Speech

Remarks to Small Business Capital Formation Advisory Committee

Commissioner Caroline A. Crenshaw

Washington D.C.

Nov. 29, 2023

Thank you Commissioner Peirce for those remarks, and thank you Erica [Duignan] and members of the Committee for your invitation to speak today.

Though this is not my first time speaking to the Small Business Capital Formation Advisory Committee, it is my first time speaking to many of you – I would like to welcome those of you who began your terms this earlier this year.

In your predecessors' time on this Committee, they considered a number of important topics and I look forward to seeing what topics are on your agenda in the months and years ahead. As you consider your priorities, I'd like to highlight two areas where I would be especially interested in your input.

First, wage increases. It has been hard to open a newspaper over the past several years without reading a story about how the COVID-19 pandemic continues to affect the economy. Thanks to the robust government response, average hourly wages have increased greatly since the end of the pandemic. And that is something to be thankful for – unemployment is near historic lows, families are more economically secure, and costs (though rising) are now being outstripped by average wage gains.[1]

Many financial thresholds set by the government automatically increase to reflect these increases. But the accredited investor standard stubbornly remains at the same level it was set at in the early 1980s. Last year, your predecessors on this Committee stated that the financial thresholds in the accredited investor definition are not always a good proxy for investors' financial sophistication and that at least some of these thresholds related to accreditation should be indexed for inflation.[2]

Eighteen months later, is this even more relevant than ever? It is important that we build on the improvements that have been made in economic security. To the extent you examine whether we should create alternative standards for investor accreditation, I look forward to your input on how to take into account the impacts of wage and price increases over the past several years. Increasing access to certain investments should not come at the expense of decreasing the basic investment protections that should be available to all investors. It is important to avoid creating an alternative that turns into an ever-widening loophole that puts hard-working Americans' investment dollars into a market without standardized disclosures or well-established investor remedies, inconsistent levels of access to information about firms' finances and risks, and a risk of total loss of investment at much higher levels than in public markets.

Second, I am very attentive to the impact of our rules have on underserved communities. The SEC's Investor Advisory Committee recently released a report on firms' use of Digital Engagement Practices. One part I would like to flag for you is the introductory section, which highlighted a study conducted last year that found that increased participation in the markets by new investors—who are more racially and ethnically diverse—has led directly to increased losses experienced by those investors.

I am conscious that our rules can have disparate impacts on various communities, and I care deeply about whether our rules inadvertently create or exacerbate a wealth gap among investors of different racial, ethnic, national, or other backgrounds. In light of the enormous wealth gap that already exists, I'd appreciate your input on how to encourage capital formation without exacerbating the wealth gap by exposing new investors to increased risks that exist in the private markets. And as you consider this topic, I would like to point out that the House Financial Services Committee recently considered this very issue and Professor Gina-Gail Fletcher testified that: "[i]f the scope of the accredited investor definition is broadened, this will expand the opportunities for wealth extraction and amplify wealth inequality in the country."[3]

As you know, the Commission has a tripartite mission of protecting investors, promoting capital formation, and ensuring fair, orderly, and efficient markets. As the Commission balances those interests, your input as members of the small business community is crucial. Thank you for agreeing to serve on the Committee. I look forward to receiving your recommendations.

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[1] I am comparing the readings reported on FRED of the Consumer Price Index (CPIAUCSL) with Average Hourly Earnings of All Employees, Total Private (CES0500000003) since mid-2021 when most Americans who wanted a vaccine were able to get one. *See generally* Fed. Rsrv. Bank of St. Louis, FRED *available at* https://fred.stlouisfed.org/.

[2] *See* Letter from Carla Garret, Chair, Small Business Capital Formation Advisory Committee, to Gary Gensler, Chair, Securities and Exchange Commission (Mar. 12, 2022), *available at* https://www.sec.gov/spotlight/sbcfac/sbcfac-accredited-investor-recommendation-021022.pdf.

[3] *See* Testimony of Professor Gina-Gail S. Fletcher Before the House Committee on Financial Services, Subcommittee on Capital Markets (Feb 8, 2023), *available at* https://democrats-financialservices.house.gov/uploadedfiles/hhrg-118-ba16-wstate-fletcherg-20230208.pdf. *See also* Statement of Michael J. Canning Before the SEC Investor Advisory Committee (Sept. 21, 2023), *available at* https://www.sec.gov/files/written-statement-mike-canning-iac-092123.pdf ("[T]here is little evidence to support the view that [wealth and investment disparities] can be alleviated or addressed by rolling back or watering down rules . . . underserved communities benefit significantly and even disproportionately from the protections afforded by regulation.").