

MEMORANDUM

To: File Nos. S7-07-18, S7-08-18, S7-09-18

From: Division of Investment Management, Division of Trading and Markets

Re: Roundtable on July 9, 2018 Regarding Standards of Conduct for Investment Professionals

Date: August 6, 2018

On July 9, 2018, SEC staff and Chairman Clayton held a roundtable at the University of Miami. Approximately 34 individuals attended. The roundtable was intended to gather information from retail investors who will be directly impacted by the Commission's rulemaking regarding standards of conduct for investment professionals.

Attached is the entire transcript of the Miami roundtable discussions. The discussions at the roundtable were intended to be conversational, and the Chairman and SEC staff provided summary descriptions of the Commission rulemakings. To the extent that any descriptions contained in the transcript deviate from the Commission's proposed rule text and rulemaking releases, such descriptions do not supersede the proposed rule text and releases. In this regard, see proposed [Form CRS Relationship Summary](#), [Regulation Best Interest](#), and [Interpretation](#).

THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISER/BROKER-DEALER ROUNDTABLE

Monday, July 9, 2018

2:00 p.m.

Founders Club

1550 Brescia Avenue

Coral Gables, Florida 33146

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1 PARTICIPANTS:
2 SEC PARTICIPANTS:
3 Chairman Jay Clayton
4 Richard Hauser
5 Eric Bustillo
6 Lori Schock
7 Paul Cellupica
8 Lourdes Gonzalez
9 Lisa Roberts
10 Eric Diamond
11 Suzanne McGovern
12 Jennifer Porter
13 Elizabeth Miller
14
15 NON-SEC PARTICIPANTS:
16 Investor 1
17 Investor 2
18 Investor 3
19 Investor 4
20 Investor 5
21 Investor 6
22 Investor 7
23 Investor 8
24 Investor 9
25 Investor 10

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1 P R O C E E D I N G S
2 RICHARD HAUSER: So we're going to
3 go ahead and get started with the meeting.
4 So good afternoon and welcome to the participants
5 from the OLLI program. And special thanks
6 to all of you who are participating.
7 And also I understand we have some non-OLLI folks here,
8 and we welcome you as well.
9 And note, just looking, we have a few
10 refreshments. Mr. Chairman, thanks to you, for
11 taking things up a notch today. That's great.
12 Thank you.
13 For those of you who don't know me,
14 I'm Richard Hauser. I co-taught and had
15 the privilege of teaching the course on
16 law and order. I tried to make the transition with
17 law and order just earlier in this year --
18 because of the transitions to last year.
19 I think it's a real credit to OLLI to be
20 chosen for this experiment, this roundtable
21 session, to hear from real investors and get
22 their different experiences. I think it's going
23 to be a two-way street. I think we will learn a
24 lot by having had this conversation, and
25 hopefully the Commission will be better informed

1 by taking your views as they go about fashioning
2 new rules regarding investment advisers.

3 What I would like to do is, in a moment,
4 just recognize Eric Bustillo, who is here, and
5 many of you may remember along with his
6 colleague, Lisa Roberts, who came and taught at
7 the law and order course on securities fraud.
8 And we were surprised to learn that even in
9 Miami, there's securities fraud.

10 Before I turn it over to Eric, one
11 housekeeping matter I wanted to mention to you.
12 We have a court reporter here today who will be
13 recording this session, and in order that we can
14 have an accurate record of what is said, please
15 identify yourself so the court reporter can get
16 your name when you ask a question. That would be
17 great.

18 Eric, I will turn it over to you for
19 proper introductions.

20 ERIC BUSTILLO: Thanks, Richard, very
21 much for that introduction. I want to welcome
22 everyone here today for this investor roundtable
23 discussion. We truly appreciate your coming, and
24 hopefully having a robust discussion with
25 Chairman Clayton as well as other members of the

1 of the firm's corporate practice.

2 Since joining the Commission, Chairman
3 Clayton has concentrated his efforts on the long-
4 term interests of America's retail investors, and
5 has made it a priority to increase the access of
6 retail investors to a diverse range of potential
7 opportunities, as well as to see and make sure
8 that they continue to benefit from the protection
9 of our federal securities laws.

10 As you know, in April of this year the
11 Commission proposed a significant package that
12 would, among other things, require broker-dealers
13 to act in the best interest of the retail
14 customers. It will also reaffirm and in some
15 cases clarify the fiduciary duty owed by
16 investment advisers to their clients.

17 And it would also require for both
18 broker-dealers and investment advisers to clarify
19 for all retail investors the type of investment
20 professional that they are, as well as key facts
21 about the relationship.

22 This will help our mainstream investors
23 in this country, and that is the reason that we
24 are here today. In this roundtable discussion we
25 would like, as I said, for you to discuss, with

1 SEC. It's important for us to hear from you.

2 Before I introduce Chairman Clayton, I
3 want to take this opportunity to thank a few
4 people, including INVESTOR ONE and INVESTOR TWO, INVESTOR
5 THREE, INVESTOR FOUR, INVESTOR FIVE, Richard Hauser,
6 as well as INVESTOR SIX, with the Division of
7 Continuing and Internal Education and/or the
8 Osher Lifelong Learning Institute here at the
9 University of Miami, for co-hosting this event.
10 We truly appreciate your efforts and your
11 willingness to co-host today.

12 I also want to thank Lisa Roberts and
13 Suzy McGovern from the Commission, who worked
14 hard this week to organize this event, and we
15 commend your efforts, both Lisa and Suzy.

16 It is now my privilege to introduce to
17 you Chairman Jay Clayton. Chairman Clayton was
18 nominated to serve as chair of the SEC in January
19 of 2017 by president Donald Trump. He was
20 subsequently confirmed by the Senate, and was
21 sworn in as Chairman on May 4, 2017.

22 Prior to joining the SEC, Chairman
23 Clayton was a partner at the law firm of Sullivan
24 & Cromwell, where he was a member of the firm's
25 management committee, and also served as co-head

1 Chairman Clayton, as well as other members of the
2 Commission, your expectations regarding
3 relationships with your investment professionals.

4 Our goal is to hear from you so that we
5 can enhance retail investor protection, as well
6 as promote choice and access to a variety of
7 investment services and products. Roundtable
8 discussions like this here today have already
9 been had in other parts of the country, with
10 retail investors such as yourselves, and we
11 intend to do a few other cities throughout the
12 country.

13 I also want to add that there are
14 others with Chairman Clayton here today from the
15 Commission that are going to be a part of this
16 discussion. And there is Lori Schock to my left,
17 who is the Director of our Office of Investor
18 Education and Advocacy.

19 Paul Cellupica, who is our Deputy
20 Director of the Division of Investment
21 Management, as well as Lourdes Gonzalez, who is
22 an Assistant Chief Counsel with the Division of
23 Trading and Markets.

24 Other SEC staff members that are here
25 today as well are Eric Diamond,

1 Elizabeth Miller, Jennifer Porter, and then as I
2 indicated, Lisa Roberts and Suzy McGovern. To
3 start today's discussion, I will turn it over to
4 Chairman Clayton.

5 CHAIRMAN CLAYTON: Thank you, Eric. Thanks
6 for your hospitality in Miami. Richard, where
7 did you go? There you are. Thank you, Richard.

8 RICHARD HAUSER: My pleasure.

9 CHAIRMAN CLAYTON: And INVESTOR ONE, thank you.

10 So, look. This is the third one of
11 these that we have done. We did one in Houston. We
12 did one in Atlanta. It's a pleasure to be here
13 today. Someone asked me when I went around to
14 introduce myself if I was okay with pointed
15 questions. Yes. I am okay with pointed
16 questions.

17 We want to hear from you what you expect
18 from your relationship with your investment
19 professional. We want to hear what has happened
20 in the past that hasn't sat well with you. Or
21 things that you are worried about in the future.

22 And the reason we want to hear is
23 something that Eric said, which is we found, all
24 of my colleagues here and I, as we were trying to
25 bring clarity to this space, clarity in terms of

1 the types of professionals who operate in it, and
2 I will talk about that in a second, and clarity
3 in terms of what the rules of the relationship
4 are, how much you pay for what you are getting as
5 an investor, and how your investment professional
6 makes money.

7 We found that some of our rules were out
8 of line with what a reasonable person would
9 expect. And so kind of a touchstone for us is, we
10 reviewed our rules, and what would a reasonable
11 person expect? And we found, you know, people don't mind
12 paying for advice. They do mind paying for
13 things that they are not getting, and they do
14 mind paying when they don't know they are paying.

15 You know, hidden fees. And they do mind when
16 somebody puts their interests ahead of the
17 interest of the investor.

