

# At the Crossroads of the White House and the SEC

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June 2, 2016

**David Lynn:** Good afternoon and welcome to the 17<sup>th</sup> Annual Meeting of the Securities and Exchange Commission Historical Society. I am David Lynn, a partner with Morrison & Foerster LLP in Washington D.C., and the 2016-2017 President of the Society's Board of Trustees.

It's my pleasure to welcome everyone who's joining us here in the auditorium for today's program, as well as everyone who's watching the broadcast online through our virtual museum and archive of the history of financial regulation at [www.sechistorical.org](http://www.sechistorical.org).

On behalf of my fellow trustees I would like to thank the Commission and the staff for their sustained friendship and support for the work of the Society in sharing, preserving and advancing knowledge of the history of financial regulation. While the Society continues to be independent of and separate from the SEC, and receives no funding at all from the public sector, the bonds of mutual respect and partnership have endured since the Society's founding in 1999.

We're very honored to hold this Annual Meeting program in early June each year in recognition of the enactment on June 6, 1934 of the Securities Exchange Act and the subsequent establishment of this great agency, the U.S. Securities and Exchange Commission.

At the end of this program, we invite everyone who's here with us, as well all staff, to join us for an ice cream social in the main entrance foyer in celebration of the SEC's 82<sup>nd</sup> anniversary.

I'm very proud in my role as President to work with a distinguished group of leaders that make up the society's Board of Trustees, and I'm happy to welcome our new trustees: Professor David Lipton of the Columbus School of Law at the Catholic University of America in Washington; Susan Markel, who's with AlixPartners, LLC in Washington; John Okray of Cornell University in Ithaca, New York; Barry Rashkover of Sidley Austin LLP in New York City, and Claudius Sokenu, who is with Sherman & Sterling LLP in New York City.

I'm also looking forward to working with my fellow officers of the Society for the coming year, and that is Chair Linda Chatman at Davis Polk & Wardwell LLP in Washington; President-Elect Daniel Goelzer at Baker McKenzie LLP in Washington; Vice President for Development Thomas Gorman at Dorsey & Whitney LLP in Washington; Vice President for Museum Professor Lipton; Treasurer W. Hardy Callcott with Sidley Austin, LLP in San

# At the Crossroads of the White House and the SEC

---

June 2, 2016

Francisco; as well as our Secretary Mark Cahn, who is with Wilmer Cutler Pickering Hale & Dorr LLP in Washington.

We're also very grateful for all those whose generosity supports the mission of the Society, which is to share, preserve and advance knowledge of the history of financial regulation through our virtual museum and archive. Your contributions make possible the continued access, building and outreach of the museum to thousands of visitors worldwide each and every day.

As our 2015 Annual Report attests, and you can access a copy of that report in the About section of [www.sechistorical.org](http://www.sechistorical.org), we're very careful stewards of the funds we're given and we are proud to say that over 86% of your support last year went directly to the virtual museum and archive.

It is now my great privilege and honor to introduce SEC Chair Mary Jo White. We're always honored to have the SEC Chair share news of the Securities and Exchange Commission as part of this program and to preserve those updates permanently in the museum collection. Chair White, thank you very much for joining us here today.

**Mary Jo White:** Thank you very much, Dave, for that very kind introduction, and thank you also for inviting me again to your Annual Meeting.

It is truly my privilege and honor to serve as the Chair of the Commission and it is wonderful in particular to share the room and the microphone today with my friend and former Chairman Richard Breeden, along with others who I know from firsthand experience deeply appreciate the value of the SEC as a critical institution with a long heritage of protecting investors and our markets.

At the Commission, our history really does inform who we are and the work we do and it is our great good fortune that we have the SEC Historical Society to preserve that rich history. As you know better than anyone, the SEC has a tradition of being home to some of the smartest, most remarkable people in government, and the staff of this agency are certainly among the most talented and dedicated people I have ever met. They are who make the SEC strong and make it the special place that it is.

President Theodore Roosevelt once famously said "It is not the critic who counts, not the man who points out how the strong man stumbles, or where the doer of deeds could have done better. The credit belongs to the man or woman who is actually in the arena, whose face is marred by dust and sweat and blood, who strive valiantly, who spends himself or herself in a worthy cause."

## At the Crossroads of the White House and the SEC

---

June 2, 2016

While the Commission has always had its share of critics over the years, they are absolutely no match for the tremendous public servants at the agency who have served and do serve in the arena, striving valiantly and not only valiantly but successfully in the cause of protecting America's investors and our markets.

I know we have many current and future SEC alumni here and watching on the webcast today, so I would just like to emphasize my deep gratitude to all of you for your service and support for this renowned institution and the public interest.

As David alluded to as has become the custom here, I will give you a very brief report on some of the current work of the Commission. As you know, between the implementation of the Dodd-Frank and Jobs Acts and advancing an important range of discretionary mission critical initiatives, the SEC has undertaken probably the most complex and daunting period of rulemaking in its history. In that regard I am pleased to report that in May we completed all of our Jobs Act rule makings and we have now reached the final phase of implementing the Dodd-Frank Act as we work to complete all of the rules in the remaining two major areas on which we made great progress in 2015 and early this year: securities swaps and executive compensation.

But as all of you know the SEC's mission extends far beyond that. As the markets and investor needs evolve, we must constantly evaluate areas where we can better further our mission of protecting investors, maintaining fair orderly and efficient markets and facilitating capital formation. In other venues, I have recently detailed our progress on the ongoing modernization of the regulatory regime for the asset management industry and our disclosure effectiveness review, and extolled the record and accomplishments of the enforcement and exam programs.

What I thought I would do today is to briefly update you on the status of our equity market structure agenda, not only because it has been a priority of mine and the agency for the past three plus years, but also because it has been a priority for the Commission throughout its history and always will be.

That history began of course in 1934 with the adoption of the Exchange Act which, for the first time, gave our newly created agency sweeping powers over securities trading in the secondary markets, including broad authority over the primary participants in that markets, broker dealers and national securities exchanges. Since the early 20<sup>th</sup> century, the Commission has been engaged in an almost continuous review of equity market structure, constantly seeking ways to improve and optimize its operation.

# At the Crossroads of the White House and the SEC

---

June 2, 2016

While I will not attempt a full historical tour today, I do want to mention just a few highlights along the way. In 1971 the Commission, for example, issued the Institutional Investors Study, finding that the markets had become increasingly complex and inefficient due in part to exchange fixed commission schedules and institutional investor desire to avoid those commissions through direct trading relationships with broker dealers. The market fragmentation noted in that study led the Commission to issue a statement on the future structure of the securities markets in 1973 that advocated for a centralized market system. In the wake of those Commission actions in the early 1970s, Congress enacted the Securities Acts Amendments in 1975. As you know, those amendments granted the Commission broad authority to establish a national market system with specific and sometimes competing goals of promoting efficient execution of transactions, fair competition among broker dealers, exchange markets and non-exchange markets, the broad availability of quotes and transaction information, the practicability of brokers executing investors orders in the best market, and the opportunity for investor orders to be executed without the participation of a dealer.

