generally about this president's view about
21 financial regulators' independence, et
22 cetera, I'm happy to talk about that, but you
23 asked about my experience, whether or not I
24 have felt that influence, and the answer to
25 that, Myron, is no.

1 MS. ZOBERMAN: Is this on? Yeah, I
2 guess it is. Gail Zoberman (phonetic), I'm
3 retired. But when you talked about
4 separating signals good news not being
5 wrapped in bad news et cetera, et cetera,
6 have you had the argument, and if so, what do
7 you say to somebody says you're infringing
8 upon my First Amendment right to say what I
9 want?

10 MR. JACKSON: Yeah, I get that a lot,
11 yeah. So it's a great question. Her
12 question basically is, look, doesn't the
13 First Amendment permit companies to speak as
14 they wish, and my answer to that is no.

15 In 1934, in response to the Great
16 Depression, we made a decision that
17 fraudulent speech was going to be limited,
18 prohibited by federal financial regulators,
19 and we can debate whether that was the right
20 bargain to strike or not. I think over the
21 last 85 years, it has served American
22 investors and companies well.

23 But I'll put it to you this way, if
24 the First Amendment stops me from prohibiting
25 companies from committing fraud against the

1 American public, nine guys in robes are going
2 to have to tell me that. And I don't think
3 they will. I don't think they will because
4 fundamentally, if you look at the history of
5 the First Amendment's jurisprudence, the
6 Court is very careful to judge to -- to make
7 sure we abide the limits of regulating
8 commercial speech. But it's been very clear
9 for a very long time that the 34 Act, the 40,
10 I mean, all the statutes that empower the SEC
11 to act arguably infringe the freedom of
12 speech.

13 Look, fundamentally getting someone to
14 come out and say that they did something
15 wrong when they'd rather not infringes their
16 freedom of speech, but I'm okay with that.
17 And in fact, I don't think a very thoughtful
18 conception of speech includes that. In other
19 words, I think of what everyone in this room
20 does as crucial speech, central to the
21 bargain of the Constitution. I think of
22 political speech as very -- I mean,
23 infringement of this, I think the courts
24 would not abide and they're right.
25 Journalism, same thing.

1 But fraudulent speech, telling you
2 something that's not true, this has never
3 been entitled to the kind of profound
4 protection that I think we have in mind. So
5 when people make this argument, I want to be
6 respectful of the First Amendment. I don't -
7 - I think it's important that the SEC not
8 cross those boundaries, but I'm very
9 comfortable that rules forcing companies to
10 cleanly say we have bad news rather than
11 bundling it with good would be within those
12 bounds.

13 You guys are tough, so it's funny. He
14 mentioned this. I said in a speech once that
15 my mother teaches the second grade. As a
16 matter of fact, this is -- she's -- 31st
17 year she's retiring in three months. Yeah,
18 it's crazy. What a story. And every year I
19 go and I sit on the magic carpet, and the
20 rule on the magic carpet is you can say --
21 you just have to tell -- you just have to
22 tell the truth. That's the rule on the magic
23 carpet.

24 My guess is all of you would love to
25 have a -- we could get a magic carpet, yeah.

1 Yeah, yeah.

2 So it's funny, over the years I go up
3 and I get questions from the second graders,
4 and over the years I get the -- the two --
5 the two questions I get every year that are
6 so hard are are you married and why not. And
7 I figured it out. I think my mom was
8 planting those questions. So if I could
9 survive that, I'm happy to answer any
10 questions you guys have.

11 MR. FRIEDMAN: Hi, William Friedman,
12 freelance. I write mostly for Global Finance
13 Magazine and HFM.

14 You said that you were involved in
15 bringing public of a lot of IPOs during the
16 dotcom boom, and now it seems like we have an
17 echo of that with the digital asset boom, the
18 ICOs and the cryptocurrencies and such. I
19 appreciate your -- your sense of what's
20 different this time, what's the same this
21 time, and what the SEC's response is and what
22 it might be if you could wave a magic wand.

23 MR. JACKSON: Yeah, what a great
24 question. So he's saying you lived through
25 the 90s dotcom boom. Now you're seeing, from

1 a different perspective, the ICO market,
2 what's similar, what's different. So a few
3 things.

4 So -- oh sorry. So first of all, one
5 of the things the SEC -- so I got to say,
6 like just spoiler alert, I'm very proud of
7 the stuff the chairman and our enforcement
8 guys have done on the ICO front. Say what
9 you want, man, they have been aggressive.
10 Like they came out, even before I joined the
11 Commission, and said we think many of these
12 fit the definition of a security. There were
13 lawyers out there saying this is not even a
14 security. You don't have to obey the
15 securities laws. They don't even apply. And
16 the SEC came out, I thought, really clearly
17 and -- and said that's -- we don't -- we're
18 not sure that's right. We're, you know,
19 flagging this for you that you -- if you have
20 a security, you have to follow the law.

21 They've done good work. I'll give you
22 an example. One of my favorite things that I
23 remember from when I was on the street and
24 when I -- one of my favorite things since
25 I've been with the SEC.

1 During the 90s dotcom boom -- I don't
2 know if you -- there's no reason to remember
3 this. The SEC at the time, which was led by
4 Arthur Levitt, brilliant chairman, was a
5 concern that people were not reading the
6 prospectus. They weren't reading the -- the
7 IPO documents. They weren't looking at it
8 carefully.