18 So we said okay. Those are all things
19 that are reasonable for a customer to expect.
20 How do we bring them to this model for investment
21 advice that already exists? And that has been
22 our objective. That was an objective, and then I
23 will just talk briefly about the two types of
24 investment professionals that we have in America.

25 We have broker-dealers and we have

1 investment advisers. And the broker-dealer
2 relationship model is a transaction-based model.
3 A broker-dealer makes a recommendation regarding
4 a transaction to a client, and the client either
5 accepts, rejects, or changes that. The broker-
6 dealer gets paid on a transaction-by-transaction
7 basis. The broker-dealer's obligations are around
8 that transaction or series of transactions.

9 An investment adviser looks at their
10 client's overall portfolio and has an ongoing
11 relationship with the client. And they get paid
12 on an ongoing basis for engaging in that
13 relationship.

14 Those are the two models. Some people are
15 probably better off with a broker-dealer model.
16 Some people are better off with an investment
17 adviser model. One of the problems we have is
18 it's really hard for people to tell which one
19 they have.

20 I hope that I have explained it in a
21 somewhat clear way, but I want to get to a place
22 where everybody understands the distinction
23 between the two, and what they are buying.

24 Last preliminary, and then I will kick
25 it off.

1 What we have done is -- I should say what
2 we are trying to do, because we have already
3 benefited from input -- is we are trying to
4 require all investment professionals to disclose
5 to their clients, in four pages or less, in plain
6 language what type of relationship they have and
7 how they get paid.

8 Because if you know how somebody gets
9 paid, you know a lot about how they are
10 motivated, and then what obligations they owe
11 you, and if they have any disciplinary history.
12 Our view is that if you can't explain it in four
13 pages or less, it's probably too complicated.

14 We then raise the standard of care that
15 broker-dealers owe their clients to embody what I
16 would call a true fiduciary concept, that a
17 broker can't put their interests ahead of the
18 client's. And then lastly, I think what we have
19 done is set up a system that is much easier for
20 us to inspect.

21 Words are good. They are nice, but unless
22 you can inspect and enforce against them, they
23 don't mean much. So that is sort of the three
24 prongs that we have. To be very direct, all
25 without being so onerous that people don't pull

1 out of the industry altogether, because having
 2 individualized investment advice is important. So
 3 in that vein, what we have done is
 4 looked at the people who we think are behaving
 5 well, the professionals we think are behaving
 6 well, and model our rules so that they can
 7 continue to behave the way they have. With that,
 8 what I will do is kick it off
 9 by asking any one of you who is willing to share
 10 your experiences as a client, as a market
 11 participant, what you haven't liked or have
 12 liked, and we will just get the dialogue going.
 13 If you don't, I will kick it off with one of
 14 mine. I knew in this size group we would have
 15 somebody who would have had an experience that
 16 was less than satisfactory.

17 INVESTOR EIGHT: I'll be honest, one
 18 of the reasons I was interested in coming today,
 19 and this has bothered me for years. My mother
 20 liked to dabble in the stock market, and she was
 21 retired. I love the idea of the investor's
 22 interest coming first, and I feel that my mother
 23 helped the retirement fund of her broker because
 24 she became a victim of churning.

25 It was constant. I would constantly

1 off? One of the components of our proposal is to
 2 require policies and procedures at the broker-
 3 dealer against which we can test.

4 So we can go in -- and tell me if I am
 5 being too technical. We can go in and say, we
 6 want to see accounts one, seven, 35, 85, and we
 7 want to look at the volume of activity in those
 8 accounts, and then we want to measure it against
 9 your policies for making sure that churning
 10 doesn't take place.

11 One of the objectives of this is to
 12 make it clear what kind of policies people have
 13 in place so we can test against it. Churning is
 14 one of the things we want to get rid of. Hidden
 15 fees, another thing we want to get rid of. Sales
 16 contests that clearly put the broker's or the
 17 investment adviser's interests ahead of the
 18 client's. All of those will be inconsistent with
 19 this standard and with the policies that we hope
 20 to develop.

21 I am looking at Lourdes, who spent 20
 22 years -- Lourdes has spent 20 years on the
 23 broker-dealer side. Paul has spent 20 years on
 24 investment adviser side, if not more. This is
 25 part of what we are trying to do. It's not just

1 get calls from her, oh, man, "Ed called today with
 2 a great stock deal for me on this great cancer
 3 stock." And she put \$10,000 into it, and today
 4 it's worth zero dollars. And it was constant. I
 5 am sure that there are some brokers still doing
 6 that today.

7 So if you do have something in a rule
 8 that says you have to put your client's interests
 9 ahead of yours, how do you enforce it in cases
 10 like that?

11 CHAIRMAN CLAYTON: So this is the most
 12 important thing for me, is that, like I said, you
 13 can have words that say put the client's interest
 14 first or the words we use, because we are
 15 lawyers, which is you can't put your interest as
 16 a professional ahead of your client's, because
 17 that is the standard that the courts have applied
 18 over the years.

19 But how do you know? It's a great
 20 question. There are -- Lori, you are going to
 21 help me -- fifty percent of Americans have some
 22 exposure to the market, right?

23 So there are, at a minimum, 130 million
 24 relationships. How do we know, with 4600 people
 25 at the SEC total, when somebody is being ripped

1 the words that govern the relationship, but it's
 2 what the professional has to do.

3 PAUL CELLUPICA: Every financial
 4 professional gets paid in some way. And there
 5 are always going to be incentives arising from
 6 how that person gets paid. And that kind of goes
 7 -- to some extent goes with the territory.

8 What we are trying to do is make clear at
 9 the outset of the relationship what those
 10 incentives are, so you, the customer, the client,
 11 can factor that in in determining whether you
 12 want a broker-dealer, whether you want an
 13 investment adviser or whether you want none of the
 14 above.

15 So in the standard broker-dealer
 16 relationship where you have got someone who is
 17 paid on a commission, yes, there's some incentive
 18 to do more transactions. And good broker-dealers
 19 with robust compliance policies and procedures
 20 will have controls around that.

21 In the investment adviser space, there can
 22 be the opposite incentive. Something called
 23 reverse churning, where they come up with a
 24 portfolio of funds and securities. And put you
 25 in that portfolio, and they never reexamine

1 whether it makes sense for you as time goes on.

2 But they still take an asset-based fee.

3 CHAIRMAN CLAYTON: We would expect
4 investment advisers to develop some procedures
5 where they do review your account to make sure
6 they are not just collecting the one percent a
7 year without changing anything.

8 INVESTOR NINE: I hate to admit it,
9 but I am a former Madoff investor. And I think
10 what I am wondering is what did the SEC learn
11 from it, and what are they doing now? You say
12 you have 46,000 people.

13 CHAIRMAN CLAYTON: 4600.

14 INVESTOR NINE: 4600? I'm sorry. I
15 misheard. 4600.

16 What have you learned from this?

17 Because
18 this involved a lot of money. If anybody ever
19 sat down and looked at it, it was obvious. But
20 nobody wanted to admit to it, and it went on for
21 so long.

22 CHAIRMAN CLAYTON: What did we learn from
23 that one? The big one that you learn from that
24 was custody. Which is understanding where the
25 assets are and being able to actually check that

1 no longer allows you to deduct the fees that you
2 paid to an investment adviser. We can't debate
3 tax code and everything else.

4 CHAIRMAN CLAYTON: They haven't made me
5 Treasury secretary.

6 INVESTOR NINE: But that is one of
7 the things --

8 CHAIRMAN CLAYTON: That is a hard job, too.

9 INVESTOR NINE: It maybe discourages
10 it a little bit. You can deduct commissions if
11 you are paying commissions on a stock sale that's
12 part of your basis, so you don't have to pay
13 taxes on it. I am digging a little deep into
14 something. It's an interesting point I wanted to
15 make.

16 CHAIRMAN CLAYTON: I will digress a bit. I
17 expect the pricing in the market will adjust as a
18 result of the tax law, as it always does.

19 But you bring up an interesting point
20 about whether we are driving people towards
21 advice or towards brokerage. What we want is
22 people to have a clear choice. It may be correct
23 for the majority of Americans an investment
24 adviser relationship is right. But we are
25 talking about big numbers here.

1 they are there.

2 INVESTOR NINE: That is one of the
3 notes that I made under disclosure, is that they
4 should disclose who is the custodian.

5 CHAIRMAN CLAYTON: You know what? That is a
6 great point. Who is our custodian? Do I self
7 custody or do I not? More broadly to your
8 question, yes, we learned in Madoff that we
9 should have had a better handle on that.

10 But what I keep asking myself today is
11 are there other things that we should have a better
12 handle on to prevent the next Bernie Madoff?
13 Because that lives as -- I am on the Commission a
14 year. That is not an excuse. What I am saying
15 is it should be part of our institutional memory
16 that we had this happen. Here was a guy who
17 perpetrated an amazingly long fraud, and we
18 should have caught it.