Despite the significant changes that have occurred in our markets, as there's been a lot of them since 1975, these same issues remain as relevant to our market structure today as they were in 1975. The Commission used its new authority in 1975 to facilitate a national market system. Among other things, it abolished the longstanding fixed commission schedules and facilitated the creation of the consolidated market data plans that are still in use today.

The Intermarket Trading System, ITS, an early predecessor of today's order protection rule, was also created to link various markets trading listed securities. Of course, the markets evolved in response to these regulatory changes and advancements in technology and the commission again took stock of our market structure in the Market 2000 Report issued in 1994. That study, which was initiated by former Chairman Breeden, analyzed structural issues that existed in the market since the passage of the Securities Acts Amendments of 1975, and concluded that our equity market structure was sound, having benefited from enhancements in technology and competition that reduced trading costs, enhanced market transparency, and improved liquidity. It also importantly included suggestions to further improve market transparency, competition and fair treatment of investors.

That significant effort led to the Commission's order handling rules and the retail execution quality and order routing disclosure rules. The Commission continued its review of equity market structure and a request for comment on market fragmentation which it issued in 2000. In that action the Commission solicited comments on a range of issues that included

# At the Crossroads of the White House and the SEC

---

June 2, 2016

fragmentation, internalization practices, payment for order flow and best execution, and highlighted several potential options for addressing fragmentation.

That effort culminated in the 2005 adoption of Regulation NMS, a landmark body of rules as you well know that govern all aspects of today's national market system. Among these rules is Rule 611, the Order Protection Rule, which replaced the outdated ITS and for the first time required market participants to honor the best prices displayed in the national market system by automated trading centers. This established a critical linkage framework for the modern markets.

The Commission is now in the midst of another significant phase of market structure review, as technology advancements continue to accelerate the pace of change of how orders are generated and executed. While these advancements have generally served retail and institutional investors well, as I have remarked before, it is critical that we as regulators keep pace with these changes with a key focus on the fundamentals driving them. We must fully understand the evolving marketplace, identify the issues with precision before making any fundamental changes and assess the likely consequences that may follow.

The Commission's continuing work in market structure is a substantial undertaking, obviously. It requires updates in technology and utilization of data and analytics to make informed decisions on enhancing market structure. That means new ways of using existing market data tools, like MIDAS, and it also means building new systems to provide even more powerful and analytical capabilities for the Commission and our fellow regulators. That is why we've been moving forward on a proposed national market system plan to create a consolidated audit trail which will be one of the world's most comprehensive and sophisticated financial databases. That plan was put out for notice and comment in April and is expected to be finalized by the end of the year.

Now in addition to focusing on the need for robust data and enhanced regulatory capacity through initiatives like MIDAS and CAT, I've also prioritized a number of other targeted initiatives to optimize our market structure, namely ensuring the operational integrity of critical market infrastructures, enhancing market transparency and disclosures, and building more effective markets for smaller companies, to mention just a few and more will follow.

We've made much progress across this agenda by improving market stability through initiatives such as Regulation SCI, which is Security Compliance and Integrity. That strengthened the technology infrastructure of the market and expanded Commission oversight of that technology. We've worked closely with the exchanges to address issues

## At the Crossroads of the White House and the SEC

---

June 2, 2016

like order types and operations, data feed disclosures and single points of failure within the infrastructure systems that have the ability to significantly disrupt trading. We and the SRO's are actively reviewing the operation of the limit up limit down pilot plan with a focus on issues that occurred during the volatile trading of this past August 24. This review has included extensive public analysis by SEC staff of that day's events and consideration of specific improvements to refine the plan's operation.

We've also taken action to address enhanced market transparency and disclosure with our proposal last November to update Regulation ATS. This proposal is designed to shed light on dark pools and bring greater transparency about how ATS's operate, including the material conflicts of interest they can pose for investors and other market participants. As a complement to Regulation ATS the proposal, I expect the Commission to consider very soon another proposal to provide customer specific institutional order routing disclosures and targeted enhancements to existing order routing disclosures for retail customers.

These two proposals would provide valuable new information to investors about how their orders are routed and executed in today's markets. We've also taken a significant step to do a data driven assessment of how our market structure is working for smaller companies.

In May 2015 the Commission approved a national market system plan for a two-year pilot program that will widen the minimum quoting and trading increments for stocks of smaller companies. This two-year pilot, which is scheduled to begin on October 3 of this year, will provide the Commission with valuable data on whether wide tick sizes would enhance the market quality for smaller company stocks for the benefit of insurer investors.

In early 2015 as part of our broader market structure work, we created the Equity Market Structure Advisory Committee, comprised of diverse experts who consider specific initiatives and potential structural changes. The committee was established to assist the Commission in its comprehensive review of the structure of the equity markets. I will report here I am very pleased with the progress of this committee's work over the past year. It is taking on the core issues that are key to our efforts to optimize our equity market structure. At their most recent meeting in April, the committee was presented with draft recommendations for two of their subcommittees for an access fee pilot and trading venue regulatory reforms. I expect that the full committee will vote soon on a formal access fee pilot recommendation.

As I hope you can glean from my whirlwind summary of our market structure agenda, the Commission's work throughout its history to promote fair, efficient and competitive markets continues with energy, thoroughness, and the SEC's characteristic focus on its mission. As I have said before, our work to optimize the equity markets is never finished.

## At the Crossroads of the White House and the SEC

---

June 2, 2016

In order for our markets to remain the strongest and more reliable in the world, regulatory changes must be timely, effective and informed, and a constant priority. Our current significant efforts are the latest in the Commission's historical ongoing work to address the evolving market structure challenges, and we will continue to work hard and smartly to adapt and grow with the marketplace to better protect investors and to optimize the markets for the issuers who rely upon them.

It is obviously one of the agency's most important responsibilities. Thank you very much for listening and for inviting me.

**Dr. Hohenstein:** Thank you Chair White and welcome to all of you here and online. I'm Dr. Kurt Hohenstein, the curator of the new Gallery called Regulating the Regulators: The Executive Branch and the SEC, 1981 to 2008, opening on December 1. This will be the seventh gallery I've curated for the virtual museum and archive. Previous galleries I curated – beginning in 2005 – address such topics as William O. Douglas, insider trading, the SEC from 1961 to 1973 and from 1973 to 1981, and the impact of both the legislative and judicial branches of government on financial regulation.

Regulating the Regulators will complement both the legislative and judicial Galleries, by providing insight into how the executive branch of government has played a significant role in financial regulation through the latter part of the 20<sup>th</sup> century into the 21<sup>st</sup> century. It will also extend the analysis of the work of the SEC from 1981, the start of the Reagan revolution, to 2008 and the Great Recession.

Today's program – At the Crossroads of the White House and the SEC - is the final piece in the accession of primary and original material to build the Regulating the Regulators gallery. We break slightly with the Annual Meeting practice of having multiple experts on the panel but for good reason. Today we have the high privilege of spending all of our time with Richard C. Breeden. Richard, who currently serves as Chairman, Breeden Capital Management LLC, is uniquely positioned to provide insight into the relationships and workings between the White House and the SEC.

