SEC HISTORICAL SOCIETY FIRESIDE CHAT:
EDGAR

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THERESA GABALDON: Good afternoon and welcome back to the 2006 series of Fireside Chats broadcast live on www.sechistorical.or and archived in the virtual museum of SEC and securities history. I am Theresa Gabaldon, Professor of Law and Carville Dickinson Benson Research Professor of Law at The George Washington University Law School, and host at the chats this year.   www.sechistorical.org is under the jurisdiction of the Securities and Exchange Commission Historical Society, a non-profit organization separate from and independent of the SEC. The virtual museum and archive is free and available worldwide 24/7 and offers a growing collection of primary materials and information on the impact that the SEC has had on national and international capital markets since its inception.

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Today's Fireside Chat continues our exploration of some aspects of the critical role of the Internet on the capital markets. Our focus today is on EDGAR, the SEC's electronic, data gathering, analysis and retrieval system. When EDGAR was launched in the early 1980's, electronic communication and online activity were in their infancy. The SEC not only had to grapple with the limitations of computers, but more importantly, had to satisfy the legal challenges of moving disclosure to an electronic world. Our panelists today are former SEC staff members David Copenhafer of Bowne & Co., Amy Goodman of Gibson, Dunn & Crutcher LLP, and Jack Katz, former SEC Secretary. All three of our panelists were there at the birth, in fact before the birth, working on the initial development of the EDGAR.

The remarks made today are solely those of the speakers and are not representative of the Society. Our speakers cannot give investment or legal advice.

David, Amy and Jack, welcome. I'd like to start today with a little trip down memory lane. David, would you mind beginning with the brief reminiscence about the state of technology in the early 1980's when EDGAR was a gleam in the eye of Chairman Shad.

DAVID COPENHAFER: It's hard to find the one word.   I would say - rudimentary - in looking at what was available in terms of PCs.   The equipment at the time did not have hard drives. Screens were in black and white. Communications were extraordinarily difficult. The time it took to even transmit a small file into the SEC was something on the order of a minute a page.

THERESA GABALDON: It's been so easy to forget how far we've come in those 20 years. Were people at that time using email?

DAVID COPENHAFER: No, not really.

AMY GOODMAN: At the SEC there were Lexitrons and Wangs, but no professionals would have dreamed of having a computer on their desk.

DAVID COPENHAFER: E-mail didn't exist.

AMY GOODMAN: No.

THERESA GABALDON: What were large companies doing then, both about keeping electronic corporate records and using technology to compare their disclosure documents?

DAVID COPENHAFER: It was just beginning. Part of our initial investigation was to get some sense of the extent to which companies made use of automated record keeping systems or word processing equipment that allowed them to move information from the company to law firms or to printers in an electronic format. Our first investigation showed that in fact it was happening on a larger scale than we thought perhaps it was.

AMY GOODMAN: But it was more the law firms preparing documents in electronic format. Companies, to the extent they were keeping electronic records, were keeping them on tapes. There was no such thing as servers and instant retrieval.

JACK KATZ: And there is no vehicle for transmission. Fax machines were in their infancy.

AMY GOODMAN: Fax machines didn't really get ubiquitous until '85, '86.

THERESA GABALDON: I remember the silver paper that they used to have. Amy, as best you recall, what was the sequence of events that led to the initial EDGAR program?

AMY GOODMAN: Back in late '82, early '83, I was heading up the Office of Disclosure Policy, and the Division Director of Corporation Finance at that time was Lee Spencer. He was giving a speech and was interested in exploring the use of technology in connection with the disclosure process. We prepared a speech called "The Electric Library," which addressed the notion of SEC documents available in an electronic format. It caught the Chairman's fancy. Chairman Shad had been on Wall Street. There was a lot of frustration by people on the street about getting hold of documents at the SEC. He therefore got enamored of this idea of moving forward with technology and creating an electronic repository of SEC documents.

What made this all possible was the commitment of the Chairman, and more than the commitment, the push. He created a task force with people from Corporation Finance, Investment Management and other parts of the Commission and told us to do it.

THERESA GABALDON: What were some of those frustrations Jack?

JACK KATZ: John Shad had spent his career on Wall Street. The modern boom market really began in '82. There was huge activity and the beginning of the takeover craze. You found out whether the company was in play when somebody acquired stock and had to file what was called a 13D with the Commission.

That document was the first indication that the company was in play, and it was extraordinarily market sensitive. The problem was that it was filed at the SEC and it was filed with whichever exchange the company was listed on. Companies understood how the process worked, and they wanted to delay the public's ability to see these things.

In essence, you had to get the information from the SEC's public reference room in Washington. At the time, the New York Times did a feature article on the second largest zoo in Washington; it was the SEC's public reference room. This information had such commercial value. There were at any time between 15 and 20 private companies

that kept staff on a full time basis in the Commission's public reference room. Each of these companies was allowed to pay for their own telephone line. The commission had a contractor that did two things: they prepared microfiche copies of all filings, and they had the concession to operate Xerox machines, copiers in the public reference room. On any given day, those copiers would generate a quarter of a million pages of copies of documents.