9 So the SEC at the time did a fake IPO,
10 like put up a registration statement that was
11 about a fake company, and like people were
12 calling up being like, hey, how do I invest.
13 This sounds great. And what the SEC did was
14 they used it as an education -- they said
15 here are the signs that this was not real.
16 You know, there's no earning, there's no
17 intellectual property, there's no idea. It
18 just says dotcom. It doesn't have anything
19 to do with the internet. Like, that's not a
20 thing.

21 I'm very proud of this. They said --
22 it wasn't my -- this is -- staff are
23 unbelievable. They did like three months
24 into my time at the SECOND, they did a fake
25 ICO, a fake initial coin offering. Now,

1 there's no reason for you to know this, but
2 there's a little legal detail here that the
3 definition of a security -- secure -- an
4 investment contract is defined by, yeah, the
5 Supreme Court case called Howie. And if
6 you're a securities -- no offense, but if
7 you're a securities nerd, you know -- right,
8 I mean, come on. Let's -- yeah. I feel like
9 the -- they know, man.

10 MALE VOICE: (Inaudible).

11 MR. JACKSON: So we named it Howie
12 coin, and we did a fake ICO, and I'm telling
13 you, man, if you google this, look on reddit
14 there's people like, hey, this is this great
15 idea. And then they're like, wait, maybe
16 it's fake. And the guy -- the picture of
17 like the -- we had a white paper describing
18 the idea, and the picture is like the -- the
19 guy the SEC staffer who ran it.

20 So they looked at his picture and then
21 they compared it to LinkedIn and they're like
22 the LinkedIn thing is like his SEC pay it
23 was, like, I think it's the same guy. So
24 first of all, there are a lot of
25 similarities. I will say one difference is I

1 remember raising money in that environment,
2 and it was -- you know, it was easier than it
3 should have been. People weren't diligencing
4 everything the way they should.

5 But today with the internet and social
6 media, it's a different world, man. I mean,
7 look, without judging any particular matter
8 and being care -- you know, my lawyers would
9 be upset, you know, like, there's -- I think
10 a guy who like did something called fake
11 coin. I mean, he named -- it was right there
12 in the name, and I think he raised like 50
13 million. I mean, like, it's unbelievable.

14 I feel like right now it's a moment
15 where people -- and this is what I was trying
16 to say before, not that artfully -- people
17 feel like there's another game out there that
18 they're not in. Does that make sense? And
19 feel like that's a big part of what tempts
20 people to get in this kind of thing. I'm
21 missing out because I'm not -- I don't have
22 the right friend or I don't know the right
23 thing or I didn't go to the right school, but
24 here, I can get in on it so I'm going to try.

25 And there's a level at which I don't

1 -- it's hard to blame them. I understand
2 what that feels like. I understand that. My
3 job -- our job at the SEC is to educate them
4 and make clear that, you know, if there's an
5 offer that would give you twice as many
6 securities if you buy them in the next 15
7 minutes, that -- be skeptical of that. Like
8 that's not how Wall Street works.

9 So I think we've done a pretty good
10 job on it. I think there are a lot of echoes
11 in the two -- in the two eras, but one thing
12 I'm really proud of is I think we've -- we've
13 -- we've stepped out -- up and gotten ahead
14 of this. I think we have a lot more work to
15 do, but I think we're doing okay so far.

16 MR. FRIEDMAN: (Inaudible).

17 MR. JACKSON: How much time you got?

18 MR. PODKUL: Not that long.

19 MR. JACKSON: Yeah. So there are a
20 number of sort of -- there's a number of -- a
21 lot of background on this. I personally --
22 to me, the most help -- we just put out some
23 guidance on this a week or two ago. The most
24 helpful thing, I think, our director of
25 corporation finance, Bill Henman, gave a

1 speech about a year and a half ago that
2 describes this. You might know the speech I
3 have in mind.

4 Let me just quickly summarize the
5 intellectual problem. Tell me if you
6 disagree. The intellectual problem is to the
7 degree that you sell a token that is meant to
8 let somebody use existing infrastructure,
9 many times in our past we have assumed or
10 concluded that that's not a security.

11 Let me give you an example. Airline
12 miles. Airline miles, you get them, they're
13 -- they can be sold sometimes, right, like
14 there's a way to sell them or transfer them.
15 There's limits on that, but you can hold them
16 with the expectation that they'll go up or
17 down in value, but because you're using them
18 on an existing infrastructure, which is the
19 existing airline that you work on, and
20 there's rules of that game, we typically tend
21 not to think of that as a security on the one
22 extreme.

23 On the other extreme, you have a
24 situation where someone sells a token for
25 infrastructure that doesn't even exist yet.

1 Does that make sense? And says give me this
2 money so I can build this thing, and then you
3 can use a token to use that thing. It's a
4 different case. Why? Because look, man, I'm
5 not against you selling a thing to raise
6 money to build something. I just got a name
7 for that. That's a security, like it has
8 been thought to be a security in many -- not
9 in every case but in many cases for a long
10 time. That's it.

11 So the question is where do we draw
12 that line, and how we test and the guidance
13 we put out in this area hasn't formed that
14 difference.

15 Now, one more thing. You -- you
16 mentioned cryptocurrency. What's important
17 about that is to realize that the way that
18 cryptocurrency works when it -- and this is
19 what Bill Henman's speech says, so I'm not
20 adding too much -- depends fundamentally on
21 how centralized or decentralized the
22 underlying network is that -- that supports
23 that currency. And that's -- that's also
24 true in the ICO context. Bill has said a lot
25 about that, about ways that practitioners can

1 look in that area and get a sense for whether
2 or not we should think of that as a security,
3 and I point people to that speech.