19 INVESTOR NINE: One of the other
20 things I wanted to ask you is that I would think
21 you would want to encourage people to use
22 investment advisers as opposed to broker-dealers
23 because they are getting advice and they are
24 getting assistance.

25 Yet the new tax law that just came out

1 There are people for whom a brokerage
2 relationship may be correct. Because if what you
3 are going to do is buy a portfolio stock, you are
4 going to monitor it yourself, but you are not
5 going to trade a lot, turn them over a lot, you
6 are going to end up paying a lot less over time
7 than you would pay to an investment adviser who
8 is going to charge eight percent.

9 I just want people to make a good,
10 informed choice as to which model is best for
11 them, or both. I have an investment adviser for
12 some portion of my assets and I have a broker for
13 another portion. That is really where I want to
14 go. To INVESTOR THIRTY-ONE and then to
15 INVESTOR TWENTY-SIX.

16 INVESTOR THIRTY-ONE: A couple of things. One,
17 you mentioned auditing after the fact, and trying
18 to find those who are not following the rules,
19 broker-dealers. That is well after the fact.
20 What can be done before the fact, before they
21 mishandle?

22 And the other, an ordinary person that
23 doesn't have an accounting or finance background,
24 going into an investment brokerage house, they
25 will have other titles for these positions.

1 There will be, I don't know, adviser, something
 2 adviser. And out there, people call themselves
 3 senior advisers. They call themselves other
 4 things. And ordinary people don't know the
 5 distinction.
 6 So how do you know you are working with
 7 a broker-dealer and not an investment adviser,
 8 and how you can control that, I guess is my
 9 question?
 10 CHAIRMAN CLAYTON: I think it's a great
 11 question. It's a problem, and we are trying to
 12 address it. Our proposal -- I don't know if
 13 somebody wants to handle this. Do you want to
 14 go? Go ahead.
 15 LORI SCHOCK: A couple things.
 16 Investor.gov is our retail-facing website. I
 17 would encourage all of you to go there. I know
 18 you have smart phones out there. Investor.gov.
 19 You can do a background check on your financial
 20 professional.
 21 INVESTOR THIRTY-ONE: And I did.
 22 LORI SCHOCK: Perfect. I'm glad to
 23 hear that, in that you did it before you ever
 24 turned over any of your money, right?
 25 INVESTOR THIRTY-ONE: Well, no. I learned

1 about it after the fact. But I was happy when I
 2 checked.
 3 LORI SCHOCK: I'll take it. And what
 4 did you find? You found out how long they'd been
 5 in the industry, what licenses they held.
 6 INVESTOR THIRTY-ONE: And that they didn't have
 7 any grievances against them, or whatever.
 8 LORI SCHOCK: Any regulatory issues.
 9 Okay, no investor complaints. All right.
 10 That is information that is readily
 11 available. We know people spend more time
 12 actually figuring out where they are going to go
 13 on vacation, which hotel they are going to stay
 14 at or where they are going to eat dinner, than
 15 doing a background check. I'm glad you did that
 16 first part.
 17 Also from investor.gov, you can check
 18 out the background news of -- I call it alphabet
 19 soup. In fact, I was doing a program here in
 20 Florida and somebody had a business card. After
 21 the person's name, it said HSD. Anyone know what
 22 -- high school degree. But that is what he had
 23 on his business card.
 24 Now, who knew? This database is
 25 actually maintained by FINRA, and you can see the

1 credentials that go into holding certain
 2 certifications. There are some that if there's
 3 an accredited body, there's standards that you
 4 have to maintain. You may have to have
 5 continuing education credits. So some of them
 6 are very rigorous.
 7 There are others, though. I go online.
 8 I pay my \$200, and now I am a senior specialist
 9 of whatever. If you don't -- this is a good one.
 10 This is a bad one. I will show you what goes
 11 into getting that credential. I also encourage
 12 you to use that database, as well.
 13 INVESTOR THIRTY-ONE: That might be important
 14 to put in the offices of investment companies,
 15 places where they can go to check things out.
 16 LORI SCHOCK: That's a good idea.
 17 CHAIRMAN CLAYTON: We are getting a lot of
 18 good ideas from these. That is another one.
 19 Custody is one. What we really want is this to
 20 be readily available. That is why we are forcing
 21 these professionals to fit it all into four pages
 22 so we have it -- so when you go in there, there's
 23 no way they can avoid giving you this
 24 information. It starts the right conversation.
 25 We are also looking at whether the

1 investment adviser title can be used by broker-
 2 dealers. In fact, our proposal is to not let
 3 them use it, unless they are also registered as
 4 an investment adviser.
 5 INVESTOR SEVENTEEN: How does investor.gov
 6 relate to BrokerCheck, if at all?
 7 LORI SCHOCK: Sure. Instead of seeing
 8 how the sausage is made, it's the same
 9 information. We combine the search results from
 10 the investment adviser public disclosure website
 11 and BrokerCheck. So whether the person is
 12 registered as an investor adviser or as a broker-
 13 dealer or if they are dually registered, you will
 14 see the information and be able to look at both
 15 reports.
 16 CHAIRMAN CLAYTON: I just need to make a
 17 plug. Need to go back to INVESTOR TEN and come back to
 18 INVESTOR FIFTEEN. I will make a plug. We just did a new
 19 database called SALI, and this is for bad actors
 20 that aren't registered as broker-dealers or
 21 investment advisers. Because it turns out that a
 22 lot of the fraud we see is from unregistered
 23 people who are out peddling investments.
 24 SALI.gov.
 25 LORI SCHOCK: You can get to it from

1 Investor.gov.
 2 CHAIRMAN CLAYTON: It was easy to find the
 3 registered people who were bad. But some of the
 4 really awful people are the ones who aren't
 5 registered. We now have a new database that has
 6 our actions over the years so people can find
 7 them.
 8 INVESTOR TEN, you are next.
 9 INVESTOR TEN: My experience, for many
 10 years, I was with a broker that I didn't know was
 11 a broker. I think you have all touched on that
 12 one way or another. He was an adviser. And
 13 because at the time I lived outside of the
 14 country, this was good to have somebody that was
 15 going to take care of whatever money I had at the
 16 time.
 17 And when the market was good, I was
 18 good. And when the market wasn't so good, I
 19 wasn't so good. And because of the nature of my
 20 business, I really didn't do a good job of
 21 following up. Until I had a conversation with
 22 somebody, and they said, you should really be
 23 with an investment adviser.
 24 I didn't know the difference. Because
 25 the broker was telling me he was an adviser. So

1 I didn't know the difference, and I didn't know
 2 that he needed to tell me anything different.
 3 While I am not really big on a lot of
 4 regulations, I at the same time think certain
 5 things should be made so that they have to tell
 6 you who they are and what they are, and what the
 7 difference is.
 8 My problem with a true investment
 9 adviser, he comes to you and he tells you, you
 10 got to give me \$2 million. And that is another
 11 thing. If somebody who was been working,
 12 breaking his neck for a lot of years, and maybe
 13 has a stash of \$2 million. Would you give all of
 14 your money to somebody just because he says so?
 15 So you buy an automobile and you like
 16 to try it out. You like to drive it. You like
 17 to know that the car is good, not just because
 18 they tell you it's good. Because it is good. So
 19 I think that one of the things that we should be
 20 looking at is somebody has got to shape up and
 21 tell you who they are and how they do get paid.
 22 And tell you, well, if I buy a stock for you, I
 23 get commission. Okay. You know. Or if I gave
 24 you my \$2 million, this is how I get paid.
 25 I think we have to look at these types

1 of things because if so many people are investing
 2 today, and so many are, they all can't be so
 3 smart that they know all of these things, that
 4 they attended a forum like this or that they read
 5 all of these things that are thrown at them that
 6 they don't really understand. And I think that
 7 this is where we have to improve. Educate.
 8 CHAIRMAN CLAYTON: INVESTOR TEN made a good point.
 9 If you are out of the country and you are not
 10 going to have time to look at your account, you
 11 are probably better off with an investment
 12 adviser. You want somebody who has an obligation
 13 to monitor your account.
 14 INVESTOR TEN: But I got to know the
 15 difference.
 16 CHAIRMAN CLAYTON: It's our job as
 17 regulators to make sure that that difference is
 18 understood in the public.
 19 Like I said, you hear all these words,
 20 like fiduciary duty and this and that. You need
 21 to know --
 22 INVESTOR TEN: Most people don't really
 23 understand.
 24 CHAIRMAN CLAYTON: No, because it means
 25 something different in every context.