Companies would be paid literally to scan a document and to call their clients by phone and say, Ivan Boesky just filed a D on XYZ Company. This is how much he has. People would know him. People would immediately trade on the information.

I mention Boesky because I subsequently learned that Boesky had more than one of the service bureaus on his retainer. What he would do is pay both of them for any filings they alerted him to. He would give a bonus to whichever one called him first. He was not the only one. There were fights in the reference room. Documents were torn as people grabbed at them and fought over them.

THERESA GABALDON: It sounds like a real informational bottle neck.

JACK KATZ: Well it was, and if you think of an efficient market, this was the bottle neck. This created huge informational advantages and disadvantages that the street could exploit. Shad knew about this. Shad had experienced this from the other side. And it was an enormous frustration for him that the Commission was part of the problem.

DAVID COPENHAFER: Documents would also disappear from time to time.

JACK KATZ: I was responsible for having one of my employees criminally indicted for accepting gratuities from one of the service bureaus for getting the first view at hot filings before they were made available to the others.

AMY GOODMAN: That's how valuable the information was.

JACK KATZ: It's that sort of environment.

AMY GOODMAN: Chairman Shad created this task force made up of people throughout the Commission and directed us to develop this "electric library." We had to focus on three pieces. First, getting the filings in the door electronically, then, how the staff would use them. I was in the Division of Corporation Finance and that was a big part of my job, figuring out how Corp Fin would use them as well as getting companies to agree to file them electronically. And then the other end which we didn't get to, which really was saved by the Internet was, how would these filings then become available to the public?

JACK KATZ: Amy brings up one of the critical points here and David can talk about this. When we are talking about the technology, there was no Internet. There was no electronic system for transmitting information anywhere. This project entailed 10 to 15 thousand companies sending filings in electronically. The vision of this project was that it was going to make information available to the public. There had to be what we refer to as the back end. There had to be an infrastructure that would enable 10's of thousands, 100's of thousands, millions of people to access this in real time. The technology didn't exist.

AMY GOODMAN: The notion was that the equivalents of the service bureaus would handle things, that there would be companies who would buy access to the EDGAR

information, so called wholesalers who would then make it available to the investing public.

JACK KATZ: In addition to all the technological questions involved in the regulatory questions, there was a third component: how are we going to pay for it? The estimates at that time were that it was going to cost $30 million. In 1983, the SEC's entire budget was a little over $90 million. This would have essentially been a third of the Commission's budget and this was the first Reagan administration, when there were huge pressures on government agencies to reduce the size of government and reduce spending. Going in for a 30% increase in the SEC's budget was just not a realistic possibility.

THERESA GABALDON: Let's break this down a little bit. You mentioned the difficulty of getting the filings in the door; that's one end of the snake that you need to deal with. David, how did you coax people into this system?

DAVID COPHENHAFER: We really didn't right away. We started with the pilot group of 250 companies and allowed everybody to experiment with the communication capabilities at the time. I don't think there was any more difficult challenge upfront than communication. We are typically able today to send millions of bytes a second over the internet. We had companies that essentially had to connect to the pilot and transmit at speeds that were perhaps a 1,000 bytes a second.

Documents came in so slowly and you could literally see line by line as the communications came into the SEC. I think we were fortunate, as Jack said, that in some ways we were ahead of ourselves a bit. Technology did evolve and, as time went on, technology caught up to our needs.

AMY GOODMAN: But to get those 250 companies in the pilot we had to go out on the stump circuit. I felt like I was going to get rotten tomatoes thrown at me because it wasn't easy for companies to file electronically - they had to do what was called EDGARizing their filings. They had to get their filings ready for submission to the SEC. And then they had to make adjustments to the filing in terms of putting on certain headers and putting in other information so that it could be filed with the SEC electronically. So there was some burden involved as well.

JACK KATZ: Amy, wasn't there also a fear? Since the potential of EDGAR was to improve the quality of analysis in view of the Commission, this was not necessarily that desirable to issuers.

THERESA GABALDON: Might be too good.

JACK KATZ: How much reluctance do you think got reflected in the fact that people weren't all that enthusiastic about the Commission having the ability to automate analysis?

AMY GOODMAN: Remember, the Commission was to some limited extent already doing some automated analysis. There was an outfit, I think it was called CompuStat, that was selling tapes of analysis. The Commission was buying that electronic analysis and using it in its process. So, I don't think there was too much of a fear of better analysis by the Commission but a fear of the unknown. Keep in mind that there is tremendous liability attached to SEC filings.

So there was some reluctance, I remember we had to do an especially active sales job among the lawyers who tended to be much more conservative and did not want their clients involved in this project.

