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SPEECH

Prepared Remarks Before SEC Speaks

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Washington D.C. | March 19, 2026

Thank you, Laura [Unger], for your introduction, and for the fine job that you have done spearheading this year's program alongside our hosts at the Practising Law Institute. I should also like to acknowledge our many participants for being here today, including those of you who are tuning in virtually. Of course, I must not neglect to thank my fellow speakers from across the Commission for contributing their time and expertise. The strength of this institution has always rested on the dedication of its public servants. And this annual opportunity for SEC staff to speak publicly about their work is an occasion for all of us to recognize the rigor and high purpose that animates it. Finally, before I share a few reflections, I must note — as you will no doubt hear countless times today — that the views I express here are my own as Chairman and do not necessarily reflect those of the SEC as an institution or of the other Commissioners.

Now, despite some fits and starts in recent years, SEC Speaks has long occupied a unique place on the Commission's calendar. Over my three tours at the SEC — first working for two chairmen, then as a commissioner in the aughts — I noticed that this audience tends to hang on a speaker's every word. But I would do well to remember the counsel of Bill Casey, who, at the very first SEC Speaks program some fifty-four years ago, encouraged future Chairmen to realize that the crowd is there to pay a tribute "not to you, nor to

your colleagues, nor to the SEC in general” but, as he put it, “to the SEC in particular.”

And so it is today. Over the course of this program, Commission staff will explain in considerable detail the direction of our policy initiatives across every division and several offices.

My aim this morning is a bit different. In lieu of previewing each of those efforts individually, I want to step back and offer a framework of how they fit together as a cohesive whole, so that as you hear from our speakers, you understand not only the substance of the SEC’s priorities, but the shared principles behind them.

Now, with a robust pipeline of rulemaking set for the year ahead, I think that it is instructive to first contextualize them in the years that they follow. A period in which our regulatory framework too often struggled to keep up with the market that it oversees. As just one example of the gulf between regulation and reality, our rules still default to paper delivery for shareholder communications. In an age of algorithmic trading and artificial intelligence, I believe that requirement ought to be a relic, not a standard.

In fact, not long after the first SEC Speaks in the seventies, the late SEC Commissioner Roberta Karmel observed that “data analyzing technology has progressed to a point of magnitude superior to that available just brief years ago.” Commissioner Karmel added — around the advent of the word processor, mind you — that “although these developments have augmented the complexity and efficiency of the private financial sector, the SEC has not enjoyed all the benefits of this improved technology.” Her words were at once a warning and an enduring appeal for financial regulators to do a better job at keeping pace. We are resolved to answer that call by refusing to remain tethered to the tools or the temperament of a bygone era.

Second, and on that note, a refusal to update the SEC’s rules, paired with a misguided regulation-by-enforcement campaign, has killed many would-be products or driven them offshore. When innovators cannot discern fit-for-purpose rules — or when they face the prospect of a subpoena as the response to good faith attempts to comply — the rational response is to build elsewhere. And they did. An entire generation of digital asset innovation developed outside of the United States, not because American entrepreneurs lacked the

ambition or American investors lacked the appetite, but because American regulators lacked the will.

Third, decades of accretive rulemaking have compounded into a compliance labyrinth so elaborate that it sustains entire industries whose sole function is to help public companies to navigate the SEC's regulatory framework. When the cost of accessing America's capital markets includes retaining specialists to decode the SEC's regulatory regime to produce disclosure that only an academic would appreciate, then something is very clearly, and deeply, amiss. Our goal should be to increase the cost of fraud and manipulation, not the cost of compliance itself.

So, against that backdrop, every initiative toward which the SEC is working — every rule that we propose, every interpretation that we release, and every institutional reform that we undertake — largely falls into one of three categories: Those that advance our rules to align with how markets operate today. Those that clarify our regulatory regime to streamline oversight and unlock innovation. And those that transform our requirements by eliminating both the burdensome and the impractical. Together, the three pillars of advance – A, clarify – C, transform – T, form one integrated policy agenda that I am calling our “A-C-T” strategy. Let me begin with the first.

Advance

To advance our regulatory posture is to bring it into honest alignment with the world as it is, rather than as it was when many of our rules were first written. It is to recognize that a rulebook crafted for one era does not automatically serve investors well in another, and that the costs of pretending otherwise are borne not by the agency, but by our markets and the investors who participate in them.

Of course, advancing new regulatory frameworks does not mean deviating from the SEC's core mission. On the contrary, it means fulfilling it with tools that are equal to the task. Indeed, the application of our enduring principles must reflect how markets function today, and how we anticipate that they will function in the future.

Perhaps nowhere has the cost of failing to do so been more apparent than in our treatment of crypto assets. For years, the SEC dealt with these markets not through the issuance of rules but through the might of our enforcement apparatus. Instead of articulating workable pathways for compliance, our

message to the marketplace often amounted to a directive to adapt to us — or else. We bothered not to adapt inapposite forms and disclosure requirements to innovative products, but demanded that the innovators adapt their products to our antiquated approach, or else face the consequences.

The problem, of course, is that innovation rarely pauses for regulation. It will either occur within a regulatory framework or around it. And in the case of digital assets, the SEC's regulation by enforcement campaign precipitated the migration of an entire asset class toward offshore jurisdictions. Only compounding the Commission's subversion of American entrepreneurs, that posture completely failed in its effectiveness.

Advancing new regulatory frameworks means choosing a different approach. It means crafting rules that are clear enough to guide markets, flexible enough to accommodate innovation, and firm enough to protect investors. It is long past time that we do so.