1 INVESTOR NINE: But Commissioner,
 2 one of the things I'm hearing, you said to make
 3 available quarterly statements. I think, at
 4 least electronically, they should be at least
 5 monthly electronically. I don't think anybody
 6 should have to wait three months to find out how
 7 they are doing. Maybe they don't want to do it on
 8 paper, but at least electronically.
 9 CHAIRMAN CLAYTON: Your reference to
 10 quarterly statements?
 11 INVESTOR NINE: You should be able
 12 to. But here it only talks about making available
 13 quarterly statements. That's the way I read it,
 14 unless I read it wrong.
 15 CHAIRMAN CLAYTON: This is an example.
 16 Again, I get your point. Where we are going is
 17 most advisers make your statement continuously.
 18 This is more of what they have to do. But I get
 19 your point on monthly.
 20 I promised INVESTOR FIFTEEN, and then we will come
 21 to you, INVESTOR THIRTEEN.
 22 INVESTOR FIFTEEN: I have been in sales
 23 probably 45 or 50 years. I started out as a life
 24 agent many years ago. When I started, it was
 25 very simple, because insurance was insurance,

1 banks were banks, and brokerage was brokerage. I
2 think it's done a great disservice to this
3 country and made your jobs a lot more
4 complicated.

5 I saw things that I wished I had never
6 seen because of the greed of companies, and I
7 won't name the companies. But these companies,
8 for example, when you start out as a life agent,
9 they have an attitude that you have a certain
10 market because you are dealing with property
11 casualty, for example.

12 And just because I write your auto or
13 your homeowners or your umbrella, your jewelry
14 policy, whatever it might be, it doesn't mean
15 that I know everything about a variable annuity,
16 of which I had to have a Series Seven license
17 for.

18 Now, then they start moving you into an
19 area. And in the meantime, a lot of these life
20 agents have not been properly trained. There's
21 quite a difference in training and selling
22 something I can guarantee if you die, you die,
23 you are going to get this. I can walk out and
24 know that I did something, because if you pass
25 away a widow is going to benefit from a life

1 between the presidents, the former president
2 wanted to do what he wanted to do with fiduciary,
3 as far as going back not with commission but
4 fees. Now there's a question they want to go
5 back.

6 And everything is just -- then you
7 have Merrill Lynch, for example. They say, well, they
8 want to go back to commissions. There's this
9 constant gray, and I think it would clear it up
10 an awful lot if you just go back to the basics of
11 101. It worked.

12 CHAIRMAN CLAYTON: A couple things. Your
13 observations about the complexity in the
14 insurance product industry resonate with us. We
15 don't have -- we have jurisdiction over
16 some things but not all of it, as you probably
17 know.

18 What I am -- in terms of going back to
19 basics, there's a question that has come out of
20 the town halls and the work that we have done,
21 which is how much of your money as a customer is
22 actually going to work for you? And that is the
23 question that whatever you are buying, you ought
24 to get a clear answer to.

25 So if you are buying a variable annuity,

1 policy that I wrote.

2 A variable annuity is another ballgame.
3 What frustrates me is that the companies took the
4 attitude that they could train these life agents
5 or these property casualty agents, and just make
6 them life insurance agents that easily. It's a
7 different type of training, a different type of
8 thought process.

9 Then they take it a step further. They
10 want you to start selling stocks and bonds.
11 Well, you can only wear so many hats and be
12 proficient at what you are doing. I wish to God
13 they would bring this life agent back, and get
14 back to the basics where we do insurance, banking
15 does the banking. They don't have any damn
16 business selling life insurance. And the same
17 with the brokerage companies, brokerage houses.

18 Everything is so technical today that
19 in selling, you have to spend a tremendous amount
20 of time in C.E. courses, and look at the reading
21 that you have to do to stay on top of what you
22 have to do. I think if they could ever get back
23 to something like that, I think it would help
24 clear up the industry one hell of a lot.

25 And this thing going back and forth

1 and you are paying \$100, but actually only 95 of
2 it is going to work for you, either in the form
3 of insurance or in the equity market, you should
4 know that.

5 Just like if you are buying a mutual
6 fund, and you are going to pay a fee up front and a fee
7 along the way, you should know that every \$100
8 you put in, maybe 98 is going to work for you.
9 That is something that I believe, regardless of
10 the complexity, somebody should be able to
11 explain it to you.

12 So to answer your question, with all the
13 back and forth, all the discussion, that is kind of
14 the focal point, that we, working together, have
15 found, that transcends that. If somebody can't
16 explain to you how much of your money is going to
17 work, you probably shouldn't invest and they
18 probably have a problem with us. I think that is
19 where we should take this.

20 INVESTOR FIFTEEN: How do you feel then with
21 the complexity of when you get a combination of a
22 product with life insurance, and you have a
23 mutual fund, and that is exactly what it is?

24 I never believed in mixing. I think
25 you are asking for trouble right there. Either

1 stick with one or stick with the other. Because
 2 you try to explain it as carefully as you can,
 3 taking fiduciary, and make sure that they are not
 4 hurt in writing, in explaining, but it's very
 5 difficult. It's very hard.

6 LORI SCHOCK: In your experience, also,
 7 which one paid more? Variable universal life,
 8 variable annuities, right, as the salesperson.
 9 It's hard to have that disconnect. You have a
 10 mutual fund with an insurance wrapper,
 11 essentially. So are you betting off buying your
 12 mutual funds here, buying your insurance
 13 separately?

14 I know there's a fair amount of
 15 investor
 16 confusion with those products. We get the
 17 investor complaints that come into the
 18 Commission. It's a challenge. People don't
 19 understand also the fees that go into it. The
 20 contingent deferred sales charges.

21 Say for some reason something changes,
 22 they need to get out of it. What do you mean, I
 23 am going to lose four percent off the top because
 24 it had a seven year contingent deferred sales
 25 charge, and it was one percent per year. Those

1 looks like. Okay? [INVESTOR TWELVE pointed to a prospectus
 2 and showed the group.]
 3 This is what it looks like.
 4 Vote yes or no. What? You are kidding me,
 5 right? I am going to read this?

6 I guess my other comment has to do with
 7 the fact that it's incredible to me that an
 8 intelligent person can graduate from college,
 9 take a job where they get a 401(k), and have not a
 10 clue of what the difference is between a stock
 11 and a bond.

12 INVESTOR FIFTEEN: That is true.

13 INVESTOR TWELVE: And I don't know how much
 14 responsibility the SEC has for education, but we
 15 have got to find a way to start, way back, high
 16 school. People have got to be informed. I don't
 17 care how many regulations you pass. It's not
 18 going to work unless you have an informed
 19 consumer. Of those 50 percent of the people in
 20 this country who are involved, 40 percent of them
 21 have no idea what they are involved in.

22 CHAIRMAN CLAYTON: I agree.

23 INVESTOR TWELVE: So I don't know what your
 24 responsibility is for that. But four pages, five
 25 pages, 20 pages, one page, won't make a bit of

1 are the challenges that we face. I think you
 2 raised really good points.

3 PAUL CELLUPICA: They are very complex
 4 products. That doesn't mean that they are never
 5 good for anybody. But the complexity is -- it's
 6 a challenge for the people who are selling them,
 7 and it's a challenge for us as regulators.

8 And one of the things we are working on
 9 is to try to take a look at the disclosure that the
 10 variable annuities and variable life products --
 11 or the companies issuing them provide, and is
 12 there a way to make that simpler and more
 13 understandable and reduce some of the complexity
 14 that confuses a lot of the subjects.

15 CHAIRMAN CLAYTON: Just to your point. If
 16 you can't explain why the combined product is
 17 better than the product separately, it probably
 18 isn't. And we are working on it.

19 INVESTOR FIFTEEN: I have seen a lot of
 20 people lose their job over that. A lot of
 21 people.

22 CHAIRMAN CLAYTON: I'm sorry, INVESTOR TWELVE. You
 23 wanted to --

24 INVESTOR TWELVE: Yes. Two comments. One
 25 is, so you get an explanation and this is what it

1 difference if the person who gets this has no
 2 clue of what the whole thing is about.

3 CHAIRMAN CLAYTON: I agree with you. Look,
 4 it's not our jurisdiction. I try not to get out
 5 of my lane. But as a citizen, just as a citizen,
 6 you know, we are all living longer. We are all
 7 much more responsible for our own retirement,
 8 which means we have got to be more financially
 9 literate. That is just the facts.

10 And it's kind of sad, to use a more
 11 pejorative term, that you graduate from high
 12 school -- or more importantly, you graduate from
 13 college, and you don't have an appreciation for
 14 these basic concepts that are going to be
 15 important to your own lifestyle, because you are
 16 on your own, right, whether you use a
 17 professional or not.