JACK KATZ: Again, to give you an idea about CompuStat, my recollection of it was that CompuStat's database was always at least one quarter or sometimes two quarters behind because they had to extract data from paper filings and literally send it out to be key stroked and then they had to do a quality check.

AMY GOODMAN: Right.

JACK KATZ: So anywhere from 3 to 6 months behind the time, by the time it was available.

THERESA GABALDON: So, it sounds as though it was really contemplated that the SEC would be doing something different in their review process, given the electronic documents that were being filed, opposed to receiving it from CompuStat.

AMY GOODMAN: Well, I think that initially the intent was that the SEC staffers would get the filings and have them available more freely. For example, if you are reviewing a registration statement , you also want to review other filings of the company. Corp Fin staff had to order the filing and wait for a day or two for them to be delivered from the microfiche.

The beauty of EDGAR to Corp Fin was that all the filings would be available to them and in addition, on the same computer screens they would've access to word processing to write comments letters and access to -

DAVID COPENHAFER: Legal research.

AMY GOODMAN: Legal research and electronic databases. One funny thing occurred when we were first starting to work on the functionality of the system. I didn't have a computer background at all and I knew nothing about technology and when I said we have to be able to do multiple things on the screen at the same time, we were told by the consultants from Mitre who had been hired to help us with the system, well, you can't do that. Thankfully, 6 months later, Windows came along.

JACK KATZ: This was just a couple of years really after integrated disclosure took effect. Integrated disclosure was incorporation by reference to other documents. If you are reviewing registration statements, you have to go root around to find that 10-K somewhere.

THERESA GABALDON: That's important.

DAVID COPENHAFER: Remember the debate about what should the format of the documents be, too. There was a great desire to make it easy and rely on the word processed version and yet we all knew what the problems were when a new version of Word came along or Word Perfect came along. Those without the new version couldn't read the old documents.

JACK KATZ: And Dave, what about graphs and pictures?

DAVID COPENHAFER: Right, right, very tough.

AMY GOODMAN: This was back when there were 15 or 20 very popular word processors, and we were the government and couldn't be in a position telling people which word processor they had to use. So, we had to set up a system that would receive filings in all of these different formats.

JACK KATZ: Just to give an example there were just a plethora of word processing packages out there, Word Perfect hadn't been invented yet, neither had Word.

AMY GOODMAN: And we also had to be able to receive diskettes and tapes because as Dave mentioned, the speed was slow. Some people couldn't get used to the idea of submitting these documents with all these legal liabilities through the air so, they felt much more comfortable hand-delivering a disk or tape to the SEC.

JACK KATZ: Transmission problems - you've a line drawn in the middle of the document.

AMY GOODMAN: Right and then you would have to start from scratch.

DAVID COPENHAFER: That also reminds me of one of the things that we didn't realize in the pilot. Those sitting on the filing end, the moment they hit the send key, they wanted to know was it here, and the phones rang off the hook. We had no easy way of responding to the filer that a document came through in its entirety.

JACK KATZ: And the other problem is that there was a disconnect between the paper document and the electronic document, because the technology wouldn't allow people simply sending graphs and photos and things like that.

AMY GOODMAN: So we had to adopt rules that dealt with the graphics and the pictures and to prescribe what had to be in which. Chairman Shad made - I think it was a very good decision – the decision that the official filing had to be the electronic filing. If we didn't do that, nobody would have taken electronic filing seriously. This was a very important decision that was fought hard by people both inside the Commission and people on the outside. But I think in retrospective, if we hadn't, EDGAR would never would have happened**.**

DAVID COPENHAFER: The incentives were so strong that it really had to be done properly**.**

JACK KATZ: I don't think people appreciate that EDGAR would not have happened in the time period or in the way it did, without John Shad forcing people to make tough decisions that they were frankly not always comfortable making**.**

AMY GOODMAN: We had to write the rules, basically a regulation that adjusted all of the Commission's rules dealing with the submission of paper documents to deal with electronic submission. Those rules had to be written in a weekend so that the pilot could get started and people could start filing**.**

JACK KATZ: At every step in the way, John Shad made what we thought were unrealistic demands in completion dates, that we didn't think could be accomplished. But

we had no choice because he was adamant. When we began just the process of identifying a contractor to develop this, he said I want these things up and running in 18 months.

DAVID COPENHAFER: Right.

AMY GOODMAN: Right.

JACK KATZ: We were going to take 3 or 4 or 5 years. So he says fine, you have got 18 months.

AMY GOODMAN: We did it.

THERESA GABALDON: Were there any disasters along the way, or near disasters?

DAVID COPENHAFER: Fortunately, no. When we all look back, if there had been a real disaster early in the process, that would have been the end of it.

AMY GOODMAN: We had all the federal procurement regulations to deal with, which are very cumbersome and complicated. When we were trying to do a pilot, we had to do a formal request for proposal and we were worried that no one would respond, but 3 companies did respond.