A New York state native and a graduate of Stanford University and Harvard Law School, Richard began his career practicing securities law and corporate transactions. He came to Washington in 1980 to work in the administration of President Ronald Reagan and Vice President George H.W. Bush. Richard served as Deputy Counsel to the Vice President and as staff director of the multi-year study led by the Vice President to improve effectiveness and reduce excessive costs in the U.S. financial regulatory system.

## At the Crossroads of the White House and the SEC

---

June 2, 2016

After President Bush's inauguration in 1989, Richard was named as one of twelve Assistants to the President, focusing on domestic and economic policy issues. He led the White House effort to solve the crisis in the U.S. saving and loan industry, leading to the creation of the Resolution Trust Corporation, which helped to sell the assets of failed firms back into private ownership.

Later in 1989, President Bush nominated Richard to serve as the 24<sup>th</sup> Chairman of the U.S. Securities and Exchange Commission. Under his Chairmanship, the SEC overhauled its rules to allow companies to raise capital with fewer barriers and lower expenses. It also worked to promote investor interests through initiatives such as improved accounting and disclosure standards; access to new types of mutual funds and investment products, such as ETFs; and improved proxy rules.

With the collapse of the Soviet Union, Richard led the SEC in an unprecedented effort to reach out to help emerging markets and countries around the world in creating or improving U.S.-style capital markets, and improving global cooperation in investigations of illegal conduct. In the Photo section of the virtual museum and archive, you can access images of Richard and SEC staff in Red Square, Beijing and at the opening of the Budapest Stock Exchange. The SEC also assisted foreign companies to raise capital in the U.S. for the first time, and to accommodate themselves to more robust and timely disclosures required of U.S. companies.

Since the end of his Chairmanship in 1993, Richard has served as a consultant with business and government agencies, and as a bankruptcy trustee and corporate monitor. He is currently assisting the Department of Justice in managing a fund to pay forfeited assets to victims of the crimes of Madoff Securities.

In a speech Richard gave to the Bush School of Government and Public Service at Texas A&M University earlier this year, Richard stated that - in the course of his long career, over 40 years - George H.W. Bush is the greatest man he had ever known and a continuing inspiration. His time working with President Bush remains the greatest privilege of his life.

Richard, thank you and welcome.

**Richard Breeden:** Thanks, Kurt.

**Dr. Hohenstein:** You have spoken of your service to President Bush and in the Reagan White House. Would you talk a little bit about what you learned and what prepared you for leadership as Chairman of the SEC?

## At the Crossroads of the White House and the SEC

---

June 2, 2016

**Richard Breeden:** We're here to talk about history and history is important for the agency to have a collective memory of its history and how we got where we are, and as an aid to think about where we go in the future. But before we delve into the past, I can't resist the observation to say that in the 23 years since I've left the agency, there have been a lot of very fine people who have come to the agency and done many wonderful things. But as an alumnus, I have never been so proud of the agency and its Chair and all its people since Mary Jo's tenure. It's really exciting to see the agency move past the terrible era of the Madoff collapse and past 2008 and the attempts to dismember the agency. The SEC flag is flying as proudly as I've seen it in decades and that's a wonderful thing. Everybody here, the staff, the Commissioners and certainly the Chairman should be awfully proud of what you've accomplished.

**Dr. Hohenstein:** Here, here!

**Richard Breeden:** So, that brings us to history. I was very fortunate and somewhat unique in that I had the great privilege, as you said in your kind introduction, of working very closely with a President of the United States before coming over here for an equally great privilege of leading the men and women of the Commission and all the tremendous work that goes on here, in every era. The Commission is really an indispensable agency, but it certainly was helpful to me to have had the background of watching both President Reagan and most closely President Bush during his time as both Vice President and President, in confronting leadership challenges.

The White House is a fascinating place to work most of the time, probably all of the time although like anywhere else it has its peaks and valleys. I was there during armed conflicts, Grenada, Panama, and as well as tremendously fought domestic issues.

I was able to watch how President Reagan and Vice President and President Bush changed the world, how they conducted themselves, how they tried to transmit public policy issues both to the broader public, because it's vital. Government is, in the end, very much about issues and public policies and how we produce a stronger and better, wealthier, more equitable fairer society but about policy issues and how those issues got communicated both to the public and also through government agencies to the people who had to make it happen and who were on the frontlines battling challenges every day.

Now of course when you work in the White House you have the luxury of a great big iron fence that goes all the way around, and so the critics that Chair White was talking about, well there's no shortage of critics for any President, and most of the criticism is aimed at the President. There's something comforting being there as staff that you were behind, in this enclave where really our role was to support the President in his decision making, not

## At the Crossroads of the White House and the SEC

---

June 2, 2016

to be out front testifying, doing budgets, doing all the things, making decisions on enforcement cases, whether to prosecute or not prosecute Drexel Burnham, whether to bail them out or not. The Federal Reserve was determined to bail out Drexel Burnham and we were equally determined not to and we prevailed. The market was better for that and if they would just get over their habit of bailing out people who are not entitled to bailouts, the whole market structure would be better.

That's another issue but one that we had then as well that persists today. So I was the beneficiary of getting to see two people, I thought of it as a Ph.D. in leadership. I'm not sure what grade I got on the course but I did get Chairmanship of the SEC so I must have had a passing grade anyway, but it was a wonderful background for me in coming here then and confronting the enormous challenges to the Commission.

**Dr. Hohenstein:** You talked about the ability in working in the White House behind that fence but also to collaborate and coordinate and see other agencies of government and how they operated. Talk a bit about the way and the things that you learned about dealing with other agencies that might have helped you later on.

**Richard Breeden:** There are two things that during the White House that were most relevant to the issues that I later had to confront at the SEC, really three. Regulatory relief was a hallmark for President Reagan, and when he campaigned for office, getting government off the backs of the people was one of the four pillars of his economic program. And so from when President Reagan took office, there was an effort to both review regulations that were already on the books across the government that were perceived as being excessively burdensome and then to develop new processes for reviewing new regulations to make sure that they adhere to cost benefit analysis, among other things.

It seems kind of funny that up until then, cost benefit analysis that regulations should have more benefits than they cost to society, that wasn't the law of the land until 1981 and happily it is now. It may or may not always be the easiest thing to calculate and courts may or may not always get the analysis, the evaluation of whether the agency did the job right, but still the basic principal that government should not be doing things that create more negative than positive. It was a good step, and Vice President Bush was Chairman of the Presidential task force to review regulations, and so I went through that for several years working on things all over the government, such as the Davis-Bacon Act, regulations at the Labor Department.

I wish we had a chance to work on their fiduciary duty rules, but fortunately they didn't exist back then. Air conditioning efficiency standards, airbag rules, A to Z across the government and that was a good framework for a future regulator to look at rules passed

## At the Crossroads of the White House and the SEC

---

June 2, 2016

by agencies, each of whom trying to pursue their mandate, the way the Commission tries to pursue its, but in many cases where they cause significant issues that could have been avoided. Hopefully that made me more sensitive later on here in watching out for some of those issues and working on them.