4 Do you think we've been clear enough
5 about that?

6 MR. FRIEDMAN: No.

7 MR. JACKSON: Yeah, yeah, I expected
8 you'd say that. No, let me ask you this.
9 No, no, no, seriously, I've heard that a lot.
10 What could we do that would be more clear?

11 MR. FRIEDMAN: (Inaudible).

12 MR. JACKSON: So let me just -- I'm --
13 I'm -- I want to be clear because a lot of
14 people have come in and asked us for more
15 guidance on this, and it's not that I -- we
16 don't want to be -- I don't want to speak my
17 -- not that I don't want to be responsive.
18 It's that I worry that if we make a rule
19 today, it will make a lot less sense to the
20 marketplace in six months in this space. Do
21 you see what I'm worried about? And for
22 better, for worse, the machinery of the
23 bureaucracy of the U.S. Government works in a
24 fashion where if I were to pitch a rule and
25 know exactly what it was -- exactly what we

1 were -- if you and I could get a beer and
2 agree what the rule should be, by the time it
3 became law it'd be a year later. And by that
4 time, the ground will have moved underneath
5 us.

6 So that if you sense at least from my
7 point of view of wanting to give this some
8 time to figure out and do it by guidance as
9 opposed to rule, that's what's driving us.

10 Now, you might say, Jackson, that's
11 the problem. Why don't you move more
12 quickly? And from your lips to God's ears,
13 man.

14 MR. WENIK: Hey Commissioner, Ian from
15 -- Ian Wenik from City Wire. So you've been
16 a pretty persistent critic of the economic
17 analysis underlying regulation vest interest,
18 the broker conduct package. Does it concern
19 you to see states get so frustrated with the
20 pace of rulemaking that they've started
21 introducing their own rules? Nevada had
22 regulation off books and now New Jersey just
23 saw (inaudible).

24 MR. JACKSON: So I'm sorry, what was
25 your name?

1 MR. WENIK: Ian.

2 MR. JACKSON: So Ian's question is
3 we're working on this -- do you guys know the
4 regulation best interest backdrop? Are you
5 familiar with this? So the basic question is
6 what obligations does a broker owe you when
7 they -- when they sell you financial advisory
8 services.

9 And the problem is that it's grown up
10 over time in a way that investment advisors
11 have one standard under the 1940 Investment
12 Company Act and broker dealers have a
13 different standard under the 34 Act, and the
14 question is what should the standard be.

15 And we proposed a rule last year that
16 -- called Regulation Best Interest -- that
17 attempts to raise the bar for broker dealers
18 for what obligations they owe you when they
19 advise you and also clarifies the standard
20 for investment advice.

21 I think your question is -- I have
22 been critical of the economic analysis there,
23 and I think your question fundamentally is to
24 what degree do I expect -- how do I expect
25 this rule to unfold and what do I think the

1 economic advice would look like.

2 So here's my thing about this.

3 Suppose I were to say to you all we are going
4 to raise the standard so that when a broker
5 talks to a client, they have to be clearer
6 about what they're selling and what it costs.

7 Is that going to affect those people's
8 behavior, both the broker and the client?

9 What's your reaction?

10 See it's funny you should say that.

11 So I'm going to say about half of you shook
12 your head because you're cynics, fair enough,
13 and said it won't change anything. People
14 won't understand, and the brokers will dance
15 their way around it because that's what
16 brokers do right? Is that a fair summary?
17 Okay.

18 The other half of you said, well,
19 actually, maybe it would because a lot of
20 brokers want to do the right thing. They're
21 going to ask people what the rules of this
22 are, and they're going to say -- they're only
23 going to make a pitch that they're allowed to
24 make. It is what a guy like me likes to say
25 an empirical question. This -- science can

1 answer this question, right? What you --
2 what you should do, I think, is test it.
3 Take a bunch of brokers, tell them this is
4 the law, and tell another bunch that this is
5 the law, and see how they respond. Talk to a
6 bunch of customers. Say here's the
7 disclosure. Give another group a different
8 disclosure. Choose them randomly if you want
9 to get close to the level of science
10 required, for example, by a medical trial and
11 see what the effects are.

12 That is what I have said we should be
13 trying to do with regulation best interest.
14 Not necessarily -- look, everyone who comes
15 into my office swears they know the answer to
16 this question. They say this won't do
17 anything or it's too strong or it's too weak,
18 and the hard -- the more they yell, the more
19 I know you don't know. You don't know.

20 And by the way, what makes you think
21 it's going to be the same for people in New
22 York as it's going to be for people in
23 Florida as in Nevada, and I'm making one rule
24 for the entire nation. How am I supposed to
25 be confident about the way those people

1 respond? And that gets to the question you
2 really wanted to ask me, sir. He said how do
3 you feel about the fact that states are
4 moving forward with their own rules, in part
5 because they're impatient about the SEC?

6 Now, I'm not sure I grant the premise
7 that their impatience with us is what's
8 driving their action. I think what's driving
9 their action is they think they need to take
10 steps to protect investors. And my view has
11 always been that the states should do
12 whatever -- I mean, that's -- we have a
13 federal system. States should do whatever
14 they think necessary to protect their
15 investors.