DAVID COPENHAFER: 3 groups, right.

AMY GOODMAN: Three groups, right. We had to travel around and look at the technology to help us evaluate which ones to select and as part of that process. We ended up on a flight from….

DAVID COPENHAFER: Philadelphia.

AMY GOODMAN: ….Philadelphia to Harrisburg. There was a 12-person plane and the stewardess took out her Bible.

JACK KATZ: It was when I realized the music was playing "Nearer My God To Me." We flew from Washington to Chicago to make one visit. And then we had to fly to our next visit from Chicago to Philadelphia and connect from Philadelphia to Harrisburg. It was a raging electrical storm. It was just a very ugly evening. And we got on this puddle jumper. We have the entire plane and we are flying just about an hour in this enormous rainstorm.

DAVID COPENHAFER: We were blowing off the runway.

JACK KATZ: And one point, I asked the stewardess how high did the head winds have to be for us not to be able to fly. And she said probably 40 or 50 miles per hour. And I asked what do you think it is out there now. She says maybe 35 max.

AMY GOODMAN: We got to Harrisburg and we got to see some technology way before we thought it existed. One of the bidders showed us how the photographs were doctored in the New York Times magazine section. They showed us how the photos were digitized and they were trying to show us how great their technology was.

JACK KATZ: One of our fears, of course, for this whole project was the integrity of the document.

AMY GOODMAN: Right.

JACK KATZ: There was a serious concern that people could doctor documents after they have been filed.

AMY GOODMAN: Imagine if someone could hack into the system and change a number in a financial statement when filed. That was a tremendous fear.

THERESA GABALDON: That in fact was one of my questions.   I take it that either it doesn't or can't happen. Is that correct?

DAVID COPENHAFER: It did not happen. Back to your question about disaster, there was one minor disaster. Amy mentioned the fact that a lot of information came in on diskette and the diskette allowed filers to send us their information in their original word processed version. We had a device that read the word processed version and converted it to ASCII. It was actually the Antares.

The Antares was a good machine but it wasn't infallible. There was a company that projected earnings would be 3-4 %; the Antares ate the dash and the growth was suddenly 34% in the next year. That didn't sink the pilot obviously but it was as close as we wanted to come to a disaster.

JACK KATZ: Let me just mention something because I think is worth mentioning. People complain of that, like they complain about everything else. The pilot began in '85; it is now 2006. During that time, hackers have never taken EDGAR down.

DAVID COPENHAFER: That's true.

JACK KATZ: And that's 20 years. So that's a remarkable statement.

DAVID COPENHAFER: We don't want to encourage them. It's not a challenge.

THERESA GABALDON: You think they have tried.

JACK KATZ: They have, I can assure you, many, many times. There is a full time staff at the SEC devoted just to security.

THERESA GABALDON: I am sure that's one of the things that makes EDGAR expensive in the first place and keeps it expensive. But I am interested in returning to the point that you made earlier about how was this thing going to be paid for and what role user fees are going to play.

JACK KATZ: You talk about things that could have been disastrous. The funding issue probably came closest to sinking the project. The Commission, as I have mentioned, had a contractor that microfiched all documents and then had a concession to operate the copying machines in the public reference rooms.
    As you can imagine, that was a very lucrative contract and the Commission over the years had essentially negotiated of the equivalent of barter contract with the company where the Commission was receiving its microfiche copies for free. This

company then essentially had the right to sell those documents commercially to the public and operate as monopoly in the public reference room at rates that the Commission regulated. It was a very lucrative contract. But it was in everybody's best interest.

And our original thought was we were not going to get an appropriation from Congress. So we would to adopt the same model. We would make this essentially a self-funded contract where, as part of the bidding process for the operational contract, not the pilot contract.

AMY GOODMAN: The pilot was paid for.

JACK KATZ: We would in fact give the company the same sort of concession to sell this data commercially at regulated prices. There were two advantages to this. The first one is the notion of self funding and this was the only way it was going to ever happen. And the second one was there was no Internet. There was no backend up there.

So in essence, whoever this contractor was, in order to benefit from this, they were going to have to build that distribution network. Our thought was the private sector was going to be much better equipped to develop a robust commercial distribution system than the government could ever do. So we thought we were killing 2 birds with one stone.

AMY GOODMAN: But it was tremendously controversial. Congressman Dingell, for example, who was not fond of some of Chairman Shad's other initiatives, took issue with self funding and with what was going on with EDGAR. There were some acrimonious Congressional hearings that actually made the national news over Chairman Dingell's unhappiness with the EDGAR system.

DAVID COPENHAFER: And the SEC.

JACK KATZ: There was an enormous problem between John Dingell, Congress and John Shad. It wasn't a personal animosity, they just had broad philosophical disagreements. Dingell looked at what we were describing and he identified three problems with it.