The second thing that we did over there that was even more relevant was a three-year study looking at each of the federal financial regulatory agencies and trying to evaluate. The view was Glass-Steagall was on its last legs, not necessarily a good thing; Congress had just repealed interest rate controls and there was a widespread feeling that Glass-Steagall would go away and there was an effort being made to try and say what should the regulatory system look like in the future. If banks are doing securities and securities firms are doing things that look like some aspects of banking, who should be doing the regulating and how should it be done.

We evolved a philosophy that John Shad, my predecessor once removed called functional regulation, and the idea was that if anybody was issuing securities, one agency, the SEC, should oversee the securities issuance. The little securities regulatory parts of the controlling currency, the Fed, the FDIC should be abolished; if it came to the question of securities regulation, the SEC ought to do it. If it came to antitrust question or FDIC, if it was a question of prudential lending well then, it should be somebody who specializes in that.

A philosophy if you will of regulatory specialization, not centralization, that was the big contrary model which would have been the Administrative Finance in Japan with the Securities Bureau, the Banking Bureau and the Insurance Bureau all under one roof and were all debates between agencies got internalized and the Administer of Finance would ultimately be able to make those decisions. We thought at the end of a very long and thorough study, something that I passionately believe to this day, that you produce a stronger system, it looks messier, but you have a stronger system when you have X agencies that have deep expertise in what they're trying to regulate and they are free and independent to come to the best conclusions for protecting the public in that area, even if some other agency like the Federal Reserve disagrees with it. Well that's just too bad.

You stick to your knitting, we'll stick to ours, and then Congress and the public get to see and understand differences in points of view. It's not internalized under some hidden cabal like the FSOC that was created in Dodd-Frank where those debates get hidden. One group of regulators can dictate to another and maybe put the public at risk because people with less expertise on mutual funds or asset management, are making decisions about things they have no real clue of how they work and they certainly don't have the depth of experience and knowledge that the Commission has in its area, or the banking regulators have in theirs.

## At the Crossroads of the White House and the SEC

---

June 2, 2016

We did that three-year study and it allowed me also to work for years with the leadership and senior staff of every federal financial regulatory agency and they all have different personalities and cultures and history. In case you're wondering the SEC is the best, but that was fascinating, and then last was the whole process of trying to prevent the collapse of the American banking system, a precursor of what happened in 2008. We had \$1.3 trillion of American public's money deposited in savings and loans and not every S&L, but the whole system in the aggregate was completely bankrupt. The insurance fund had about \$3 billion left to insure over a trillion and we were on the risk of a meltdown, along the lines of what happened in 2008. But happily, we were able to head it off ahead of time with a very bold initiative from the President that resulted in legislation that basically raised the money to allow us to close the insolvent institutions, protect the depositors without creating gratuitous bailouts, and pushing that through Congress. That had been my job once Bush was President, so I came here with a background used to dealing with Congress, used to wrestling with big financial issues where the stakes were immense, and having had the opportunity to see some of the world's great leaders, how they confronted challenges.

**Dr. Hohenstein:** Let's talk about your appointment here. It wasn't obviously inevitable that you would come here. You had been with the President for about eight years. Talk about the decision that he made to appoint you to SEC Chairman and the direction he gave you. You're coming from inside the White House to an agency who is supposed to be independent. Any concerns about that?

**Richard Breeden:** Yes, it was quite a shift and historically not many precedents to go directly from years in the White House. I had about five years in the White House plus a couple years on the President's campaign where I was very actively involved when he was campaigning for the Presidency. We solved the savings and loan problem; we launched the savings and loan initiative three weeks after inauguration, the bill was passed and we signed it in Rose Garden in August of that year. I was nominated to come here in September.

I was confirmed unanimously. I remember vividly the day before I was going to start here, having lunch with the President in the White House mess, just the two of us. I said, "Mr. President, tomorrow I'm going to be over at the SEC, an independent agency. I remember the Mission Impossible series. They give you a little tape recording, you play it and it would tell you your mission and then it would self-destruct and the thing would burn up. If you were going to give me any instruction, this is a good time to do it, because I'm going to be an independent agency after tomorrow."

He chuckled and thought about it for a minute and he said two things. One, he and I worked together for years and he was confident in my judgment and my experience. I had

## At the Crossroads of the White House and the SEC

---

June 2, 2016

helped us manage through big financial crises, and he said I have complete trust in your judgment. He said I always want you to be sure that you do what you think is right, and not what you think is expedient, not what you think is easiest, but on every issue do what you think is right, and I know I'll be proud.

That was a gift to have that mandate. His other comment was I'm sending you over there to lead the agency, not to have it lead you, and don't be afraid to change course, and be strong. Those were my marching orders when I left the White House and came over here. Just a week or ten days before that, Majority Leader of the Senate Mitchell summoned me to a meeting in his office and without any real explanation why. The White House legislative people said this is very unusual; they must have done something really bad in my confirmation hearing. When I got there, Mitchell told the staff to go away. We went in his office and he basically said look, you've worked with all our people in the savings and loan legislation, they all speak very highly of you, they have no doubt about your technical knowledge and experience capabilities, but you're coming out of a political organization and I respect that but you've been nominated head of a really critical independent agency and I need to know you know the difference.

He wanted to just look me in the eye and have that conversation. I was thrilled that he did because obviously it was an issue one could fairly raise and should have been raised. The fact I'm sitting here today shows I gave an acceptable answer, but I said at the time that I had been a securities lawyer a lot longer than I had been working in the White House, and I thought the agency was a critical agency. Our whole market structure was built around this expert agency and the role it plays in the markets, and I thought the public didn't care if the people of the SEC were conservative or liberal or Republican or Democrat; they care whether they were effective or ineffective.

He smiled and said, my colleague said you'd say something like that. He said good luck Mr. Chairman, go do the right thing. The message I got from both Senator Mitchell and President Bush was the same – do the right thing. We can't predict, we're not sending you over saying go change market structure or go do this or go do that. We don't know what issues are going to come up but the standard ought to be do the right thing.

It helped me conceptualize the broader independence that the public deserved out of the Commission. That's why I think things like the Dodd-Frank mandates and so on that have happened in recent years are so unfortunate because it's the agency that can bubble up the best ideas out of its experience for dealing with any given era in the markets and let it do its job. Let people with that mandate of trying to do the right thing as opposed to some Congressional staff puts some mandate in a bill at three o'clock in the morning in the

## At the Crossroads of the White House and the SEC

---

June 2, 2016

markup and now for years we're going to be stuck with instead of doing something that might be more important.

I had the good fortune of on both sides, the legislature and the executive, terrific working relationships, people who really believed in what the SEC did, and gave me an awful lot of flexibility.

**Dr. Hohenstein:** Let's talk about some of these things you did at the SEC when you got over here. You knew some of the staff, you'd worked with them, you dealt with them. What were some of the initial issues or problems that you faced as Chairman?