16 Do I think if we came out with a
17 strong regulation best interest that everyone
18 in the marketplace was convinced was good
19 enough, do I think states might defer to us?
20 They might, but that's on us to come out with
21 a regulation best interest that people think
22 is the -- is really going to protect people.
23 And my goal is to come back to you in a year
24 with a rule that's so strong that even a room
25 of skeptics like this could agree that we did

1 a good job. So wish me luck.

2 NATALIA: Hi, my name is Natalia. I'm
3 a radio journalism student at New York
4 University, Forbes contributor, and CNN
5 business intern. My question is about
6 collateralized loan obligations. The market
7 for CLO is expanded over the past few years
8 so my question is from your point of view, is
9 there anything that should be done in terms
10 of ratings for CLO.

11 MR. JACKSON: Ratings for CLOs.

12 MR. PODKUL: (Inaudible). What do you
13 mean?

14 NATALIA: (Inaudible).

15 MR. JACKSON: Okay, so I'll take those
16 -- I'll take the last question first -- oh, I
17 always forget to do this. You didn't remind
18 me. So my lawyers are going to be all --
19 it's on tape. So these are only my views.
20 It's not the other commissioners' views or
21 the Chairman's views or my mother's views.
22 They're only my views. I always -- it pisses
23 me off that they make me say this because
24 everything I've ever said in my life is just
25 my view, like what does that even mean.

1 MR. PODKUL: (Inaudible).

2 MR. JACKSON: And of course I'm going
3 to try and convince them, so whenever they --
4 the lawyers make me give this caveat, these
5 -- you can tell what kind of guy I am to work
6 with, this is the problem with hiring a kid
7 from the Bronx.

8 So they say I have to say these are
9 only my views, not the views of the other
10 commissioners. I say given enough time and
11 wisdom, they're going to realize I was right
12 all along.

13 So CLOS. First of all, am I concerned
14 about the leverage implicit in the CLO market
15 in that lending centers got loose, yes, yes.
16 And in particular, I think -- in fact, my
17 experience, when I talk to people on the
18 street about it, I think that asset class
19 actually did experience a little bit of a
20 pause, a breather, about a year ago, and that
21 was, I think, a very healthy market response
22 to people feeling like they didn't fully
23 understand what was in the box and understand
24 the ratings.

25 Now, you asked a question about

1 ratings that I think I need to address very
2 clearly. One of the biggest challenges in
3 the work of the SEC right now is how little
4 competition we have in crucial areas of our
5 markets.

6 How many rating agencies are there?

7 MR. PODKUL: (Inaudible).

8 MR. JACKSON: How many rating
9 agencies?

10 FEMALE VOICE: (Inaudible).

11 MR. JACKSON: You know bid two-and-a-
12 half, ask five, it's in between, right? It's
13 surprising to me that a market as deep as
14 ours doesn't have more competition in that
15 space. Stock exchanges, how many do we have?
16 We've got 13 lit stock exchanges, public
17 stock exchanges. Twelve of them are owned by
18 three conglomerates. Only one actually
19 independent stock exchange.

20 My answer to you, does it concern me
21 what's happening -- here's what does concern
22 me. In a -- in an industry where there's
23 only two-and-a-half competitors, three
24 competitors, I'm not sure there's enough
25 competition to get investors what they

1 deserve, which is an accurate rating.

2 Now, we have an office of credit
3 rating agency of credit ratings created by
4 Dodd-Frank. These people are tremendous;
5 they do great work. What they do is examine
6 the credit rating. They go in, they ask some
7 questions. They ask all the hard things that
8 people felt should have been asked in '06 and
9 '07. And they do great work.

10 But fundamentally, do I think
11 questions from Washington will do as good a
12 job as competition in disciplining these guys
13 and making them give the right ratings? No,
14 no, I think competition would do a better
15 job, and we don't have any, and fundamentally
16 the question we needed to ask, which is how
17 do we get -- go from a world with three
18 credit rating agencies to a world with ten,
19 we didn't answer. We didn't answer.

20 Here's -- I gave a speech about this a
21 little while ago. It's a funny thing because
22 you think back to the creation of the -- of
23 the SEC back to the Depression, people don't
24 know this. The SEC was created in 1934, but
25 the Securities Act that nerds like us think

1 about a lot, the Securities Act was passed
2 the year before in 1933. So the regulation
3 of securities had to go somewhere else. Do
4 you know where it went, which agency ran
5 securities regulation in this country before
6 mine existed? The Federal Trade Commission,
7 the antitrust enforcement.

8 In fact, if you look at the enabling
9 statute of the SEC, we are supposed to
10 consider among all the things that we
11 regulate competition as among our priorities,
12 but you don't ever hear us talk about the
13 ways that the choices we made led to having
14 fewer bulge bracket investment banks.

15 I went shopping for a job 15, 20 years
16 ago, there were a dozen. Not anymore. Two
17 and a half credit rating agencies, three
18 conglomerates that run most of our stock
19 exchanges. So my answer to you is what
20 concerns me about this, what concerns me
21 about ratings and CLOs but more generally is
22 that we don't have ten people fighting like
23 hell to get it right. Because if we did, I'd
24 be more confident.

25 Instead, we rely on the system we

1 have, which is just two, three, four credit
2 rating agencies overseen by Washington, and
3 the people there do great work, but they're
4 not perfect. They're people. And I do worry
5 that we might wonder about whether they got
6 the ratings right a few years from now.