The first one was, if we were doing this outside the budget process, we were essentially eliminating Congress's right to control agency appropriations, so called, augmentation of government appropriations. His second concern was philosophical; these were documents filed with the government in the public domain and he distrusted the notion that in fact we are giving a private license to someone to commercially market, even at regulated rates, documents that were at the public domain. And then the third problem that John Dingell had was to do with the pivotal player in the development contract that he had great concerns about.

DAVID COPENHAFER: The pilot, of course, was with Arthur Andersen and he also had a great mistrust of the auditing and accounting industry.

AMY GOODMAN: This was when accounting firms were just starting to get into the consulting business, so there was some concern about that as well.

JACK KATZ: Also, there was a concern that he expressed that said that Andersen would learn too much about the inner workings of the SEC. This could in some way link back to the auditing profession, some sort of unfair advantage. John Dingell started a

series of hearings on the future of EDGAR that actually derailed the development of the operational contract by what, 2-4 years?

DAVID COPENHAFER: Oh easily more than that.

THERESA GABALDON: This seems like a good time to pose a question that was sent in by one of our listeners, Chris Knape, of The Grand Rapids Press. Why must the public turn to for-profit private services to perform a basic function in EDGAR like a full text search?

DAVID COPENHAFER: That really is a good question and it comes right out of this whole discussion of who is going to pay for it. The resolution of the debate that Jack described, was that of EDGAR's three sub-systems, the front end, Receipt and Acceptance, the SEC's internal system, those two would be paid for with appropriated funds, the dissemination sub-system was paid for and is still paid for with private money, the contractor bills subscribers, but there is free dissemination as well.

JACK KATZ: through sec.gov.

DAVID COPENHAFER: That's right.

AMY GOODMAN: The basic notion being that the public should have access to the EDGAR fillings, and they do have access to the basic EDGAR filings through the SEC website.

DAVID COPENHAFER: They created the basic structure where the SEC's interest, particularly in the earliest years before the Internet was started, was to create and strengthen a commercial side to document distribution. Those days are gone but there is still in some ways a public policy debate about what's appropriate use of federal funds and what's appropriate to have the private sector finance.

JACK KATZ: As you know, I retired from the Commission in January 4th and at the time of my retirement, the sec.gov website was under my responsibility and I agreed with the question there should be full text searching capability on there. I'll tell you that one of my goals was to have that done before I retired in January. It didn't happen and at the risk of disclosing non-public information but, I think it's for a good purpose, the Commission is actively working on this and I've every expectation that in the near future there will be free full text searching of the EDGAR documents.

THERESA GABALDON: That's probably the answer to his follow up question as well, then are there plans to make the public access to the database more flexible?

JACK KATZ: And the answer is yes. We can talk a bit if you want about the NYU contract. As we said, our original model in the 80's predated the Internet. There was no way that the government could ever develop a fully functioning dissemination system, just because the technology didn't exist.

The Internet changed that and with the development of the Internet there was a strong push to be addressing John Dingell's concern and make this public domain information freely available. One of the people who essentially got beyond this very early was a guy by the name of Nader who has been active in Washington for a number of years.

THERESA GABALDON: I've heard that name.

JACK KATZ: Dave, you want to talk about that?

DAVID COPENHAFER: In some respect, it created substantial problems for us because we did have a contract with Lexis Nexis that they would be the sole provider of EDGAR information. A group was essentially successful in buying a copy of EDGAR information from Lexis Nexis and then through New York University putting it up on the Internet, not in a web based manner, but making it available for free on the Internet.

JACK KATZ: And this is about '92 or '93?

DAVID COPENHAFER: Yes, I think, that's about right.

JACK KATZ: The timing of that is basically the SEC started its website in '95. The real catalyst for that was essentially a recognition that the Commission had to take over this responsibility from NYU. When sec.gov was created in the fall of '95, it began providing free regular access, interestingly on a 24 hour delay.

DAVID COPENHAFER: That was still important at that the time to provide some reason for the commercial side to provide the data and build the services that today are quite, quite useful.

JACK KATZ: And the 24-hour delay essentially faded away by early 2002. It was when Harvey Pitt became Chairman. He had a meeting that I was in and he said, "This is absurd. Get rid of it."

THERESA GABALDON: And the rest is history.

DAVID COPENHAFER: And the rest is history.

THERESA GABALDON: Speaking from history, I do have in my hand a copy of a brochure that has been contributed to the SEC Historical Society. I guess it was used back in 1985 to enlist the volunteers. It seems to me that each of your pictures is in it and some of your names as well, so certainly we have documentation that you were there at the time.

JACK KATZ: And we look exactly as we did in 1985.

THERESA GABALDON: I was going to say that very thing. I'm wondering, does anyone here remember who's responsible for naming the baby.

JACK KATZ: It's a great story.