18 We are trying to make the job of
 19 choosing a professional, making sure you get it
 20 right, making sure they behave better, but you
 21 still got to do it. If we don't have people who
 22 understand the basic concepts of equity market, a
 23 bond market, a bank account, the differences
 24 among those and what it means to you over time,
 25 that is not good.

1 Let me say, look, I will just wear my
 2 philosophy on my sleeve, but it's the result of
 3 experience living around the world. The
 4 alternative to that is turning it all over to the
 5 government. You don't want that. So we got to
 6 do a better job of educating along the way.

7 INVESTOR TWELVE: Whose job is that? Where
 8 does it start?

9 CHAIRMAN CLAYTON: Well, it starts here. It
 10 starts with the Department of Education. Look, I
 11 do AARP seminars. Lori has done them with me.
 12 The first thing I say when I do the AARP seminars
 13 is, do me a favor, talk to your grandchildren
 14 about this, so that they are not learning about
 15 this when they are your age. That they are
 16 learning about it now.

17 INVESTOR THIRTEEN, go ahead.

18 INVESTOR THIRTEEN: Thank you,
 19 Commissioner. I didn't think I would be
 20 commenting. I hope you can understand me. I am a
 21 little congested. Several things along the lines
 22 of what INVESTOR TWELVE said. First of all, four
 23 pages -- it's not the four pages, it has more to
 24 do with the font used in the four pages.

25 CHAIRMAN CLAYTON: We know that trick. We

1 have font requirements.

2 INVESTOR THIRTEEN: I actually
 3 find that -- maybe it's my age. I start to drift
 4 away after about a paragraph. And if something
 5 is truly well written it can be said in a much
 6 more concise and clear way. I have difficulty
 7 even with the materials today.

8 And I am one of those people, I got my
 9 college degrees. I got my master's degree. I
 10 got my law degree. I was so busy working. My
 11 mother died. She was very smart. She knew the
 12 stock market because she had been through the
 13 depression. She was educated.

14 When she died, I got stock
 15 certificates. She actually had them in her desk.
 16 And at one point we thought some of them were
 17 lost, and fortunately, we found them.

18 Anyway, I converted those into an
 19 account at a major house, and had a horrendous
 20 experience. I was then, fortunately, referred to
 21 another major house where a friend of a friend worked.
 22 This is out in California.

23 I am in Miami, and I am now using, and
 24 still using, a financial adviser at Morgan Stanley
 25 who was a friend of a friend. I have

1 been very happy with. But I haven't always
 2 understood. And I have always been, until
 3 recently, too busy with work and this and that,
 4 and plus, I am a liberal arts major, and that is
 5 another mistake in my next life I won't make.

6 But I am a Baby Boomer on top of that.
 7 And there's a zillion of them out there who are
 8 sitting with these IRA accounts. And when I
 9 retired a couple years ago, it's scary. I can't
 10 tell you how many of my colleagues came to me for
 11 investment advice, because I knew more than they
 12 did. And I knew nothing.

13 I am involved in the stock market as an
 14 observer, and I am involved on a daily basis many
 15 times. I am learning and learning and learning.
 16 And if I live to be 150, I will never know the
 17 things -- some basics, some very sophisticated --
 18 that I need to know.

19 The education, obviously, needs to
 20 start in the public schools and the charter
 21 schools, whatever schools, early on, but I know
 22 we are not here to address that. It's a shame.

23 But all of these people that were my
 24 colleagues around my age are being dumped into
 25 this market with IRA accounts. Fortunately --

1 and I am not a big fan of IRAs myself, but I was
 2 forced into it because of the nature of what I
 3 was doing. But I had Mom's stock certificates,
 4 which I have always kept in separate accounts.

5 Not until today, right before this
 6 meeting, when I called my broker about something,
 7 call him my broker, he is called my financial
 8 adviser, did I realize that I have three kinds of
 9 accounts. But in your parlance, two kinds. I
 10 have two broker-dealer accounts, and I have my
 11 investment adviser services account, which is, in
 12 actuality, a little bit of both of them.

13 And we talked about fees, and he was
 14 very up front. I am starting to understand. The
 15 most complex thing that I still don't understand
 16 because there are so many kinds, as INVESTOR FIFTEEN was
 17 referring to, annuities. My husband had retired
 18 with a lot more money than I did. Naturally, a
 19 man, in a similar field. That is okay.

20 He has lots of annuities. I have many
 21 friends with lots of annuities. I don't think
 22 any of them are alike. I chose to have only one
 23 annuity because I am naturally getting very
 24 paranoid. And you know, what can I say? It's a
 25 whole lot of money sitting there tied up to throw

1 off not that much, especially after taxes.
2 So I have myself to blame. But that is
3 okay. I just want to wrap up, because there's a
4 lot of people being thrown into this. We are
5 solicited constantly by people. Oh, you want to
6 have dinner at Morton Steak House? I am sure you
7 all get it. I called my broker.

8 CHAIRMAN CLAYTON: There's no free lunch.

9 INVESTOR THIRTEEN: Yes. I
10 said, why is Morgan Stanley soliciting my
11 business? Don't you know that I'm already -- you
12 know, he has kept trying to straighten it out for
13 years. But there are a million of them, and
14 there's all kinds of brokers out there now.

15 One company that I was actually
16 invested in keeps acquiring other smaller
17 brokerages that are actually boiler rooms, and
18 they sit there in little cubicles calling people,
19 cold calling. I am not going to name names, but
20 it's very scary for people who are basically -- I
21 consider myself unsophisticated.

22 CHAIRMAN CLAYTON: Let me address two
23 things. I think everybody around the table was
24 nodding their head. Because you are articulating
25 an experience that is all too common.

1 Two things I want to address. One is
2 boiler rooms. We have no time for boiler rooms.
3 As a regulator, you try to get at things that you
4 can't get at directly, somewhat indirectly.
5 People who run boiler rooms are not going to give
6 you a disclosure document that tells you how they
7 make money, which means it's going to be much
8 harder for them to stay in business.

9 No tricks here, but this is my intent.
10 They are not going to do this because, if they do
11 it, we will be able to get them. That is my
12 hope.

13 But going back to your disclosure
14 thing, one of the things that has come out of
15 this is there are people who are not written word
16 people. We are thinking -- and I would like your
17 reaction. We are all thinking about this.

18 We are thinking about doing a series of
19 videos in connection with this, that would
20 address the kind of conversation that we get
21 back. Where you can go onto investor.gov, and
22 Lori or one of us will walk through in kind of
23 segments, five-minute segments.

24 This is the type of relationship you
25 would have with a broker-dealer. This is the

1 type that you would have with an investment
2 adviser. These are some products that have
3 different types of fees.

4 Does anybody have a reaction to that?

5 INVESTOR THIRTEEN: Great idea.

6 INVESTOR TWELVE: Great.

7 CHAIRMAN CLAYTON: Now, the risk I have in
8 doing that is people will say, that is not quite right.
9 You know how lawyers are. He didn't get that
10 right. It works this way. But I think I am
11 willing to take that risk because I think that,
12 you know, you can look it up on your phone while
13 you are going somewhere or go back to it. Go
14 ahead.

15 INVESTOR EIGHTEEN: I would like to change
16 the direction a little bit. 401(k) plans are
17 becoming -- not becoming, are -- commonplace in this
18 country now, and have replaced pensions in the
19 private sector. Are there requirements for
20 companies who provide their employees with a 401(k)
21 plan, to educate them? And if not, there should
22 be.

23 I know as a former owner of a company
24 who started 401(k)s a long time ago, before they
25 became popular, we held annual meetings on

1 company time whose sole purpose was to teach our
2 employees the difference between a stock and a
3 mutual fund and a bond and so on.

4 I think this should become a
5 requirement, especially with companies over a
6 certain size. Because people in their daily lives
7 -- one of the first things you mentioned -- are
8 too busy to really -- they put more research into
9 where they are going to eat dinner as opposed to
10 choosing an investment vehicle.

11 So to answer the education needs that
12 are so apparent, why wouldn't there be some kind
13 of mandatory education process for companies who
14 offer 401(k)s, which are wonderful things, but to
15 help their employees get the most out of their
16 plan? Because the plans generally are self-
17 directed.

18 CHAIRMAN CLAYTON: The plans are generally
19 self-directed, and this is not my area of the
20 law. And there is a fiduciary obligation of the
21 employer, as the administrator of the plan, to
22 offer the different types of investments that are
23 appropriate for the people choosing them.

24 INVESTOR EIGHTEEN: It's not the same.

25 CHAIRMAN CLAYTON: I was about to say. It's

1 not the same as educating them on how to make the
2 choice. And here are the two sides to it. I
3 like the idea. I don't want to cause somebody
4 who's probably not as thoughtful about their
5 employees as you may be to say, you know what?
6 It's an extra burden, so, therefore, I am not
7 going to have a 401(k).