**Richard Breeden:** There was a long list. I think any Chairman looking back, have a long list of the things they did and things that were of riveting fascination to us in that era, are probably pretty dull now. I think there are some constants across the Commission's history that our era was as preoccupied with as subsequent eras, and that will probably always be the case. Accounting rules and disclosure standards to produce transparency in the market, the corporate issuance market, we have always been blessed with the most transparent market since 1934. The U.S. system has been one predicated on transparency and letting markets decide issues rather than regulators. Very different from other systems, in banking I remember when we were doing the Bush task force, at that point for a bank to open a branch required the Federal Reserve to give a permit. We kept saying why can't they just go rent an office and open a branch; why does it need that?

Other systems where if you created a security, some government agency would have to approve that you can offer that security, the U.S. system and even merit regulation in the states where there had to be a positive approval before you could issue a security, whereas the SEC's system predicated around if it's fully and fairly disclosed have at it – go ahead, put it in the market, nobody has to stamp a permit before you can issue a new form, a given issue of securities. Yes, there has to be a registration statement but in people designing different types of products, you didn't have that kind of every step of "Mother, may I," and then a government review. It was a much freer and open system within the umbrella of full disclosure.

We did a lot of things to try and make transparency better, but it's a never-ending job. I used to say if you've got it absolutely right and everybody's company out there had made good disclosure, full and fair, great 10K and Q's and all the registration statements were perfect, starting the next day it all changes. Every business out there has something happen to it and the work of keeping disclosure and keeping that transparency from being muddied and officiated, it's never-ending. We had issues of market stability, the biggest

## At the Crossroads of the White House and the SEC

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June 2, 2016

issue we had during my tenure was the failure of Drexel Burnham, which was I think the largest financial institution failure in history up to that point.

A lot of nervous Nellie's at the Fed kept saying we've got to bail them out, you can't let a thing this big fail, who knows what might happen. I said well, who knows what might happen, they're going to go to bankruptcy court and find out. There was a brief but very intense internal debate within the Fed, the Treasury and the SEC over whether Drexel should be bailed out. Ultimately Treasury Secretary Brady sided with me that they were not within the federal safety net, there were no insured deposits, we had already moved all of Drexel's retail customers to Paine Webber, they were out of the line of fire, really creditors of Drexel's holding company. It was even creditors of a regulated institution and the notion that they should get a windfall bailout from the public struck me as wrong, would put pressures then to expand regulation where it didn't need to go. I think Secretary Brady saw it as needless and wasteful, those creditors didn't bargain for a federal guarantee, why should we give them one.

A lot of the work was done to make sure that their portfolios were moved and we didn't have gridlock. We did a lot of consultation. It was interesting because the head of the U.K. Security Regulator, David Walker, at the time was in my office when we found out directly it was going to fail. I said well come on in David, let's show you the SEC's commitment to regulatory cooperation, come on in and sit down, we've got a little problem here.

Stability issues and many more of those, that's only one, promoting saving and innovation in that area, the mutual fund area then as now was the major focus for the largest number of retail investors to get professional management. The industry had grown from a tiny size in 1940 when the act was passed into a rapidly growing, still small by today's standards, but I think we past a trillion dollars in assets. It was enormous and very important, but a fifty-year-old statute. Marianne Smythe, who I was immensely fortunate to have leading the Investment Management Division, although there have been many fine directors of IM, not to slight any of them, but Marianne was certainly terrific. I commissioned she and her team to go take some people offline and think about the next fifty years of what that statute will look like.

So in every area, and then I think the most unique thing for us was the international arena. The U.S. market up to that point was international in a sense. Yes, Nestle is listed in the United States, and a few big global conglomerates, and I think we had about 300 foreign stocks traded in the U.S. markets at the time. The whole ADR market was very small, mostly Canadian companies, and we were more global than other markets but still very small.

## At the Crossroads of the White House and the SEC

---

June 2, 2016

Then the Berlin Wall came down and the world changed overnight. The forces that produced the fall of the Wall didn't happen overnight, but really with the collapse of the Soviet Union prior expectations about how the market would work would change radically. I remember one day Michael Mann said, let's have a division devoted to thinking about international issues. We created an international division, instead of having international issues buried somewhere in each division.

Michael Mann was my first division director appointment and I won't say he was my only good appointment, but an awfully darned good one. I have been immensely proud of so many of the senior staff, Marianne and Jim Doty, and Michael Mann as well as senior staff that I inherited like Linda Quinn and Rick Ketchum, who were fabulous.

The international world had been more or less overlooked, and we realized we needed to give a lot of focus to it and you had half the world's population essentially overnight went from socialist economies to theoretically market economies but they didn't have the infrastructure to build a market economy around, and they all started showing up here saying, you guys won, the Cold War is over, we need a market economy, where do we buy one, can you send us one?

The international division started doing technical assistance with countries, Eastern Europe and China and South America, and as well as cooperative inner regulator memorandum of understanding to cooperate on things. I remember Michael coming in one day saying the State Department wanted me to host a dinner for the delegation from the Soviet Union. I didn't even have a budget to give these people lunch, and I think my entertainment budget was \$1,000 a year to buy tuna fish sandwiches for visitors and all of a sudden we're supposed to put on a lunch for the Finance Administrator of the Soviet Union.

He came back later while I'm still soaking in how we're going to pull this one off and says, by the way, they would also like you to host a lunch that day for Boris Yeltsin, who had just been elected President of Russia. So we had Gorbachev's outgoing government, Yeltsin's incoming government, and we had all these issues hitting us of the inner play of suddenly truly global capital flows, and I think we did a really good job. I'm very proud of the job the staff, the Commission and the whole organization did in helping the transition from American markets. I think when I walked in the door we probably had 300 foreign listed stocks and when I walked out there were probably a thousand. But we broke down the barriers for people listing in the U.S. subject to U.S. accounting standards and subject to U.S. disclosure standards, we did not give away the core principles and the SEC should never give them away, but we said we welcomed companies from all over the world coming here

## At the Crossroads of the White House and the SEC

---

June 2, 2016

just as investors from all over the world come here, because they want to be in the market that has the best transparency and the best protections, and the best legal system.

Anyway that was a huge transition and throughout the four years, so that's a long tour of the horizon, a very long time ago, but it was an exciting stimulating time, days were never dull that's for sure.

**Dr. Hohenstein:** With some of the things you described, it appears as though the SEC is reactive, and some others appear to be proactive. You talked about some of the things the SEC did when you were Chairman that percolated for a long time. You mentioned ETFs and the fall of the Berlin Wall. You had to react to that, there was no template for that but there were some things, or events, or issues sort of pending? Talk about how an issue may have been there before you got there that developed.

**Richard Breeden:** When you look back, I freely take responsibility for the one or two mistakes we made during those four years, maybe a few more. Those were my doing, sadly, but we all do our best but perfection at least in my case was not possible.

There are things we could have done better and largely because of me but we did an awful lot of great things. One thing that is very important is the good things we were able to do is not because of me. I had a role, every Chairman has a role, but it was the staff who you turned loose on a difficult problem. The easy challenges and the easy issues, fine they get solved somewhere down along the way, but the really tough challenges of how do we make some markets better, how do we improve liquidity, how do we improve transparency, how do we do these things without damaging inadvertently things that work. You don't want to upset the applecart in a market as big as the United States. That had to come out of the staff. Linda Quinn was just an amazingly talented person. I'm convinced she would one day have been Chair of the agency and that would have been a wonderful thing to see because she was immensely talented. She came to the agency under John Shad, and one of the greatest things he did for the agency was recruiting Linda.

