Speech

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Thank you for that kind introduction, Anthony. As is customary, I'd like to note that I'm not speaking on behalf of my fellow Commissioners or the SEC staff.

I'm honored to be speaking again at London City Week. It's been eight years since I last spoke here. That was about benchmark interest rates and the London Interbank Offered Rate (LIBOR). I may come back to that, but I'm mostly going to take the opportunity to discuss three key areas of the reform agenda at the Securities and Exchange Commission.

The SEC was set up in the 1930s by Franklin Delano Roosevelt and the U.S. Congress to look after working families' savings in the depths of the Great Depression.

Congress passed a number of laws with the same basic ideas — among them, that investors get to decide what risks they wish to take, as long as companies provide appropriate disclosures; that working families should be protected with regard to their investment advisers; and that the stock exchanges themselves should be free of fraud and manipulation.

Those protections put in place by Congress and the early SEC have stood the test of time. I think they're a large part of our economic success — why the U.S. has the largest, most vibrant capital markets in the world.

We can't rest on our laurels, though. Technology is always changing the face of finance. Technology and finance have coexisted in a symbiotic relationship since antiquity. That was true long ago of the invention of money; it's true today of mobile brokerage apps, robo-advising, and artificial intelligence.

But our core principles stay the same: protecting investors, facilitating capital formation for individuals and companies, and maintaining fair, orderly, and efficient markets between them.

As the new Administration has gotten underway in the United States, we at the SEC have recently published a new regulatory agenda. It covers a lot of ground: investment fund rules, insider trading, shareholder democracy, special purpose acquisition companies, and much more.

Today, I won't cover the nearly 50 items on the agenda. Instead, I'm going to focus on three broad areas: public company disclosure, market structure, and transparency initiatives.

Public Company Disclosure

First, I've asked staff to put together recommendations on mandatory company disclosures on climate risk and on human capital.

Today, investors increasingly want to understand the climate risks of issuers. Investors representing literally tens of trillions of dollars of assets under management are looking for consistent, comparable, decision-useful information to determine whether to invest, sell, or make a proxy vote one way or another.

I've asked staff for recommendations for our consideration around governance, strategy, and risk management related to climate risk. In addition, staff are looking into a range of specific metrics, such as greenhouse gas emissions, to determine which are most relevant to investors in our markets.

Further, I've asked staff to consider potential requirements for companies that have made forward-looking climate commitments, or that have significant operations in jurisdictions with national requirements to achieve specific, climate-related targets.

We just received at the SEC more than 400 unique comment letters on these subjects in a public statement released by my fellow Commissioner Allison Herren Lee. Many comments referenced the work of various groups, such as the Task Force on Climate-related Financial Disclosures (TCFD).

I'm really struck by the call for enhanced disclosures.

I've also asked staff to consider the ways that funds are marketing themselves to investors as sustainable, green, and "ESG," and what factors undergird those claims.

Further, investors have said that they want to better understand one of the most critical assets of a company: its people. To that end, I've asked staff to propose recommendations for the Commission's consideration on human capital disclosure.

This builds on past agency work and could include a number of metrics, such as workforce turnover, skills and development training, compensation, benefits, workforce demographics including diversity, and health and safety.

Disclosure helps companies raise money. It helps the efficient allocation of capital across the market. And it helps investors place their money in the companies that fit their investing needs.

Market Structure

Next, let me turn to market structure. At the SEC, we oversee the nearly $45-trillion public equity markets and the $50-trillion fixed income markets, including Treasury markets, corporate bonds, municipal bonds, and more.

I've asked staff to consider the impact that technology has made in every one of these markets, and how we can ensure that we bring the greatest competition and efficiency to those markets — for investors and issuers.

In 1998, after the internet came along, the SEC stood-up new rules for alternative trading systems to govern equity trading off of traditional exchanges. The SEC continued to update equity market rules in 2005, stitching together a framework for both on- and off-exchange trading. I've asked the staff to take a broader look at how we might update our rules for the current technologies and business models in the equity markets.

For example, I've asked SEC staff to consider the practice known as payment for order flow. We've seen a notable rise in payment for order flow in the U.S., something that you've banned in the United Kingdom.[1]

Canada[2] and Australia[3] also don't allow broker-dealers to route retail orders to wholesalers in return for payments. The European Securities and Markets Authority has raised concerns about these potential conflicts of interest between payment for order flow and best execution.[4]

Today, our markets essentially have three different segments. While the public generally thinks of lit markets when they think of buying or selling equities — markets like Nasdaq and the New York Stock Exchange — those big public exchanges only accounted for about 53 percent of trading volume in January.[5]

So where's the other 47 percent — trading interest that's not displayed on the lit markets? It's executed by alternative trading systems, which include dark pools, and by off-exchange wholesalers. Thus, significant trading interest on these platforms is not necessarily being reflected in the commonly cited National Best Bid and Offer quote.

I've asked staff to consider whether this equity market structure, as currently composed, best promotes efficiency and competition.

Separately, I've asked staff how we can bring greater transparency and resiliency to the ways in which U.S. Treasury securities are bought and sold across the market. Early in the pandemic, we witnessed a deterioration of liquidity affecting critical parts of the Treasury market. We also saw challenges in this market in September 2019 and in October 2014.