8 It's a good idea, but I want to make
9 sure that if we do something like that, we are
10 not reducing the incentive to offer a 401(k).

11 INVESTOR TWELVE: Can't it be the cost of
12 the administrator rather than the employer?

13 CHAIRMAN CLAYTON: 401(k) plans are really --
14 this is an area where, in my view, there's a fair
15 amount of leakage in the system. You set up --
16 one of my worst experiences with this market was
17 a 401(k) plan. Because I got ahold of this
18 employer's 401(k) plan, and I found out the mutual
19 funds were very expensive. People were paying a
20 percent and a half, two percent a year, for
21 garden variety mutual funds. And then they were
22 paying an administrative fee. And then the
23 employer was paying an administrative fee.

24 This was a very nice employer, not
25 sophisticated about the marketplace. And I

1 administrators were the one who came down and
2 made the presentations. And 401(k) plans are two-
3 way streets. They are not only a benefit for the
4 employees. They are a benefit for the employer
5 in terms of pension, company loyalty, et cetera.
6 So they have a vested interest in the employees'
7 growth of their portfolios and satisfaction with
8 the results.

9 CHAIRMAN CLAYTON: One thing I always say to
10 the AARP folks if they ask the question, what
11 should we tell our children or grandchildren that
12 are just starting out? I say, if the employer is
13 matching your 401(k) contribution, do whatever you
14 can to find enough to put in to get the match.
15 It's free money. Free money is good money.

16 INVESTOR ELEVEN, and then INVESTOR SEVENTEEN.

17 INVESTOR ELEVEN: I am a novice when it
18 comes to financial literacy, and I have been
19 taking a course because I want to educate myself
20 on this better. But I had a 401(k) and I had a
21 403B, and I think it was in 1998 when the stock
22 started to go down.

23 And again, like INVESTOR NINE says, you don't get
24 these reports for almost three or four months.

25 It came in the mail. My husband took a look at

1 called up the provider. I said, hey, what gives?
2 And the fact that we went from, you know, four
3 percent drag a year to two percent drag a year
4 overnight meant that there was something going
5 wrong. They were willing to give it up.

6 There's a fair amount in that industry
7 that transparency in competition should bring
8 down. I am hopeful for that. I'll think about
9 your suggestion, but I don't want to make any
10 promises because I don't want to put -- the
11 people who are doing the good in that industry
12 are often the employers. I don't want to burden
13 them further. Maybe we can do something with the
14 administrators to require it. I don't know.

15 PAUL CELLUPICA: Employers aren't
16 required to have 401(k) plans, necessarily. A lot
17 of the larger ones do, and that is something that
18 we want to foster. There's a certain amount of
19 disclosure that the plan sponsors, the employers,
20 have to provide to people. But education, I
21 agree it's sorely needed. I am just not sure the
22 employer is well-suited to provide that. Could
23 you have a mechanism to kind of incentivize the
24 administrators to do that?

25 INVESTOR EIGHTEEN: First of all, the

1 it. He got on that phone faster than I can even
2 say my own name. He is calling the 403B and the
3 401(k). He's got one phone in one hand and one in
4 the other.

5 He said, I don't care what you have to do,
6 but get her out of the stock market. I am going
7 to tell you right now what I want you to do. But
8 I want all of her funds out of the stock market.
9 She is losing her money. This is not okay. I
10 think it has nothing to do with
11 education, because stocks are taught as an
12 elective, so to speak. It's not a requirement.
13 It's usually when students go to college where
14 they pick what they want to take, what their
15 interest is. A lot of the people who know a lot
16 about stocks are going to go into finance or
17 going to go into business education.

18 And I think for women it was a
19 different story at one point, because we are Baby Boomers
20 as INVESTOR THIRTEEN had said. We were in a different
21 track. I was in education. My husband was in
22 business finance. And he actually got in
23 trouble, and I don't have all the particulars
24 with it.

25 But his financial person that he was

1 working with at Credit Suisse actually backed
2 out. It had to do with oil stocks. And I don't
3 know if anybody knows about that, but my husband,
4 who has never seen anything like it, we lost a
5 lot of money. He has made up for it since, but
6 nobody was following what was going on with those
7 stocks, and he started to have to reach out and
8 do things.

9 What I am saying is every one of us has
10 to be educated in our own way. I found in my later
11 life I would like to learn more about stocks
12 because I don't know much about it. And if I
13 hadn't been married to my husband, who kept
14 talking about it all the time, I would have never
15 gotten interested in it at all. So I think it's a
16 learning curve, and I think it's
17 what everybody feels comfortable in
18 doing. And like everybody else in this room, I
19 don't want to get screwed either.

20 CHAIRMAN CLAYTON: Let me say this. Going
21 back to INVESTOR EIGHTEEN's point, one of the areas where we
22 have seen problems is in education, and teachers
23 who have -- Lori will give me all the right
24 numbers. What are the California numbers?

25 LORI SCHOCK: 403B plans are really

1 INVESTOR NINE: Being in the car
2 industry, I take exception to that.

3 INVESTOR SEVENTEEN: What I wanted to suggest
4 here, I am looking at your hypothetical sheet.
5 Particularly investment advisers where you say,
6 "Investment advice will cover a limited selection
7 of investments."

8 One of the things most people probably
9 don't realize is there are also wholesale dealers
10 of mutual funds, who sell funds to retail broker-
11 dealers, who sell them to their customers. And
12 there's certainly an incentive on the part of the
13 middleman to push certain funds, and then
14 presumably the retail broker-dealers who sell
15 them to customers.

16 So maybe what you ought to add after
17 that sentence is something along the lines of,
18 You may ask us how we are compensated as to any
19 particular investment, because it changes and
20 it's different, and it isn't just a limitation.
21 Yes, we have a limited number of funds, but how
22 are you compensated for advising me to take a
23 particular fund as opposed to another?

24 CHAIRMAN CLAYTON: You are right. What we
25 are also trying to accomplish is if that changes,

1 high fees and expenses.

2 CHAIRMAN CLAYTON: So that is -- there's a
3 little bit of synergy here. Teachers have a lot
4 of money in these types of plans, where they need
5 to know more to get the most out of them, which
6 is really interesting. It's true. Coming into
7 this job, I had no idea. This is an area where
8 there's a lot of things that I knew that I did
9 not know.

10 And we can do a lot for teachers in
11 this area, because they have a lot of what I call
12 long money in the market. It's money that is
13 invested. It's going to be there for a long time.
14 A percent a year makes a big difference.

15 INVESTOR FOURTEEN: No, I'm sorry.
16 I skipped INVESTOR SEVENTEEN. INVESTOR SEVENTEEN and
17 then INVESTOR FOURTEEN and then INVESTOR TEN.

18 INVESTOR SEVENTEEN: Two things. One is sort
19 of an off to the side comment. One of the things
20 that I heard, which I think is absolutely
21 correct, is the reason people can make a lot of
22 money in the car industry is because the American
23 public is so bad at math. With that said, it
24 pertains, I think, generally to a lot of what we
25 are talking about.

1 they have to tell you. If the way someone is
2 getting compensated changes, they have to tell
3 you. Which it's fine to find out up front that,
4 oh, I am just getting paid a certain amount a
5 year, and then later that changes, they have to
6 tell you. I think that is the way it should be.

7 INVESTOR FOURTEEN?

8 INVESTOR FOURTEEN: I have to say, my
9 name is INVESTOR FOURTEEN. I am a microbiologist,
10 and I am bilingual. I have to say that for the
11 first time when you presented, Mr. Commissioner,
12 I heard so clear and simple all the language of
13 finance. It's not just about education, my point
14 of view. It is about the language that we use.
15 Because I can speak Spanish, and I think if
16 I ask others to raise their hands, at least a few of them
17 are going to speak Spanish.

18 So I could have a very interesting
19 communication about microbiology in Spanish. But
20 for people that don't have the same background
21 and don't have the same language, it means
22 nothing. So I agree, communication is very
23 important.

24 I am a baby boomer. I do have a 401(k). I
25 do have some investments, but I am still dealing

1 with the communication that is towards me. It's
2 not simple. It's not clear. My continual
3 question about this is when I got those reports,
4 and we have an amazing platform, where we work
5 with the employees -- and I work with AARP, and I
6 have amazing opportunity to learn about my
7 investment, but I am still -- when I go there, I
8 ask myself how do people that don't have all this
9 support can get through this.

10 The four pages of the clear
11 identification of relationship are very
12 interesting, as long as it's in the accurate
13 language. Because otherwise, it's nothing. And
14 I agree. We cannot fill right now the education gap,
15 but I think that it has to be imposed, the way
16 that the investor or the broker or whoever is
17 representing my personal money interest and my
18 return and my financial security for life needs
19 to communicate with me.