She came up with something called Rule 144(a), and – as she would say – she and her team came up with it. She had this lady named Elisse Walters who was not a bad deputy to have, Meredith Cross and some other really talented people. The Corp Fin team came up with Rule 144(a). There had always been private placements but the rules basically said an issuer can make a private placement to MetLife and MetLife can later sell it back to the issuer or have it redeemed, but it can't turn around and sell it later to New York Life.

Linda asked the question, why not? Because private placements which were very efficient form of raising capital, but they had an illiquidity premium built into the pricing because

## At the Crossroads of the White House and the SEC

---

June 2, 2016

people were stuck with it, and it might be a good thing now but if MetLife ever needed to liquidate it would be at the mercy of the issuer in negotiating terms and it would be difficult to do a registration subsequently. The 144(a) concept was that we could define a universe of qualified institutional buyers of private placements and that once you made a private placement to one of them, they could freely sell amongst each other without subsequent registration. We were able to bring the cost of that form of financing down appreciably because we made those instruments liquid for the purchasers and therefore they didn't need an illiquidity premium.

There have probably been a trillion dollars of 144(a) securities issued in the interim, people don't really talk about it or think about it. To this day I am really proud of the team that came up with that, it was just fabulous and helped companies all over the United States, made the market better unquestionably.

Now when Linda first brought it to me and suggested this idea, well the definition of a qualified institutional buyer I think there were going to be six of them, you had to be gargantuan, and just the standards were pretty narrow. It was a concept but in practice it might have not had as good an effect as it could have. Once I understood it and we went all through it, I couldn't see any downside at all. I said we need to have it not just be this size, let's let it be this size. So we changed it.

Marianne Smythe and her team were struggling with an issue that had gone on for a while on licensing SPDRs, a hybrid instrument, lots of litigation which I won't go into, litigation over the Commodities Exchange Act and the Securities Act and how and where you could trade instruments that had some element of an equity cash market and some element of a futures. Many products had been struck down in the courts that tried to be traded in securities markets. SPDRs finally came up with a formula that we thought would work but it didn't check all the SEC's boxes, prospectuses weren't being delivered the way Corp Fin wanted them, and trading and liquidity wasn't quite going to be the way Market Reg wanted them.

Marianne brought it in and said what do you want to do with this? It might really work, it might be a product investors would like. Of course the very first time nobody knows, you don't know if you offer this thing and maybe it will be very popular, maybe you elicit a big yawn. But she said I think we ought to give it a try, but if you want it to happen you're going to have to tell Corp Fin and Market Reg that it needs to happen, because I can't. They had been butting heads with each other.

I said let's let the market decide this, and now there's three or four trillion of those things today known as ETFs. I can't claim, it was not my genius, I didn't invent it but once you

## At the Crossroads of the White House and the SEC

---

June 2, 2016

heard each division out and listened to their perspectives and understood the issues then okay, let's make a decision and see how it works. Again, you never want to do something at the Commission level where it may create a market instability, and I know our mantra is protecting investors, but one way you protect investors is to let them make the choices about what investments they want to purchase. The SEC should never slide into the mindset that the only thing we ever do is "protect" people and make decisions for them. The Commission's record is pretty good in this area. We're here to let investors decide, just make sure that the people who want to prey on investors with bad disclosures and fraudulent offerings, we try and put those on the sidelines.

ETFs was another one of those examples and there were lots more of brilliant ideas the staff had, sometimes generated by the private sector coming in saying can we do this, the staff would mull on it. It would come up to the Chairman sometimes and the Commissioners where we would have to make a judgment at the Commission level on whether to authorize something.

So it's a wonderfully creative – it was then and I'm sure listening to Chair White's description of all the issues, amazingly complicated issues that exist today. The markets get bigger and they get more complicated in every era. Every group of SEC staff and Commissioners and Chair grapples with a more complicated environment than their predecessors. But happily a lot of the principals of how you handle those tough issues are not new and ultimately you're balancing off factors that the Commission has wrestled with for a long time. You want to be sure you understand people's perspectives, and I always thought it was important. We all agree that the SEC staff is the very best in government so you ought to challenge them. Here's this problem, figure it out for me. I found if you did that, they would deliver.

**Dr. Hohenstein:** Let's talk about staff and budgets. You were Chairman during an era where government size and expense was mantra. How big was the budget of the SEC when you came in and what did you do about it? You obviously needed to take control of that as Chairman.

**Richard Breeden:** It was a difficulty. I'm a lifelong fan of President Reagan, I think he changed the world for the better in many ways. One element of the Reagan Administration was severe budget issues during those times; agencies didn't just get no increase, they actually had rollbacks. The Commission as I recall had about a 25% cut in its budget, with inflation which in those years was higher than today. The real cut was gargantuan and on a very small basis. I don't mean to be light about this but if you cut the Pentagon's budget, they can just buy two fewer airplanes, and they're okay. The Commission doesn't buy any

## At the Crossroads of the White House and the SEC

---

June 2, 2016

airplanes, so when you cut the Commission's budget, you're cutting people. There really isn't much fat; the huge percent of the budget is people cost.

The Commission had a 25% more or less cut in its budget under John Shad. That had been hugely damaging in my judgment, and of course the market is simply growing and growing. When I came in, the budget was around \$153-\$155 million. I don't remember the precise number but I do remember that the Commission's budget was less than the annual appropriation for military bands. I happen to love John Philip Sousa, and I love patriotic music and I'm really glad we have the Marine Band and all the service bands. The irony was that the Commission, unlike the military bands, generated its own money. Our fees were running many times the budget of the Commission, so fees the SEC was generating were being used for agriculture subsidies, or pay for the bands. I at least thought the bands should come over here and play if we're paying for them.

We were underfunded, undermanned, outgunned across the board. There are some benefits from knowing the President and the federal budget process really well. When I came in the budget was about \$150 million and when I left it was somewhere under \$500 million, so we tripled the budget during those four years, in a time where the average agency increase was probably 2% a year. We needed it. It was not adding to the deficit; it was reducing the fees the SEC had already generated that were being transferred to other areas, so we weren't raising anybody's taxes to do this. We were substantially reducing the degree to which the users of the market were paying to get good timely adequate regulation. They had been being defrauded by having those fees being used for tobacco subsidies, or wherever they were going, and now got more of it devoted to the SEC's work.

It never would have happened, we would have been along the lines of other agencies, except that I had been on the White House senior staff, I knew the President and could make the case. It's not like we wanted money but there was a desperate need for it. The Commission has always been resource constrained and up to a point I think that's healthy. I think it's good that you're not the agencies that print money that can do whatever they want and as a result they do things they shouldn't be doing, but they've got the resources to do everything.