AMY GOODMAN: It's a great story. Chairman Shad offered a $100 savings bond because he wanted something catchy. But it had to stand for something. The government couldn't provide the money, so out of his pocket, he offered a $100 savings bond to whoever who could come up with the catchiest name. And if I recall, Dan Goelzer, who was General Counsel at the time, submitted about 10 different entries.
　　But the, the winner actually was someone who was working on the EDGAR project, which was little bit embarrassing ,who is still with the Commission - Herb Scholl, who is in the Division of Corporation Finance. EDGAR stands for Electronic Data

Gathering Analysis and Retrieval System. This becomes very important because at one of these congressional hearings, when they asked Chairman Shad what it stood for, he said, "Electronic Data Gathering and Retrieval." And he didn't mention the analysis and he was given a hard time.

JACK KATZ: He was ready to take the A out.

AMY GOODMAN: I think it was at that point, as you may notice when you look at old Commission documents, EDGAR goes from being all capitalized to being non-capitalized.

JACK KATZ: CBS News showed that and he was not happy about it. That hearing was extraordinarily acrimonious. Someone thought we were going to be fired at the end.

AMY GOODMAN: I actually had to testify at that hearing. And the only thing that kept Congressman Dingell, I think, from giving me a hard time was that I was about 8 months pregnant.

JACK KATZ: One of the other congressmen took the name EDGAR and started talking about all the things that it didn't do. He'd take out letters until he only had ED left. And then he said, "And the reason we're left with ED is because the SEC is essentially trying to build the equivalent of a talking horse. They should just call it Mr. ED."

AMY GOODMAN: Catchy but…

JACK KATZ: Catchy, but it revealed basically the daring of the project. Because he was absolutely right. In 1984, the technology didn't exist to make this happen. That's what made it so extraordinary.

THERESA GABALDON: I read that you even needed to figure out how to do things like electronic signatures, for instance.

AMY GOODMAN: Right and that's where Dan Goelzer was a big help as General Counsel. We came up with this concept of PIN numbers which are used today. But it was the notion that directors and officers would have PIN numbers. Thankfully, a few years into the pilot, we figured out we could get rid of them. But at the time, if it hadn't been for that, we couldn't have moved forward.

JACK KATZ: There's a requirement that people sign the documents. By the way in terms of the name, there were some very funny suggestions. One of my favorites - in fact, I think Dan submitted it – was "JAWS," because he said it was about to swallow the Commission's budget.

THERESA GABALDON: I can see why that one didn't win. Generally how would you say the EDGAR of today is different than the EDGAR of the mid-1980's?

DAVID COPENHAFER: It's grown in terms of the number of form types that it would handle, even though almost all of the basic '33 and '34 forms were part of the operational system. There's been a gradual movement to some of the less well-known forms. I think 3's, 4's and 5's so called ownership documents were not part of EDGAR for a long time.

THERESA GABALDON: Why is that?

DAVID COPENHAFER: Well, the big reason is because they're primarily submitted by individuals. 3's, 4's and 5's are ownership reports and the Commission felt that the burden of having each individual officer and director be responsible for possibly preparing an electronic document was excessive.

JACK KATZ: And also private shareholders.

AMY GOODMAN: Right, but over time, people came to realize that that at many, in fact most, companies, the corporate secretary or somebody at the company, helps officers and directors do it. But it was also the notion that EDGAR is free form text while forms 3, 4's and 5's are structured documents. And so I think there was interest in creating a easier way for people to file based on the structured nature of the documents.

JACK KATZ: But it was also the sheer number. There were hundreds of thousands of ownership reports to file.

DAVID COPENHAFER: 270,000 each year.

JACK KATZ: Yes, it's a huge number. And remember, some proportion of those are filed by individuals. And when EDGAR began to issue the PIN, you would have to have given each of these individuals a PIN number, you'd have to maintain it and you also had a transmission problem. Pre-Internet, people didn't have necessarily the transmission capability in their home or their office.

DAVID COPENHAFER: The ability of the system to handle volumes is still staggering. I mean on a, on a day like the 10-K peak, during the pilot, we were lucky if we saw a filing or twp a day. EDGAR has had peak days of 9 to 10,000 documents, filings of several hundred pages. The volume of information that flows into the SEC seamlessly, electronically today is really staggering when you look back at the beginning.

JACK KATZ: Let me just mention that, pre-EDGAR, on 10-K day, 7,000 companies filed their 10-Ks and had to file 6 copies. On that day, here was the process. About 10 to 20 of the largest trucks FedEx had would be lined up, double-parked, outside the SEC headquarters.
    Every available clerical employee at the Commission would have to pitch in. The entire lower floor of the agency, including the Commission meeting room, would have tables set up. And people would be standing there literally stamping each of the 6 copies and throwing them into bins. One bin would go out to be microfiche, one bin going to the public reference room, millions of pages coming in manually like that. It was just overwhelming. It would literally take a week just to finish the processing of this information.