7 MR. PODKUL: (Inaudible).

8 MR. JACKSON: Sure, so here's what I'd
9 say about that. I'm a guy who worries a lot
10 about conflicts, but there -- like, conflicts
11 are all around us in the world, right? You
12 go to -- after this, I'm going to dinner with
13 my fiance, assuming she's still dating me.
14 Yeah, such an embarrassing mistake. I'm a
15 corporate lawyer. I left too much time
16 between signing and closing. I got engaged
17 like a year and a half ago, and I'm giving
18 her a lot of time to think this thing over.
19 It's bad.

20 I'm going to dinner with her. I'm
21 going to ask the waiter to recommend a bottle
22 of wine. All right. Now, the guy gets 20
23 percent of what he sells. So is it going to
24 be astonishing to me when he likes the --
25 when he thinks the best bottle of wine is one

1 of the most expensive? It is not, but I
2 understand that's the deal, and if I ask him
3 for a recommendation, that's where this is
4 headed.

5 Their -- issuer pays is a basic --
6 there's conflicts all over them. And I
7 actually -- here's my -- my problem. I don't
8 want to be the guy who criticizes every
9 possible way to do something. I'm not saying
10 issuer pays is the right model. I'm saying
11 someone's got to pay, right, so let's figure
12 out who that is and make sure every American
13 investor understands that conflict's in our
14 market.

15 They go to buy a car, they go to
16 dinner, they live in the economy, they know
17 that fundamentally people can be conflicted.
18 That's not fatal to the system. What's fatal
19 is telling people that they're not
20 conflicted, that you're their friend, that
21 you're going to help them, that you have
22 their interests at heart, when in fact,
23 you're trying to get paid. That's when
24 people, in my experience, actually feel
25 defrauded.

1 MR. KNUCKLE: Hi, my name is John
2 Knuckle. I'm a financial adviser and a
3 freelance writer. I'm also a fiduciary, so
4 the question is about the fiduciary rule and
5 the push to lower commissions and the
6 increased technology within -- my colleagues,
7 we all look at it as something that's going
8 to kill the small investment.

9 And the reason is fiduciary structure
10 as gets paid for assets under management,
11 percentage of assets under management, now
12 the standard's about one percent. Technology
13 is making three-quarters of 1 percent, a half
14 of 1 percent, which means that if a client
15 has \$500,000, you can make \$2,500 all year.

16 What is happening is -- and it's
17 happened with my own firm -- is they're, in a
18 very compliant way, saying we don't want
19 clients with less than \$500,000. Now, these
20 people are being -- going to be -- and it's
21 going to increase. They're going to be
22 pushed off to the automated systems, and on
23 the current automated systems you can't pick
24 up the phone and talk to a financial adviser
25 when the market's crashing. You have to have

1 an appointment, and that's why they can
2 afford to charge so little money.

3 So I look at this as almost like a
4 looming crisis where -- and you're talking
5 about, you know, cops and firemen with
6 \$400,000 in their pension who can't get a
7 broker because it's the Goldmans and the
8 Merrills of the world that are put it down to
9 a quarter of one percent or maybe for free,
10 just so they have the money that they could
11 use as leverage.

12 So they're going to -- these small
13 investors, if there's a crisis or something's
14 wrong, they're going to have no one to speak
15 to, they're going to have no one to help
16 them, no one to guide them, and they're going
17 to act irrationally, and on a day when the
18 market should go down a thousand points, it's
19 going to go down 3,000 points. So that's --
20 I was wondering about that.

21 MR. PODKUL: (Inaudible).

22 MR. JACKSON: No, no, no, I think
23 that's fair. I don't mind -- no, no, no,
24 that's fair, man. Look, let me just capture
25 the point you -- what's your name? John. So

1 here's John's point basically.

2 Look, as it is right now, it's very
3 difficult for an average American family who
4 doesn't have \$4 million to invest but has got
5 400 grand to invest to get good financial
6 advice. Don't make it harder. I agree. I
7 agree, man.

8 Here's the question. What can I do to
9 get them better financial advice so that they
10 don't take that money into an office where
11 they get sold something that they're not --
12 they're not suitable for. And I believe that
13 if we do this the right way -- look, just
14 saying you have to recommend the absolute
15 perfect product for this person, I agree with
16 you, people will exit the business, and
17 that's bad.

18 And by the way, even before I was at
19 Bear Stearns, I was at a broker -- I was at
20 Smith Barney. Remember them? Smith Barney.
21 I used -- what's that? Yeah, I used to work
22 for a broker at Smith Barney. I got this job
23 and the guy I interned for -- I used to
24 (inaudible), like -- just like in the movie.
25 I'd write down on the postcards, you know,

1 I'd give it to him. The guy, when I got this
2 job, emailed me, said congratulations, don't
3 come after me.

4 Look, I -- I think you're right about
5 this. Here's my belief -- I believe we can
6 come up with a rule that gets a lot of the
7 practices out of the market that don't belong
8 there with making sure that the people you're
9 talking about can still get good financial
10 advice. I believe you could do that.

11 Let me just give one -- one example,
12 something I think is happening that I don't
13 like that really worries me. You guys know
14 lever -- what levered ETFs are?

15 All right, so the pitch here is, you
16 know, instead of getting the S&P 500, get
17 three times the S&P 500. Okay, now I have
18 seen data suggesting that a lot of cops and
19 firefighters and people who are 57-plus are
20 in those products on a buy-in whole basis.
21 They shouldn't be. They shouldn't be. The
22 reason they shouldn't be is that the way the
23 products get you that leverage is they're
24 rebalanced every day, and I can show you -- I
25 gave a statement on this not that long ago.