So having to make some choices and prioritization to economize, that's fine, that's a good discipline, but it had been applied to a level that was extreme and we were able to fix that. Ever since then, I think the Commission, while Congress will routinely underfund the agency, we at least got it onto a plain where we had enough to really work with. I also got Congress to pass authority letting us lease our own buildings. Our most critical need in those years was to be able to pay the professionals here higher amounts. The year before I became Chairman, I think the agency had a 14% attrition rate and we cut it to 3% during

## At the Crossroads of the White House and the SEC

---

June 2, 2016

my time, but I fought every day to try and get more authority to either pay bonuses or special senior executive awards. Working both to get Congress to exempt us from pay caps, and while we were trying to get relief to let us pay our most critical people more so that people will always leave the agency when they think the time is right and they have other professional opportunities. But you don't want the people who are critical to helping the U.S. capital market, the biggest in the world, function effectively to be driven out because they can't afford to support their family.

We weren't totally successful but we were able to make a dent in that and get resources for electronic networks. I was the first Chairman ever to have a computer in his office. We had two machines in the entire Commission to give market quotes and one was in the hallway outside of Market Reg and one was I think in Enforcement. We had a mini-crash my second day in office and people were running up and down the stairs with pieces of paper what the Dow Jones was now down 100 points, five minutes later ran up the stairs, down 110 – why don't we have a terminal? So we put in terminals, we got every professional in the agency a computer which they didn't have when I got here. We had the first email networks and so on, which some may consider a blessing; others may consider less of a blessing.

We did a lot of modernization. Behind those big budget numbers are realities. You're trying to keep pace with a highly technological market and we were doing it with pencils and paper and the abacus, where you make the bead go back and forth. I never knew how to use one of those so I needed a terminal. We were able to try and keep pace. The Commission is never going to have the technological resources of the people it regulates, but you shouldn't let the gap get too wide.

**Dr. Hohenstein:** You've talked about some of the challenges the SEC faced by being attacked from all sides in different areas. Talk about that briefly, about the challenges the SEC faced during your time here from all different angles, all different sources.

**Richard Breeden:** Mary Jo commented on it in her remarks and it's probably always true. The Commission has no shortage of critics and they're not bashful about being vocal. I'd always liked The Wall Street Journal on their editorial page but it got to the point where I had to give up reading it because they were bashing what we did, what seemed like every single day. You had a wing of the academic community that thought insider trading is good for you and we should do it more often, and then it got information out of the market, don't worry about corruption. I think the Commission always attracts critics who are opposed to any form of regulation and in particular regulation on flows of money and capital. Let's face it, what the Commission regulates I would argue is probably a little more important than the people who regulate beekeeping, although the bees are very important, and people who regulate the Patent Office, patents are very important. But we're dealing with capital

## At the Crossroads of the White House and the SEC

---

June 2, 2016

markets that are so dynamic but have to be kept under control, from a stability point of view, and have to have good disclosure and risk to investors.

We had constant critics, every rule, you're doing too much. On the outside, academic community, political community, a certain group that would bang us on everything, there were people in the markets that liked to criticize us, rightly or wrongly. I think some of the criticism that the Commission may get from time to time is that its rules are outdated or don't work the way people want. You should listen to the people in the markets who point out rules that are not working as well as they should. We had criticism from some people in Congress although it really was not big. I would say we generally had outstanding relations with most of our oversight committees and leaders in Congress. We had some issues with Senator Phil Gramm while his wife was chairman of CFTC, but that was a function of a limited issue.

It generally was not an issue of Congressional attack; we were pretty good with Congress. The academic community was very harsh. I freely admit I'm not as smart as most professors. When you talk to professors, they all universally think regulators do not know as much as academics and maybe that's true. But they sometimes are climbing up the ivory tower and not as practical as they need to be. We got a lot of criticism from the academic world, there is just no shortage of it.

Going back to what we were saying at the outset, the President said go do what you think is right, not what you think is popular. It was a constant inspiration for me during that time. You get criticism from these people and that, and a lot of the criticism of course is people talking their own book, people who have an economic interest that you're getting in the way of, people who would like to sell a fraudulent security, people whose companies are failing and they don't want to tell people about it. People who are making a lot more money from their shareholders than they've told their shareholders about, but people who have an economic interest the Commission's rules hopefully when they're working engenders a lot of criticism by – I wouldn't call them all "bad guys" but by regulated folks who sometimes get a burr under the saddle. Some justified, some not, but in the end you have to ignore it. You have to listen constantly listen and demand of yourself, are they right? What's their argument, what's the support for and what's our answer? We tried to in my era as I'm sure happens today, we tried to always evaluate the criticisms but the fact that there was a disagreement, well that's just fine.

I should have added to the list huge disagreements with our European colleagues, fellow regulators and gargantuan debates with the banking regulators, but you know it was nice. The Cold War ended, we didn't have the Russians to fight, so we had bank regulators to spar with. It was just a clash of different cultures and worlds and you had the sector of the

## At the Crossroads of the White House and the SEC

---

June 2, 2016

financial market underneath the public safety net, and it's entirely appropriate and necessary and vital to an economy. People have to have a place they can put money and have it be safe, the capital rules didn't do a very good job of that, but it's important. While on the other hand we talk about protecting investors, but the one thing we can't protect investors from and should never try to protect them from is risk taking. The capital markets exist so people can take risk, not so that we stamp out risk in the name of stability or whatever else rationale, but you have this less more restrictive protected sector and then this free market sector where people are free to take risk. If they are like Drexel and they run out of money, they're going to be closed and they need to be free to fail, because you cannot have a vibrant capitalist market economy if people do not fail. You have to be free to succeed and to fail.

You have these two very different worlds, so we would occasionally have some criticism back and forth. We were very fond of the idea that banks should not be free to cherry-pick their bond portfolios in order to boost reported earnings by looking through all their holdings and keeping the ones that have gone down in value under cost accounting and then flipping the ones that have gone up in value and producing gains trading and distorting their financials. We suggested to our colleagues in the bank regulatory world that we thought portfolios of marketable securities should mark to market. Got criticized a lot for that. There were lots of issues, every day, criticism, heaped on criticism and you know when you do the right thing don't expect for people to call up and say thanks, but you hope 25 years later you look back and say we did the right thing.

**Dr. Hohenstein:** We have about ten minutes left so let me just ask you a broad question. This relationship you've described coming out of the White House, coming out of a political office into an independent agency and then being able to act on a mission that has more than one people agreeing with it, but in what seemed like in a political way. We don't hear much these days, it seems like we're counterintuitive but that seems central to the success you had and the SEC had during your tenure. The ability to do the right thing, as you had mentioned, to follow the mission, to make sure the markets are open. This is something that seems like a lesson that we should learn. I'd like your opinion on that and whether it's an anomaly because of the relationship you had with the President or whether it's something that might be possible.

**Richard Breeden:** A great question. Independence itself is an unusual paradigm in the broad scheme of government. The executive branch, most of them are cabinet agencies headed by people who can be fired at any time at the will of the President and where there is a hierarchy and where cabinet agencies are not allowed to issue a rule or to spend money or to do things without approval. Clearance of Congressional testimony, for example, I

## At the Crossroads of the White House and the SEC

---

June 2, 2016

testified for 55 or 60 times in front of Congress. If I had been leading a cabinet agency, every cabinet officer's testimony has to be cleared by the Office of Management and Budget, so it comes in, it gets reviewed, people in the White House get to say, no, no, no – you can't say that, don't say that, change this and there's a clearance process before testimony is given. At this independent agency, I didn't submit my testimony for a clearance, which is a good thing because most of the time it wasn't finished until about 30 seconds before we gave it.