20 So I just want to say that. I know
21 that there are people here very educated with the
22 career in investments, but I am not. I don't
23 think that I need to study stocks, as INVESTOR ELEVEN, that
24 she has the ability to go to educate herself in
25 an academic way. I just need to work with the

1 give you some history around this. This four
2 pages is an effort to distill -- can you hold
3 that up again, your prospectus.

4 INVESTOR TWELVE: Here you go.

5 CHAIRMAN CLAYTON: It's an effort to put
6 that into four pages. What we are finding out
7 through these town halls is if you handed this to
8 your lawyer, oh, this makes a lot of sense.

9 INVESTOR THIRTEEN: No. I am a
10 lawyer.

11 CHAIRMAN CLAYTON: Maybe not.

12 INVESTOR THIRTEEN: And a
13 professional writer.

14 CHAIRMAN CLAYTON: But I think, like I said
15 different people process things different ways,
16 and what we are finding out is we need to come at
17 this in more than just one way. I think that is
18 what we have learned through these -- and guess
19 what? In Washington, they didn't tell us that.
20 Does that surprise anybody?

21 INVESTOR EIGHT: Can I just add one
22 other thing about the fees? When we talk about
23 the fees in here, I think it's very ambiguous. I
24 think people, if they are given an idea of the
25 actual monetary amount of the fee, sort of like a

1 people that are managing my money in the way that
2 I can understand, that is clear language. It has
3 to be simple.

4 LOURDES GONZALEZ: This is supposed to
5 be a very plain English document. It was written
6 by lawyers. Do you find, people in the room,
7 that this is, in fact, readable? I know,
8 INVESTOR THIRTEEN, you liked the idea of a video.

9 INVESTOR THIRTEEN: But if you
10 had to have this, this is not clear. This is not
11 well written. I used to be, before I was what I
12 am now, I was a communicator professionally.
13 This lady is a professional journalist.

14 INVESTOR EIGHT: It is not clear.
15 It is poorly written. I mean, we are college
16 graduates but we are also professional writers
17 and educators. Can't understand it.

18 INVESTOR THIRTEEN: It's
19 ambiguous. It's confusing. We were both saying,
20 when did adviser become spelled with an "E-R."

21 CHAIRMAN CLAYTON: That's a question.

22 INVESTOR THIRTEEN: Whatever.

23 That's a small point, but this is the sort of
24 thing where my brain shuts down. Maybe it's age.

25 CHAIRMAN CLAYTON: It's not age. Let me

1 concrete example. When they're talking to an
2 adviser, you can hand them this. This doesn't
3 mean much to them.

4 CHAIRMAN CLAYTON: Here is what we have done
5 with this. We have sent this out during this
6 comment period. This is the way rulemaking
7 at the SEC works. We propose a rule and
8 then we have a comment period where people
9 comment. And because you guys don't have time to
10 comment in writing, that is why we are here. But
11 people comment.

12 We have challenged the industry, the
13 people who provide the products. It's easy to
14 criticize, but we said, "Do this better." Show us
15 how you would communicate in a better way with
16 your clients.

17 We are actually seeing some efforts,
18 and they are -- I hate to admit, they actually
19 did get it a little better. But that is part of
20 the process is to challenge the people who are
21 going to be selling products to do this better.
22 So we will see.

23 PAUL CELLUPICA: We are an agency of a
24 lot of lawyers, some accountants, some
25 economists. Not a whole lot of marketing

1 professionals.

2 CHAIRMAN CLAYTON: We are not supposed to be

3 marketers.

4 LOURDES GONZALEZ: I would add, though,

5 if you turn to the very last page, there are key

6 questions to ask on the bottom. Our idea for

7 this forum was that it was a conversation

8 starter. Take a look at it. And then maybe you

9 ask them the key questions. I think a second

10 question we have is: did we get it right? These

11 are the key questions we want to ask.

12 CHAIRMAN CLAYTON: We'll go to people who

13 haven't had a chance yet. INVESTOR TEN.

14 INVESTOR TEN: I am a big proponent of

15 education. Everything is pro and con. Right

16 here we have an investment class. We started

17 with five people. We now have 35 people in

18 there, and we go over the above that we are

19 allowed in the room.

20 And that investment class is not to advise

21 you on particular investments. It's advice on

22 how you should deal and to better understand what

23 goes on in the market. And sometimes you know

24 more than your broker, with all due respect to

25 brokers, and sometimes you know more than your

1 investment adviser, with respect to the

2 investment adviser because we learn. This is

3 what we do.

4 Now, if we do this -- and many of the

5 people that are in this room are in these

6 classes. We have gone so sophisticated with all

7 the technical stuff that is around and everything

8 else, that we now have a second class for

9 beginners. And the leader for that class is

10 sitting in here, and he is also a student in the

11 other class.

12 Where does education begin? And I

13 think this is the question that really should come up.

14 Where does it begin? We can't just look at

15 today. We have to look at tomorrow, because that

16 is what we should do. Maybe we should start

17 teaching in high school or maybe middle school.

18 Some of the private schools have already begun

19 these things, because they are not under the

20 restrictions that the public schools are. But I

21 think that that is an important thing.

22 To begin slowly, to begin at a point where

23 kids begin to learn the difference between a

24 stock and a bond and a mutual fund or an ETF or

25 whatever else. So they begin to learn this

1 stuff. Are they going to be bored with it?

2 Sure, they are. They want to go out and play

3 ball. I don't blame them.

4 CHAIRMAN CLAYTON: I am going to give you

5 some stats in a second, but I want to go to

6 INVESTOR SIXTEEN. But I am going to come back to that.

7 INVESTOR SIXTEEN: Regarding the issue

8 of the elective, this thing being four pages in

9 the language, when I first read it, I didn't

10 think it was bad. Like you say, it's a starting

11 place. Anybody that is going to be involved in

12 investing, they are going to go through a 10-K,

13 this is nothing.

14 My question is, what kind of feedback

15 have you gotten from the institutions as to

16 whether they can do this in four pages or less?

17 It looks good here. What is J.P. Morgan going to

18 do?

19 CHAIRMAN CLAYTON: Do you want to give your

20 view?

21 LOURDES GONZALEZ: I was at a prior

22 event where one institution said they had tried

23 to do it in one page, and it seemed better. We

24 have this debate. One page, but there's a

25 tradeoff for that, right? Which means you are

1 going to lose boxes and topics. So our question

2 to you would be, then, okay, which topics are you

3 willing to lose if you are going to have -- what

4 is most important if you have one page, for

5 example?

6 And then you also heard about maybe

7 better graphics and putting more in the forms of

8 questions. We had some suggestions -- I heard at

9 a prior event to make it more along, for example,

10 the privacy notice that you get annually under,

11 whether you have a bank account or brokerage

12 account. But I don't know if that works.

13 INVESTOR SIXTEEN: I am sure their

14 interest is to obviously not be as clear as this

15 is going to be. So that is a battle that you

16 have to fight.

17 CHAIRMAN CLAYTON: Let me tell you this. If

18 it's not clear how your professional is getting

19 paid, and complete, it doesn't work for me. And I

20 think -- I am not giving away anything because I

21 would say it in any forum. But any time you

22 enter into negotiation -- every rulemaking is a

23 negotiation with the marketplace.

24 There's some things that you are

25 willing to be flexible on and some things that

1 you are not willing to be flexible on. I am
2 completely inflexible on investors being told how
3 their professional makes money. Because you
4 should know how your professional makes money.
5 The rest of it I can understand how that is too
6 long or complicated. You know, let's do it this
7 way. But that is kind of the basis.

8 INVESTOR SIXTEEN: I have one quick
9 follow-up, and then I will defer. When you go to
10 the website that you mentioned or when this
11 document is in its final form, is there going to
12 be a way to look at the investment professional's
13 actual performance, not just how he has gotten
14 paid? What has he done for ten years?

15 CHAIRMAN CLAYTON: Unfortunately, there's
16 some restrictions on that for protection reasons.
17 Go ahead, Lourdes.

18 LOURDES GONZALEZ: That is not
19 something that is going to be covered as part of
20 this. People would love to know it, right? How
21 did you do in the past. Although we do say past
22 performance isn't an indicator of future returns.

23 But people would love to know that. That is
24 beyond the scope of what we are.

25 CHAIRMAN CLAYTON: Also, going back to the

1 So the first thing I say, I introduce myself, and
2 I say, Do you know what a risk manager does? No,
3 I have no idea what a risk manager does.

4 Well, the role of the risk manager is
5 to protect the assets of the organization. Now,
6 tell me what our assets are? They don't
7 know what an asset is. This document is not easy
8 to read. It just isn't. Transaction. What the
9 heck is a transaction?