1 I can show you in the math that even if
2 you're right, the market goes up, you lose
3 half your money just on the erosion alone on
4 the rebalancing every day.

5 So here's my concern, John. One of
6 these cops you're talking about goes into an
7 office, says, look, I've got four hundred,
8 I'm short. I'm getting ready to retire,
9 okay? Four hundred is not going to make it.
10 I don't need the S&P. I need three times.
11 So he buys it, and lo and behold, it's a nine
12 year bull run. And the guy opens his
13 envelope in eight years, he turns to his wife
14 and says we're in great shape, and he looks
15 at it, it's half the money.

16 My view is we can and should say
17 that's not appropriate for that guy, and that
18 doesn't mean he can't get financial advice,
19 but we can and should come out and say this
20 is not a product he should be in. And I
21 think that's the SEC's job. A hundred
22 percent? Just because you can't sell them a
23 3x?

24 So look, here's what I'll say. You've
25 had to do that on the law we have now. It's

1 not because of regulation best interest or
2 the fiduciary rule. What you're saying to me
3 is be care -- pay attention to the costs of
4 providing this advice because if -- his point
5 is a very powerful one. See what he's
6 saying. What he's saying is if those costs
7 rise, it's not -- rich people are still going
8 to get financial advice. Those aren't the
9 people you hurt, he's saying. He's saying
10 you hurt people who really need it, and I
11 hear you, and I think everyone on the
12 Commission does actually.

13 MR. CARROLL: I'm Larry Carroll
14 (phonetic) of (inaudible) Investor's Business
15 Daily, and I was curious, a lot of companies
16 have tried to have Bitcoin ETFs, and the SEC
17 keeps shooting them down, and I was wondering
18 what's the main reason that the SEC doesn't
19 like Bitcoin ETFs.

20 MR. JACKSON: Bitcoin ETFs, so I got
21 in trouble about -- like you can tell a lot,
22 yeah. So we had a proposal from the
23 Winklevoss brothers to -- to do a Bitcoin
24 ETF, and we rejected that proposal. One of
25 my colleagues dissented and said, you know,

1 we should let a thousand flowers bloom, and
2 if investors don't like this product, then
3 you know, if they invest and lose money you
4 know, them's the breaks.

5 I thought that was a very easy case,
6 and let me say why. The -- at the market we
7 looked at in that particular ETF was the
8 underlying asset was traded offshore in a
9 very untransparent market with very thin
10 volume, and we said in our decision -- I
11 thought this was right -- that when you look
12 at volume that thin such that the price can
13 be manipulated and pushed around by someone
14 with not a lot of money, that's an investor
15 protection problem that we're not prepared to
16 let an ordinary American investors get
17 exposed to.

18 And the thing to understand about
19 ETFs, the benefit and the downside of ETFs,
20 is they are very easy to trade, right, that's
21 the whole idea. Are you -- you don't even
22 need to set up a separate fidelity account,
23 nothing like that, right. BD account, seven
24 bucks, you're in, you're out. That's what an
25 ETF is, and I was a very uncomfortable.

1 Now, people -- someone asked me once
2 how do you think about that, and I said the
3 way I think about it is imagine my -- my mom
4 and dad, it's the Bronx, it's like 1979,
5 they've taken that 20 bucks and putting it in
6 whatever. And what I have -- you know, that
7 was the money that was going to eventually
8 send me to college. Would I have wanted that
9 in a Bitcoin ETF, and I said hell no.

10 And then apparently I -- I said hell
11 no, and my mother, Robert, stop cursing. But
12 I got to be honest with you, man, like do I
13 really think that's a product that that
14 market is at a stage of maturity where we
15 should be putting ordinary American investors
16 in? I'm not convinced of that.

17 Let me say something else, though.
18 I'm willing to be convinced of it. So if you
19 show me a transparent market that trades
20 Bitcoin on a liquid basis that is always that
21 -- sort of easy to oversee where I understand
22 the value of the asset, where it's like an
23 equity or fixed income instrument, I'm not
24 saying we should pick and choose the products
25 people can invest in. That's not what we do.

1 What we do is we make sure that
2 they're not going to get manipulated against,
3 that they're not going to get taken advantage
4 of, and that the things they trade are going
5 to be reflected in prices that actually
6 reflect the value of the thing that they own,
7 and that's what, in my view, that proposal
8 didn't do.

9 But if someone brings a proposal like
10 that to us that does that, I believe we'll
11 approve it.

12 MALE VOICE: Thanks. My name is
13 (inaudible) with the Columbia Journalism
14 School. This is more a down-to-earth
15 question, but I was looking at the 2020
16 (inaudible) appropriations and you guys are
17 counting with like a 30 percent increase in
18 securities trading, but you guys are going to
19 get only like a five percent budget increase.
20 Do you think that like your agency's, like
21 increasingly underfunded, and like, you know,
22 if so, like, what the -- what way does that
23 affect you?

24 MR. JACKSON: So the question is are
25 we underfunded. So again, I try to be as

1 straightforward a guy as I can, and you can
2 tell them I'm not long for politics. Are we
3 underfunded? Yes, end of answer. Yes.

4 So we oversee trillions upon trillions
5 of dollars in securities trading. The people
6 that we oversee are some of the smartest,
7 fastest, most strongly financially motivated
8 people on earth. The idea that we should be
9 able to do that with staff cuts makes no
10 sense.