Clarify

Of course, as we modernize legacy rules for the twenty-first century, we must recognize that markets also depend on clear and coherent regulatory scoping. This brings me to the second pillar of our A-C-T strategy, which is to clarify.

Having been around the SEC and CFTC now for three decades, I have seen firsthand how jurisdictional ambiguity can stifle innovation just as surely as ill-devised regulation. Quite often, the relationship between these agencies has resembled two fortresses facing one another across a regulatory no man's land — and in that space lay the wreckage of would-be financial products. Entrepreneurs approached new frontiers with ambition, only to retreat when the answer to a fairly basic question remained elusive: whose rules apply?

Dually registered firms have long been forced to navigate two agencies, two regulatory regimes, two or more examination cycles, two reporting pipelines, and often two supervisory cultures, even where the underlying risks are substantially similar. Of course, for registered firms owned by banks, we must recognize that other regulators also play a role. By acknowledging this crazy quilt of supervisory authorities, we should recognize that the principle that ought to guide us instead is straightforward: where one agency's framework achieves comparable regulatory outcomes, then the regulator should accept the overlapping requirements of the other. Closely collaborating regulators ought to be cognizant of these issues and work them out collaboratively.

In short, our goal is to draw clear and abiding regulatory lines — lines that give innovators the confidence to build without fear of being caught in a crossfire of their own government’s making and therefore lay a foundation for a super-app safety net.

As one example, earlier this month, the SEC and CFTC entered into a Memorandum of Understanding, under which both agencies will usher in a new era of harmonization. By aligning regulatory definitions; coordinating oversight; and facilitating seamless, secure data sharing between agencies, we will ensure that our rules and regulations deliver the clarity that market participants deserve. Among the first outputs of this new era of harmonization, focused on clarifying rules and regulatory jurisdiction, is the token taxonomy and crypto interpretive guidance that the SEC recently published — and the CFTC joined. And as I said earlier this week, while the interpretation provides long-needed clarity, I should like to assure this audience that it amounts to a beginning, not an end.

Transform

Finally, the third pillar of my program for this year and next is to transform our rulebook by trimming immaterial requirements that burden the market without a corresponding benefit to investors.

Many SEC disclosure requirements that began as a framework to inform have steadily become instruments to obscure, to insulate, and to sustain a highly specialized cottage industry of advisors and consultants. Along the way, we have drifted from the immutable objective standard of materiality, as enunciated by no less than the U.S. Supreme Court — that is, what a reasonable investor would consider important in deciding whether to buy, sell, or hold a security. Unfortunately, this standard seems to have devolved in the past few years into a subjective standard of what any particular investor may be curious to know. One can also see this drift manifest as a dragnet in places like Rule 17a-4, particularly in the so-called off-channel communications matters, through which the Commission allowed the extension of recordkeeping requirements for broker-dealers to a point that strains any common-sense understanding of the vague “business as such” standard. Similarly, the Commission has permitted this same result in a crazy quilt of similar, but differing standards for document retention with respect to other registered entities.

So, we very clearly need a spring cleaning to enable reasonable investors to separate the wheat from the chaff when reviewing offering documents, periodic reports, and proxy statements. The attic, the basement, and the garage have all accumulated their share of clutter, and they make it difficult to find the load-bearing beams. Accordingly, our Division of Corporation Finance is actively engaged in a first-principles review of our disclosure requirements with materiality as its north star.

But corporate disclosure is scarcely the only area where the Commission's focus has drifted from Congress's intent. The Division of Enforcement is also undergoing a course correction by prioritizing cases that provide meaningful investor protection and strengthen market integrity rather than technical rule violations in situations where investors have not been harmed. To those ends, we have directed the division staff to investigate the types of misconduct that inflict the greatest harm, such as fraud, market manipulation, and abuses of trust — and away from approaches that measure success by volume over real investor protection.

Lastly, following a court's remand of two rulemakings related to securities lending and short sales, we have an opportunity to holistically reevaluate these rules, and I have directed the staff to make recommendations regarding a reporting regime that balances the policy goals with the burdens of reporting. This ruling also serves as a useful reminder that cost-benefit analyses are essential in ensuring that our policies are sound and able to withstand the test of time.

With that, let me close where I began — with a reflection, in fact a request, from Chairman Bill Casey in his remarks at the inaugural SEC Speaks program. As Chairman Casey concluded that day, “in these and in other endeavors the Commission needs your ideas... Don't be passive receptacles for the views of those of us who will be addressing you [at SEC Speaks]. Challenge us. Make us do some hard thinking. It will be good for us, good for you, good for the Commission, and good for the law.”

The strategy that I have described today — advancing, clarifying, and transforming our rulebook and regulatory frameworks — is not work that this agency can accomplish alone, nor is it work that we should seek to accomplish alone. Our success depends on the ideas that you offer and the scrutiny that you apply.

Indeed, you, as aficionados of the SEC (I will refrain from saying groupies), have a unique role in helping to oversee our initiatives and holding us accountable for them. Few understand this institution as well as you do, from its history to its habits. You can see our warts, and our successes, more clearly than most. That perspective is indispensable to us.

So, I hope that you will take Chairman Casey's counsel to heart and challenge us. Push us. Make us think more critically about the rules that we write and the decisions that we make.

America's investors, innovators, and entrepreneurs are counting on us to get this right. I look forward to working with you to ensure that we do.

Thank you for your time, and please enjoy the remainder of SEC Speaks.

Last Reviewed or Updated: March 19, 2026