AMY GOODMAN: And there was a lot of pressure when we were doing the pilot to think about revamping the system, for example, changing the dates so that not everybody had to file at the same time.
    But the decision was made and Chairman Shad stood by it that we were already doing something revolutionary with creating an electronic system. If we tried to also change the filings or the dates or other things at the same time, it would have just been too much.

THERESA GABALDON: One revolution at a time.

DAVID COPENHAFER: Right.

THERESA GABALDON: The brochure mentions that you hoped to eliminate most of the 5 million pieces of paper filed each year. It sounds like EDGAR made a lot of progress on that front. Do you think the SEC has gone virtually paper-less? Does it have much smaller file rooms now?

DAVID COPENHAFER: Certainly for document storage and retrieval, the answer is yes. But even within the agency examiners are no different than the rest of us. Reading a very long document on screen is a difficult process. And people, one way or another, are going to print out the material.

JACK KATZ: Electronics is a great way to transmit and to store information. It's a lousy way to read long documents sitting at a terminal. The goal when the project began was that it was going to paper-less, and that people were going to at terminals. What happened was what human nature would suggest. People would immediately print out documents, except people who didn't have their own printers. They would have to send a request. And there was one mammoth laser printer that would print them. And the printing costs were breaking the contract budget, you recall?

DAVID COPENHAFER: In fact, printing turns out not to be technologically very easy also. It's as big a challenge as almost anything.

JACK KATZ: What we discovered, very early on, was that examiners were having a hard time getting the printing copy done and were going crazy. Their eyes were going bad staring at the screen. They were making phone calls and saying, 'Can you meet me down in the lobby and drop me off a copy?'

THERESA GABALDON: David, this one is definitely for you with the word 'printing' was mentioned. How has the role of the financial printer changed?

DAVID COPENHAFER: In many respects, not a lot. I think that when we were first starting the process of understanding the flow of documents and information, we did find that printers sort of stood between issuers and their counsel and the SEC.

I think we came to look at the industry as a bit of the safety valve that Amy talked about with EDGARization, the challenge of getting a word process document into the form and format that the SEC wanted to receive. That was something that printers knew how to do.

I think we felt confident that if issuers had a tough time doing it, they could always go to the printers. Some printers in the early days looked at EDGAR and thought this is going to put us out of business. I think the opposite happened but it just became another service that was simply added to the normal process of preparing documents for print distribution to shareholders.

THERESA GABALDON: Have other countries done similar things?

JACK KATZ: Just about every country has something like this. There is an equivalent to EDGAR in most countries in Europe. Canada has an excellent one. I've been to Mexico. They have their equivalent.

THERESA GABALDON: But they did it much later.

JACK KATZ: In many respects, EDGAR was the catalyst that caused other companies to do the same thing.

THERESA GABALDON: Are there state equivalents as well?

AMY GOODMAN: That was an interesting part of the early EDGAR days. In the pilot, we tried to get the states involved as well to figure out a way to make the filings available on the state level as well.

JACK KATZ: And now, by and large, companies that are listed no longer have to make state filings.

DAVID COPENHAFER: There is still an issue on the mutual funds side.

AMY GOODMAN: Yes, that's right.

JACK KATZ: Because it's the way the exemption reads how its company is listed on Nasdaq, listed on exchanges. So that doesn't help mutual funds.
Companies had to make filings in states that they were going to offer in. This was a tremendous burden and expense to issuers if they were going to do an actual offering to get one of these things filed and effective in every state. We felt one of the real incentives to volunteering was one-stop shopping, if filing on EDGAR would in fact take care of your state responsibilities.

AMY GOODMAN: But it got very complicated because there are 50 states. There were different interests and different questions about how it would all get paid for. It ultimately worked itself out. But it took far longer than I think people had anticipated.

THERESA GABALDON: Comparing the brochure to what seems to be state of art today, it seems like you all were terrific prognosticators in the 1980s. I'd like to do an update on what it is you see coming down the pike as far as new developments in EDGAR and electronics disclosure. I've heard specifically something about a Voluntary Extensible Business Reporting Language Program. What is that all about?

AMY GOODMAN: We mentioned early on that everyone was searching for a way to extract the financial information out of filings, with EDGAR being basically text. But people want to do financial ratios and all kinds of analysis. In order to be able to do that you've got to be able to pick numbers out of the financial statements. And, while there were certain terms like net income that everybody uses, there are lot of terms in financial statements that vary among companies and among industries.
So it's not that easy to do. This was something that we identified early on in our pilot. We went out to Arthur Andersen's artificial intelligence lab in Chicago to determine whether we could use artificial intelligence concepts to have the computer read the financial statements and pick the numbers off. At that time they were using artificial intelligence in the oil and gas area to help them figure out where to explore and where to look for oil.
But we determined that the financial statements were too complicated, and we couldn't use artificial intelligence. So we came up with something called the Financial Data Schedule, FDS, in which companies filing on EDGAR with filings that had financial

statements in them - primarily 10-Ks and 10-Qs - filled out a financial data schedule. Then we picked out what was it, about 25 items.