11 I think our Chairman has done a very
12 admirable job in very difficult budget
13 circumstances -- I mean, a lot of agencies
14 CFTC, for example, have faced significant
15 cuts at a time where they really do need as
16 much support as they can get.

17 Fundamentally, I'll tell you we were
18 shut down back in January, and without saying
19 anything about the shutdown, here's what I'll
20 say. It is fundamentally not a good thing
21 that the SEC shuts down in this way, and you
22 can ask any company that wanted to go public
23 during that window or anybody who faced
24 enforcement action or anybody who's in our
25 markets during that window --

1 MALE VOICE: (Inaudible).

2 MR. JACKSON: That was a bad thing,
3 destructive for the agency, bad for the
4 markets, and here's what I'll say about it.
5 It raises in my mind a real question about
6 whether the SEC shouldn't be funded
7 independently of the appropriations process
8 and in the style of the Fed. I wouldn't be
9 the first person to say that. I'm saying
10 it's a question. I'm not the first person to
11 raise it.

12 But I can tell you if you want to know
13 my experience with it, what I saw was a
14 market, by the way, that was in December a
15 very volatile place to be, and I saw 4,000
16 amazing public servants who wanted to engage
17 in all the things we needed to do but who
18 couldn't come to work. And I saw that very
19 up close and personal in a way that changed
20 my mind about -- I mean, the appropriations
21 process has its benefits. I'm all for
22 accountability. But I saw those costs up
23 close, man, and it's got me thinking about
24 whether we should be independently funded.

25 MALE VOICE: (Inaudible).

1 MR. JACKSON: Or the Fed, which is
2 funded on an independent, ongoing basis by
3 fees. You know, and I can think of lots of
4 models for this, and this is above my
5 paygrade, and the budget request is really
6 the Chairman -- and I have to say. I saw the
7 article -- there was an article that pointed
8 to the increase in securities trading and the
9 relatively small increase in our budget. I
10 totally hear you guys.

11 I think we have managed to do
12 reasonably well if you compare us to other
13 agencies in the government, and one reason
14 that is, by the way, is that I think our
15 value proposition has become clearer and
16 clearer, especially with the chair we have
17 now. I think we've -- we've done -- he's
18 done really well there.

19 But if I'm being honest, do I think
20 that the financial markets and the -- their
21 principal overseer should be subject to the
22 whims of the appropriations process, I think
23 that's -- that can be dangerous, and I saw
24 that up close, man. So I'm wondering whether
25 that's something we should be thinking about

1 reforming.

2 MS. KELLER: I know we're very short
3 on time here and probably this has to be the
4 very last question, so just very briefly
5 Laura Keller (phonetic), former Bloomberg and
6 board member here at Financial Writers.

7 So maybe this touches on some of the
8 themes that you've talked about tonight,
9 which is a lot about retail investors. I
10 feel like you've been kind of figuring out
11 the gray zones whether it's ICOs or the
12 broker protocol.

13 But one thing I haven't heard you talk
14 much about is the sort of world of the more
15 shrouded, the investor market, you know where
16 you have, whether you talk about securities
17 that aren't securities. So loans, for
18 example. What are you trying to do to kind
19 of eliminate some of the gray areas in, say,
20 hedge funds or private debt markets where
21 you're not really seeing that retail investor
22 be harmed, but there are other people who
23 might be?

24 MR. JACKSON: It's a great question.
25 I'll wrap up. So her question is there are a

1 lot of markets out there that aren't so
2 retail-centric but still really matter to the
3 markets, and I actually would say just to
4 push back a little on the premise of the
5 question, fundamentally if a pension fund
6 gets hurt or reach -- someone -- a person
7 gets hurt, right, if an institution gets hurt
8 end up -- whether it's a hedge fund,
9 whatever, someone's the claimant to that
10 money.

11 FEMALE VOICE: (Inaudible).

12 MR. JACKSON: Yeah.

13 FEMALE VOICE: (Inaudible).

14 MR. JACKSON: Yeah. I think about
15 this a lot, and there are whole segments of
16 the market that we don't oversee as a formal
17 matter, and we ought to be thinking -- and I
18 -- we are thinking about the degree to which
19 those markets are really working right.

20 Let me give you an example of an area
21 where I think we did really good work. So
22 for years, you did distress debt, but I don't
23 know if there are private equity reporters
24 here. But for years, private equity funds
25 charged their portfolio companies a

1 monitoring fee. You don't remember those,
2 monitoring fees?

3 It's like we invested money and now
4 we're going to watch it and charge you, the
5 company. And those fees were very common in
6 the market for like ten years until our asset
7 management unit, not that long ago, probed
8 the degree to which they were disclosed and
9 people really understood them. And we got
10 better information out into the marketplace,
11 investors began to say, really, you're
12 charging me to watch your money, no, and the
13 market worked -- and I think there's a lot of
14 stuff like that we can and should be doing.

15 And I would say I'm a guy who very
16 much thinks that if you don't deter those
17 kinds -- if you don't deter fraud in those
18 markets, you're missing a big part of the
19 story that really affects ordinary retail
20 investors. It's very easy to -- it's not
21 very easy. These cases are really important,
22 but when you have an obvious retail victim to
23 understand why you have to go after that --
24 that case, it's a little harder to understand
25 why it's really important to send a big

1 message to the marketplace when an
2 institution does something wrong.

