Opening Statement to the March 2015 Meeting of the SEC Advisory Committee on Small and Emerging Companies

Commissioner Daniel M. Gallagher

March 4, 2015

Thank you, Chris[tine Jacobs] and Stephen [Graham], and thanks to Keith Higgins and the Division of Corporation Finance's Office of Small Business Policy for helping to organize today's meeting. And of course, a special thank you to the Committee's members—I've been impressed by your willingness, as a very important and recently-reinvigorated committee, to jump right in and tackle a very substantive agenda.

I'm sure it will come as no surprise to you that I was absolutely thrilled to see the Committee taking up the vitally-important issue of secondary liquidity in the shares of small and emerging growth companies. This is an issue I have been pounding the table on for years.

Secondary trading of course implicates all three prongs of the SEC's tripartite mission to protect investors; maintain fair, orderly, and efficient markets; and facilitate capital formation. If the Commission takes steps to enhance these markets, we will make them more fair and efficient. We can increase the ability of an investor to exit his or her investment in these markets and decrease the illiquidity discount of the investment, and we can enhance oversight of and transparency into issuers, thereby promoting investor protection. And that in turn will increase investors' willingness to participate in the primary issuance of securities, which enhances capital formation for these small companies that are the lifeblood of our economy.

As I noted in a speech at the Heritage Foundation last September, the SEC needs a positive, proactive capital formation agenda for small business that encompasses all phases of growth, in both the private and the public markets.[1] Today the Committee is discussing two pieces of that agenda. First, it will focus on enhancing secondary trading in private shares, both in general and through a focus on Rule 4(1½). If greater certainty in this area, for example, through Commission guidance, would help participants in these markets, then we should make that a priority. I look forward to hearing your take on these issues.

Second, the Committee will examine secondary market trading of small company shares, particularly through Venture Exchanges. I believe Venture Exchanges are a vital bookend to our JOBS Act rulemaking on Regulation A+.[2] In thinking about these entities, I've been envisioning them as national securities exchanges, with full state law preemption, but with tailored periodic reporting and listing requirements that are more appropriate for small businesses.[3] They would be exempt from the National Market System rules and Unlisted Trading Privileges requirements, so as to concentrate liquidity in the listing venue, and would be free to structure trading however they see fit (e.g., periodic auctions instead of continuous trading). I believe these principles would create liquidity in Regulation A+ shares. Moreover, these same principles could be extended to the shares of the smallest public companies,

currently traded over-the-counter, to facilitate liquidity for them as well. We must embrace change. We must depart from the failed policies and feeble ideas of the past, in order to pursue critically-needed innovation like Venture Exchanges. I believe this Commission has the courage and leadership to do so.

So needless to say, I'm very excited to listen to the discussion today. And I'll stop there, so that we can get to the discussion even faster. Thank you again to everyone for participating.

[1] Daniel M. Gallagher, Speech, *Whatever Happened to Promoting Small Business Capital Formation* (Sept. 17, 2014), available at http://www.sec.gov/News/Speech/Detail/Speech/1370542976550.

[2] See id.; see also Daniel M. Gallagher, Speech, *Remarks at FIA Futures and Options Expo* (Nov. 6, 2013), available at http://www.sec.gov/News/Speech/Detail/Speech/1370540289361.

[3] See Securities Act § 18 (preemption); Exchange Act § 12(b) & (c) (tailoring).

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