DAVID COPENHAFER: From Reg S-X.

AMY GOODMAN: We picked out 20 or 25 items that had to be listed out on this schedule and companies would have to take the numbers from their financial statements and put them in the schedule. It was a template, and this was not considered part of the official filings. So that got people comfortable and the auditors wouldn't have to sign off on the numbers. The idea was that the staff would then use these financial data schedules to pick out numbers and run ratios. But unfortunately, it wasn't a filed document and people didn't give it the attention that it deserves.

So it ultimately was determined that the results were not very usable, and ultimately the Commission abandoned the financial data schedule. What XBRL is, is a computer language that's designed to basically do the same thing - tag items in financial statements. Dave can talk more than I can as to the technology.

But the idea here is once again to be able to pick the numbers out of the financial statements so that the investors and analysts and other people can do analysis. XBRL has been around for a while, and the Commission staff has been working on it. But with Chairman Cox arriving, he is very interested in technology and the use of XBRL, and he has pushed the Commission to explore this seriously. The SEC is doing a pilot project, and I think just last week or the week before they announced that 17 additional companies have indicated a willingness to participate. It reminds all of us very much of Chairman Shad's interest in EDGAR.

Given the tremendous interest of Chairman Cox in XBRL, I think this is something that will undoubtedly move forward.

DAVID COPENHAFER: Amy, you've done a good job in explaining it. In many ways the analog is back to the financial data schedule. But instead of 20 some items being tagged, XBRL allows for tagging with great accuracy, hundreds of different line items extracted and tagged from the financial statement.

Some people have likened it to putting a bar code on every number in the statement. Not only do you know which line item it comes from and you know what period of reporting is involved, there is the capability to identify which circular or bulletin the accounting judgment was drawn from. There is the ability to assign to the line item foreign language translations. There are other abilities to provide information on how a particular number can and should be used in certain calculations. So it's a very comprehensive technology. Very powerful but as you can see also very complex.

AMY GOODMAN: It also raises a lot of the same problems that EDGAR raised, because companies' financial statements, especially among industries, are different. And so this requires companies to either standardize which I think they're reluctant to do or what XBRL does is, is it allows companies through additional programming to extend XBRL.

DAVID COPENHAFER: Make up your own tags.

AMY GOODMAN: Make up your own tags, which gives a company flexibility, but there is a cost and effort involved in creating those tags.

DAVID COPENHAFER: And a concern that if you extend the basic tag set can you be assured that that information is comparable and gets analyzed in the right way?

AMY GOODMAN: You have got to worry about the role of the accountants here because if in fact it is the tagged data that is going to be used for analysis and investment decisions, both the company and their outside auditors are going to want to make sure that the information is accurate.

JACK KATZ: This is clearly the direction that the Commission has to go. But a Commissioner whom I often thought was possibly the finest securities lawyer on the Commission during my tenure there, once made a comment to me that whenever you look at the Commission document, first you read all the footnotes and then you read the text, because the interesting information is always in the footnotes. The same unfortunately or fortunately is true for financial statements.

The footnotes are critical to understand again. And the footnotes are where the meat often is.

DAVID COPENHAFER: And where XBRL gets toughest.

JACK KATZ: And that's the problem. There is unfortunately a perception that all financial statements are created equal. They're not. There is huge difference, legitimate differences between companies and between industries. And the footnotes are where you capture those distinctions that are oftentimes are absolutely essential to understanding the financial statement.

That's the challenge of XBRL. How would you accommodate those legitimate inconsistencies in a way that that still enables automated uniform analysis across companies and industries. It's a very big challenge.

AMY GOODMAN: Technology has come a long way. There are some systems that will try to automate the process of converting financial statements into XBRL. But, given the inaccuracies and the importance of the numbers, they're not perfect. And so, how you verify the numbers that that are going to be submitted in XBRL will be an interesting question.

I think this new pilot that the Commission has established will show over the next year or so how doable this is.

JACK KATZ: Amy made a really critical point. The original development of EDGAR was the notion was that we were going to create an electronic parallel to the paper filing. That was a conscious decision because there were limitations.

What XBRL is pointing you to the direction of maybe it's now time for the Commission not to create electronic parallels to paper filings. But we think of EDGAR in terms of an electronic filing that takes full advantage of an electronic format and isn't bound by the limitations of paper.

THERESA GABALDON: Well, I think our time is up. Amy, David and Jack, thank you so much for the fascinating examination of the roots and branches of EDGAR. As the SEC further develops online filing functions it's a very good thing to understand where it came from and how the process began.

I'd like to remind our audience that this Fireside Chat is now archived by audiotape at www.sechistorical.org. The transcript of the chat will be ready soon. The Fireside Chats will resume this summer when we bring back The Best of NERA in late July. Please check www.sechistorical.org later this spring for our broadcast date and time.

Thank you for being with us today.