3 But to me, actually, that's the case
4 for really hitting somebody hard. Because if
5 you're a sophisticated institution and you
6 know it's a gray area and you know what the
7 right thing to do is and what the market
8 expects and you don't get it right, that
9 should be costly at the SEC. We should leave
10 no doubt in your mind whether it was
11 profitable to walk that line.

12 And I'm actually -- I've been a guy --
13 I haven't said too much about this yet, but I
14 plan to give a speech on it in the coming
15 months. I'm a guy who is very much in favor
16 of aggressive penalties, and this is why
17 because my experience is people follow their
18 incentives. And if you catch somebody
19 stealing a little bit of the time and go
20 light on them when you do, you make it
21 profitable to steal.

22 And again, I don't get mad at the guy
23 for stealing. That's not his fault. He's
24 got kids too right? No, he's just doing what
25 your allowing him to do. To me, one thing we

1 have to get better at is when we catch an
2 institution doing something wrong to make it
3 hurt, to make them feel like, look, who knows
4 if they'll get us this time, but if they do,
5 man, it'll be painful.

6 And I think -- look, to the great
7 credit of the people I work with now, they
8 understand that. They want to do -- they
9 want to make that clear, but every time we
10 get -- send any mixed message to the market
11 about whether we're going to be serious about
12 penalizing large institutions or gray areas
13 of the market, I think we do investors a
14 disservice.

15 MR. PODKUL: There's a great book on
16 that subject the Chicken Shit Club, and one
17 could write a book on many of the things we
18 talked about tonight, but of course we don't
19 have time for that tonight. So one last
20 closing thought from you is since you're in a
21 room full of financial journalists in the
22 world's financial capital, what is -- is
23 there any one or two subjects that you think
24 aren't being covered enough that financial
25 journalists should be paying attention to,

1 writing more of? What would you -- what
2 would that be?

3 MR. JACKSON: So the question is if I
4 could get you guys to cover one thing that's
5 not getting enough ink.

6 MR. JACKSON: That's not getting
7 enough ink. Tesla. No, just kidding.

8 MR. PODKUL: Who is it that said
9 Tesla? Tesla did come up?

10 MR. JACKSON: Tesla's not the correct
11 answer to that question.

12 MALE VOICE: (Inaudible).

13 MR. JACKSON: Dark pool --
14 interesting. I feel like that's gotten some.

15 So cybersecurity, and I say with all
16 respect to the people in the room, to me this
17 is the thing we'll look back at ten years
18 from now and be like why didn't we, I think,
19 talk more about this. I go to every
20 boardroom I talk to these guys are concerned
21 about it. Like these are boards who are
22 trying to do the right thing, and the thing
23 you need to understand is that every single
24 American public company is under attack for
25 its data 24 hours a day, 7 days a week, 365

1 days a year, and if they lose, millions of
2 Americans' data's lost in a way that will
3 seriously hurt them in their day to day lives
4 and more importantly will undermine their
5 confidence in giving information about who
6 they are and what they want to companies.

7 Companies are trying to fight this
8 every day, and there are state-sponsored
9 actors, there are people who are trading on
10 information based when they -- when they
11 hack. And to me, how companies will be able
12 to address this is like the defining
13 challenge in the boardroom for the next five
14 years. And the reason I think it's hard to
15 write about is that when you write about it,
16 typically what happens is someone gets
17 hacked. And you write about the hack, and
18 it's a lot less interesting to talk about
19 what they could do to prevent it or what the
20 -- what as a nation we should be thinking
21 about doing in order to deal with these
22 problems.

23 Let me say -- I know we're over but
24 one more thing about this. Like here's a
25 thought to go home. We have a bunch of very

1 large companies that have lots of data on who
2 we are, and those are the stories -- I
3 understand those stories get print -- they
4 make sense. But the way the data is used in
5 the American economy, if a mid-sized company
6 is hacked, that could hurt ordinary Americans
7 just as much, or small companies hacked, they
8 could have access to just as much important
9 data. That's what's scary to me.

10 Google, I'm sure, without speaking of
11 Google -- a hypothetical company like Google
12 -- is on the cutting edge of protecting
13 itself. I'm not so worried -- I'm worried
14 about the mid or small-sized company that's
15 got people's Social Security numbers that
16 could get hurt, and they are not going to be
17 able to make the investment that Google can
18 in protecting that information.

19 And my question for all of you is
20 shouldn't we be thinking as like a
21 marketplace about what we want to ask those
22 companies to do to protect themselves. I
23 think in a few years we'll look back and say,
24 boy, we should have been more demanding about
25 getting company -- getting answers to those

1 questions, like what are you doing about
2 this, what are the investments, what are you
3 worried about, what are the risks? We should
4 be getting more disclosures about when
5 companies get hacked and how that affects
6 ordinary people.

7 I've been a guy that's pushed very
8 hard for that and I'm -- I hope the press
9 will continue to dig into it because I think
10 it's going to be very important.

11 MR. PODKUL: And with that, we'll
12 leave it there. Thank you so much for
13 joining us. We really appreciate it. Yeah,
14 with that we're out of time, but the -- but
15 the open bar remains open for business. So
16 please continue to mingle and network and see
17 you at our next event. Thanks.

18 (End of Audio Recording.)
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CERTIFICATE

I, Wendy Sawyer, do hereby certify that I was authorized to and transcribed the foregoing recorded proceedings and that the transcript is a true record, to the best of my ability.

DATED this 25th day of August, 2021.



WENDY SAWYER, CDLT