I've asked staff to work closely with our colleagues at the U.S. Department of the Treasury, the Federal Reserve, and the Commodity Futures Trading Commission to determine whether we can bring greater transparency and resiliency to these markets.

This work could build on Commission action last year to increase operational transparency to a subset of platforms as well as previous reforms regarding post-trade reporting. I've also asked staff to consider the potential benefits of central clearing in the Treasury cash and repo markets.

Whether it's equity markets, Treasury markets, or any other markets for that matter, for me it all comes down to how we best promote efficiency and maintain resilient markets in light of new business models and technologies.

Transparency

Finally, I will briefly discuss how we might consider updating various rules related to transparency.

One such area is beneficial ownership. In 1968, our Congress mandated that large shareholders of public companies disclose information that helps the public understand their ability to influence or control that company. Under current rules, beneficial owners of more than 5 percent of a public company's equity securities who have control intent have 10 days to report their ownership.

We haven't updated that deadline in over 50 years. Those rules might've been appropriate for the 1970s, but I have my doubts about whether they continue to make sense given the rapidity of current markets and technologies. I've asked staff how we might update these rules, including possibly shortening reporting deadlines.

Another area is around security-based swaps — essentially, derivatives on individual companies that provide exposure to the company without traditional equity ownership. The disclosures there aren't as robust as they are in the rest of the market. The collapse in March of the family office Archegos Capital Management is a reminder of why that could be relevant.

Thirdly, I think we can bring more transparency to short selling. We have unused authorities in that space that were granted by Congress nearly a dozen years ago.

Finally, I've asked staff to consider whether we should enhance transparency related to companies buying back their stock.

When investors cannot access critical information, particularly when some other market participants may have such information, such information asymmetry can increase risk and reduce liquidity. I believe we should update the transparency regimes to better reflect current business models and practices.

Before I close, I said I'd come back to LIBOR. In my last speech here, I said it was critical for regulators to "identify alternative interest rate benchmarks"[6] with a robust underlying market. Eight years and a different job later, I still feel that way.

To that end, I have concerns that as LIBOR is replaced, a number of commercial banks are advocating for replacement indices that are still reliant on short-term, unsecured, bank-to-bank lending.

One such rate, called the Bloomberg Short-Term Bank Yield Index (BSBY), has many of the same flaws as LIBOR. They both rely on a relatively thin market that tends to disappear in times of stress. Like with LIBOR, we're seeing a modest market, shouldering the weight of hundreds of trillions of dollars in transactions. When a benchmark is mismatched like that, there's a heck of an economic incentive to manipulate it.

When I last spoke here, I basically said the emperor had no clothes. At the time, the emperor was LIBOR. But make no mistake: Though we might gussy it up, short-term, unsecured, bank-to-bank lending is still the same emperor with no clothes.

I'll leave you with that. Thank you.

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[1] *See, e.g.,* CFA Institute, "Payment for Order Flow in the United Kingdom" at 1 (2016), *available at* https://www.cfainstitute.org/-/media/documents/article/position-paper/payment-for-order-flow-united-kingdom.ashx#:~:text=Payment%20for%20order%20flow%20(PFOF)%20is%20the%20practice%20of%20market,order%20flow%20by%20market%20makers.

[2] *See* Joint CSA/IIROC Consultation Paper 23-406, "Internalization within the Canadian Equity Market" at 8 (March 12, 2019) ("UMIR 6.4 requires that trades by marketplace participants and related entities, subject to some exceptions, are executed on a marketplace. The main policy objectives of this provision are to strengthen liquidity, support price discovery and contribute to transparency. UMIR 6.4 is relevant to internalization in the context that in jurisdictions such as the United States, the execution of retail orders can occur off-marketplace. This notable difference is a contributing factor in how the Canadian market has evolved and is a consideration in our review and discussion of any future policy work."), *available at* https://www.osc.ca/sites/default/files/pdfs/irps/csa_20190312_internalization-within-the-canadian-equity-market.pdf.

[3] *See* Australian Securities & Investments Commission Market Supervision Update Issue 45, *available at* https://asic.gov.au/about-asic/corporate-publications/newsletters/asic-market-supervision-update/asic-market-supervision-update-previous-issues/asic-market-supervision-update-issue-45/.

[4] *See* ESMA Newsletter - Nº21 (Feb. 26, 2021), *available at* https://www.esma.europa.eu/press-news/esma-news/esma-newsletter-n%C2%BA21.

[5] *See* Cboe Global Markets*, available at* https://www.cboe.com/us/equities/market_statistics/historical_market_volume/ (providing downloads of historical reported volume in NMS stocks by all self-regulatory organizations) ("SRO Volume Data"); *see* FINRA OTC (Non-ATS) Transparency Data, *available at* https://otctransparency.finra.org/otctransparency/OtcDownload (providing downloads of historical reported volume in NMS stocks by FINRA members) ("FINRA Member Volume Data").

[6] *See* "Remarks of Chairman Gary Gensler at London City Week on Benchmark Interest Rates" (April 22, 2013), *available at* https://www.cftc.gov/PressRoom/SpeechesTestimony/opagensler-140.