10 CHAIRMAN CLAYTON: When I explained the
11 difference, was it understandable at the
12 beginning?

13 INVESTOR TWELVE: Yes. But this document,
14 for the average person, we are not talking about
15 somebody with a master's degree. For the average
16 person, this is much too difficult to read. It
17 doesn't matter if it's one page or six pages,
18 it's too hard, unless you want to put a glossary
19 at the end and put a definition.

20 CHAIRMAN CLAYTON: I didn't read the
21 glossary in high school.

22 INVESTOR TWELVE: If you don't know what an
23 asset is, you don't even know what an asset-
24 based fee is.

25 CHAIRMAN CLAYTON: This is good to know.

1 reality of my job, I am only biting off as much
2 as I think I can get done, if I go down that
3 road.

4 Let me go to you two, and then I am
5 going to wrap up.

6 INVESTOR TWELVE: One quick thing is I would
7 like to see a piece of paper from my adviser
8 every quarter on how much I paid him and how it
9 was calculated. Everybody who sets himself out
10 as an adviser should send that out every quarter.

11 A separate and apart from that big thick
12 statement.

13 The other thing, I would like to make a
14 comment on this, I know for us we read through it
15 and it sounds pretty easy, but this is not easy
16 to read.

17 And I will give you an example. The
18 first line, it says, "If you open an advisory
19 account, you will pay an ongoing asset-based fee
20 for your services." Okay?

21 There's a law in Florida that says
22 every hospital, ambulatory, surgery center and
23 HMO must provide risk management education to
24 every new employee within 30 days of employment.
25 I am a risk manager. I provide that education.

1 INVESTOR FIFTEEN, let me go to you.

2 INVESTOR FIFTEEN: We have covered a lot in
3 here today. I have thought for 50 years of
4 selling, the people I reached and I didn't reach.

5 And I always wondered why. For example, in the
6 school of business in the roundtables, you can
7 sit at the undergraduate, graduate level, and
8 listen to some of these young men and women talk.
9 And within a very few minutes, you can put
10 together a click. They just know how to do the
11 right thing.

12 In selling over the years, hours and
13 days and nights trying to convince people how to
14 save money, 101 saving money. You have a budget.
15 You have no idea how many people I have talked
16 to. They don't even know how to do a budget.

17 I was at a party the other night. I
18 have a millennial daughter. She is 36 years old.
19 All of her friends have college degrees. And I
20 sit periodically with some of them and ask
21 questions. And they are in good jobs. Some are
22 making good over 100,000 a year. Are you maxed
23 out on your 401(k)? No. Why? Why not? I have
24 tried to explain to them.

25 I have a wife with a Ph.D. It's taken

1 me 20 years just to convince her or try to help
2 her or to show her how to manage health insurance
3 alone, and now the stocks and bonds. I have seen
4 people that I have tried to write insurance on who
5 had no college education, running a service
6 station or running a little drugstore, and they
7 are worth five-and \$6 million. Unbelievable.

8 Somehow, it has to get down to the
9 responsibility of the individual and taking
10 control of your life. If you can't take control
11 of your life in the basics -- there is, there's a
12 budget. This is what I can spend, and this is
13 what I can't spend.

14 If you can't teach that concept in high
15 school or college, I don't know where it's all
16 going to end up. Because you can't -- some of
17 these young people I am around, it's like they're
18 anti-intellectual. They are brain damaged when
19 it comes to trying to inform themselves what a
20 stock or bond is, or even any other form of
21 insurance.

22 It's really sad because the more of
23 those people who don't take control of their
24 lives, try to learn these things, no risk, no
25 gain.

1 Because when you look across the spectrum of
2 people who are in the later part of their working
3 years and people who have retired, the people who
4 are in better shape -- you know, some people got
5 lucky, some people got unlucky, but by and large,
6 the people who are in better shape are the people
7 who budgeted along the way and saved. That is
8 just obvious.

9 I am not sure young people understand
10 that. We can do a better job of that.

11 Let me give you an interesting fact. We
12 have 4.4 -- the importance of investing to
13 America, the importance of continuing to invest.
14 We have 4.4 percent of the world's population in
15 America. We have 56 of the world's top hundred
16 companies. We have over 60 percent of the market
17 cap of the world. So 4.4 percent of the
18 population has over

19 60 percent of the world's public company wealth,
20 represented by our companies. The principal
21 reason for that was our willingness to invest in
22 the capital markets over time. We can't lose
23 sight of that. It also goes to how important it
24 is, and I don't think the youth of America
25 understand that. It's an important thing.

1 This is your job of selling. If they
2 can't learn this, then they are going to be more
3 and more and more turning to government to do it
4 for them.

5 I think it's sad, and I wish somebody
6 could come up with some way of just trying to
7 teach young people or adults the responsibility
8 of managing money.

9 CHAIRMAN CLAYTON: I am going to make two
10 observations. One to follow-up on INVESTOR FIFTEEN and one
11 from INVESTOR TEN, and then I want to just try to
12 summarize what we have heard.

13 Something about, there's some special
14 things about America. Let me go to what INVESTOR FIFTEEN
15 said. We are all human beings. We generally
16 don't take responsibility for things unless we
17 understand the importance of them.

18 One of the educational things that is not
19 well understood is that to have a comfortable
20 life beyond your working years, or in the later
21 part of your working years, you need to take
22 responsibility for your own budget and
23 investments.

24 And you can say that. Again, it's just
25 words. But actually now, the proof is there.

1 INVESTOR FIFTEEN: That is why they are so
2 liberal.

3 CHAIRMAN CLAYTON: That was your point. You
4 got to teach them.

5 Let me go through the things that I
6 heard today. I heard a lot of good things. My
7 colleagues will fill in if I have left any out.
8 With regard to the form, we should add custody.
9 We should add links to investor.gov, so they can
10 get to investor.gov.

11 We heard that videos are not a bad
12 idea. We heard our language can be improved. We
13 heard the product combinations, combination
14 complex products is something to be especially
15 mindful of. I think you know that, but it can't
16 be overstated. And we talked a lot about
17 education.

18 That is sort of my summary of where we
19 came out. Is there something?

20 PAUL CELLUPICA: I think the only other
21 thing I had was to the extent you get compensated
22 differently for different types of products, make
23 sure that that gets brought out somehow.

24 And I will throw in before I forget. We
25 left forms on your tables. We call these

1 feedback fliers on this relationship summary.
 2 It's got some little circles that you can fill
 3 out before you leave. We would appreciate it if
 4 you would fill that out and leave it behind. Or
 5 send us comments by email.
 6 CHAIRMAN CLAYTON: Lori? Any --
 7 LORI SCHOCK: I have clear concise
 8 communication.
 9 CHAIRMAN CLAYTON: Lourdes?
 10 LOURDES GONZALEZ: I like the
 11 conversation that we had about fees. That is
 12 something that we focused on, and I wish that we
 13 had had more time to get more in depth into the
 14 conversation about what you are paying and what
 15 you think you are paying and how to calculate
 16 those fees.
 17 It's very important.
 18 CHAIRMAN CLAYTON: And the once a month, how
 19 much did I pay you?
 20 INVESTOR TWELVE: Once a quarter. How much
 21 did you pay me and how did you calculate the
 22 amount?
 23 CHAIRMAN CLAYTON: Eric?
 24 ERIC BUSTILLO: I hear education and I
 25 just want to throw out there, we have limited

1 resources but we try to spend a fair amount of
 2 time on investor education.
 3 And for those of you that mention going
 4 all the way down to high school, for the past
 5 couple of years we have been reaching out to a
 6 couple thousand high school students around the
 7 South Florida area for that very same purpose
 8 that you guys pointed out over and over.
 9 We want to make sure that people from
 10 the time that they are in high school start
 11 learning the importance of saving and the
 12 importance of learning how to invest. Because
 13 ultimately, that is what is going to hopefully
 14 help.
 15 INVESTOR ELEVEN: I agree with that.
 16 But I think it should never be an elective. It
 17 should be a requirement. There's a difference.
 18 ERIC BUSTILLO: I can't speak for the
 19 education.
 20 I am telling you that I completely
 21 agree that if they made it a requirement, it
 22 would be that much better.
 23 CHAIRMAN CLAYTON: Richard?
 24 RICHARD HAUSER: Mr. Chairman, thank
 25 you for coming. This is a great discussion. And

1 on behalf of OLLI, thank you and your colleagues.
 2 CHAIRMAN CLAYTON: Thank you all very much.
 3 INVESTOR TEN: You are all invited to
 4 attend our investment class anytime you'd like.
 5 (Whereupon, at 3:25 p.m., the
 6 roundtable was concluded.)
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