

## Public Statement

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# Remarks to the Special Meeting of the Investor Advisory Committee



**Chairman Jay Clayton**

**May 4, 2020**

Thank you, Anne (Sheehan). I really appreciate your prompt response to our request to reconvene a special meeting of the Investor Advisory Committee to focus on issuer-investor engagement in the context of the challenges posed by COVID-19, including, in particular, disclosure considerations.

Over the last several weeks, my colleagues and I have had multiple teleconferences with retail and institutional investors, investor advocates, including members of this Committee, auditors, public company executives and board members. There were two common themes in those meetings—(1) the importance of keeping markets functioning and (2) the importance of keeping investors and markets apprised about the evolving impact of, and responses to, COVID-19—in other words, the importance of timely, accurate and decision-useful information. Today, it is my hope that we focus on the information point, and I will start by sharing some personal thoughts on this point.

We are in the midst of the earnings season. Ordinarily companies would be comparing their first quarter results to their prior year's first or fourth quarter results. This year, those comparisons may be less relevant to managers and investors. Instead, many are analyzing the current status of the company from a liquidity and operational perspective. More specific areas of inquiry include:

1. How long can the business sustain its current operating posture in the absence of additional funding?
2. Have supply and distribution chains been temporarily or permanently disrupted?
3. How do you plan to manage the health and safety of your employees and customers as you and other market participants seek to increase activity?

To be clear, those and dozens of other questions are not easy questions to answer. It is clear to me the decisions of today will need to be adjusted as we learn more tomorrow. But, I expect those questions are the types of questions being currently discussed in America's boardrooms and strategy meetings. As such, I have recently emphasized the need for issuers to make all reasonable efforts to disclose material information of this type to investors.<sup>[1]</sup> I also have noted that when making such disclosures, issuers should focus on consistency and process. Public disclosures should be broadly disseminated and the information provided should be consistent with related discussions involving senior management, board members, lenders, vendors, customers and government regulators. And we all should recognize that these matters are evolving and subject to change.

I will close with two points. First, I note that health and safety considerations have also led to many companies holding their annual shareholder meetings in virtual formats. The staff of the SEC's Division of Corporation

Finance and Division of Investment Management released guidance in March designed to promote continued shareholder engagement in these settings.<sup>[2]</sup> The virtual meeting format is something that many companies may have not attempted before. I look forward to your insights into potential practices that companies can consider to ensure that shareholder engagement is appropriate in these settings.

Second, our disclosures—I'm referring to Commission and staff statements—also need to be timely, grounded in the facts as we know them, forward looking and decision useful. If there are areas where we need to do better or can provide more meaningful guidance, please let us know.

I thank you again for reconvening today and I welcome your views on these matters.

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[1] See Jay Clayton and Bill Hinman, *The Importance of Disclosure – For Investors, Markets and Our Fight Against COVID-19* (April 8, 2020), available at <https://www.sec.gov/news/public-statement/statement-clayton-hinman>.

[2] See Staff Guidance for Conducting Shareholder Meetings in Light of COVID-19 Concerns, available at <https://www.sec.gov/ocr/staff-guidance-conducting-annual-meetings-light-covid-19-concerns>.