The independence that the Commission has is a wonderful asset and it reflects wisdom of the framers and the enactors of the securities law, and of course independent agencies were a bit of the vogue in the '30s. Independence is a wonderful thing, but independence cannot ever be absolute if you have someone who is appointed and they go seriously off the rails and are repeatedly leading an agency in directions that are opposed by the rest of the government. Then there would be a reaction, either the person gets changed or the independence gets diminished, something will happen.

There's a yin and a yang, there has to be a balance of making sure that an agency is carrying out the tasks its charged by law with doing, but doing it in a way that commands a consensus that the agency is being effective. Because of the relationship that I personally had with the President, I had certain latitudes that somebody else might not have had, and that was good, it made things easier and was nice, but it's certainly not a historic given and not necessary.

But the bigger asset I had than that, and this is the President I worked for and no criticism intended for any other President but I worked for an incredible man, and George Herbert Walker Bush who, what you read at the outset, is the greatest man I've ever known and I think history will look back and say, there have been many fine Presidents of the United States but there has never been a President of the United States with a finer character than George Herbert Walker Bush. That was the greatest blessing I had of here was a person who was very sensitive of the evils of over-regulation and we regularly worked to make sure that our regs, we would go through and clear out the underbrush of rules that were no longer necessary or that were too Mickey Mouse, no offense to Mickey. That were too broader than necessary, more costly than necessary. For every rule that we were adding, we tried to make sure is there a rule out there we should take away. We spent a lot of time thinking not just what should we prohibit but what should we enable, what products can we create, how can we help small businesses raise capital. How can we help big businesses raise capital more effectively?

We had a terrible problem in those years with Japanese companies being able to raise capital in their markets at lower cost than here and that would translate into the global

## At the Crossroads of the White House and the SEC

---

June 2, 2016

competition of whether our companies or theirs were more successful. Obviously you want to have the country's economy be successful, so an awful lot of factors go into decision making. Within a mandate of do the right thing and a President that trusted my judgment, I had the benefit of this tremendous group of talented senior staff that I felt could have run any agency in government successfully. Really, really brilliant people, it was my great privilege to work with as well as down the ranks.

The SEC is not infallible, but it starts with a huge advantage of depth of knowledge and experience. You hope all those factors translate into now how do you handle today's mandates and law that would have driven me berserk. It is just wrong, but I had 1,300 Congressional letters a year saying you should do this you should do that, and each one of them if they came from people the appropriations committee had or your oversight committee had, come with a certain mandate of you should put this issue on the top of the pile, no matter what it pushes to the side. You have to manage those things. The SEC can't ignore Congress and shouldn't, but you also can't be a doormat, you can't just say come substitute your judgment for ours. If you want to do that you need to come over here and work. So, the constant balance.

**Dr. Hohenstein:** One last question here. We are in an election cycle. It's presumptuous to give advice, but if you had to advise whoever the next President is on the talent and qualifications of the next Chairman they should pick, what would be the most important or significant characteristics you think that person should possess, or mission that they should be given?

**Richard Breeden:** Well making America great again is such a challenge – but it's really an important goal and one that we should lose sight of. I don't know who's going to win. I actually served as Bill Clinton's Chairman for six months, so I had the experience of working in both a Republican and Democratic administration.

I think Mary Jo has been a good model of a modern Chair and a really effective one but there have been lots of good Chairmen. You have to be appropriate to the times. I wouldn't presume to advise in detail but I think it's terribly important that we remember the positive side and not just the restraining side. You have to go after the crooks, the people who deliberately abuse the markets, put fraudulent securities, the Madoff's of the world, the people who manipulate markets.

The bad actors need to always be afraid of the SEC. I used to say to the staff that I wanted the bad guys out there to think of their mental image of the SEC as a hungry Siberian tiger with a chain around his neck but the chain was pulling out of the restraints on the wall, and

## At the Crossroads of the White House and the SEC

---

June 2, 2016

that he might get loose. Bad actors should always worry that the SEC is going to come get them.

I gave a talk one time and said, if you cheat investors we're going to come after you and you can take that to the bank. And that should always be the case, this is not let's worry about interest rates and think about economic theories, we are a law enforcement agency.

**Dr. Hohenstein:** Positive advice.

**Richard Breeden:** That has to always be part of the mission, but at the other hand if all we do is punish and all we do is restrain then we lose a tremendous amount. We always have to look and say, has new technology enabled things, like crowdfunding, that might be terrific? It may be a radical change from how we have run corporate finance since 1934, but everything else we do in today's world is different from 1934, so why shouldn't how we do equity offerings be different? We should never get to the point where we are so enamored of our history that we are not willing to think outside of the box and we're not willing to break the mold, but only when we're sure it will work.

We had these huge debates on the global markets over capital rules and stock exchanges in the crash in '87. The Hong Kong market closed for over a week. Ironically, the U.S. had just come through the savings and loan crisis where capital was too low and nearly destroyed our market. We had the Brits and all these countries pushing us to lower our capital rules because there were certain countries whose companies didn't have the capital so they wanted a lower rule. We said you can have a lower rule if you want but I'm not going to lower it in America. They would sit and say we can't afford to take chances. I said Hong Kong can, no slight to Hong Kong, a wonderful economy, but if their stock market closes for a week, their economy doesn't shut down. The U.S. can't afford to have an outage that goes on for a week. There is too much money that is being temporarily frozen, and unlike countries that rely on their banking system for almost all finance, if you stopped for a week or a month, the U.S. market would have serious problems. It would affect the U.S. GDP significantly.

In our world you've got to make sure things work, but never stop thinking about what's new. We authorized almost all the electronic trading systems for the first time. Congress criticized us and said all the exchanges in the '34 Act are supposed to be mutually owned. I said it doesn't literally say that so we're going to authorize some ones that are not. Maybe it'll work, maybe it won't, but the agency has to couple a relentless dedication to upholding the law and preventing fraud and making sure the rules about transparency are enforced with, on the other hand, understanding that our capital market is what it is because people can take risks, they can do innovative things and investors will not always win. You can't

## At the Crossroads of the White House and the SEC

---

June 2, 2016

have a market where people only make money and never lose money. Protection doesn't mean nobody ever loses money, but it means the choice and full disclosure so people can go out and make their own decisions.

I think when you look through history, the Commission has most of the time gotten it right. No group of people will ever get such a complex balancing perfect, consistently always, but the thing that makes me enduringly proud to be an alumni of this agency is how superbly each generation of Chairmen, Commissioners and staff have faced those challenges and tried to balance those issues, and hopefully always will, always have the courage to say we're going to go out and we're going to tackle the problems whatever they are, because this market is the best and most important on the planet Earth and we have to keep it running.

**Dr. Hohenstein:** Unfortunately we're out of time. I want to thank you all for coming and participating. Thank you very much Mr. Breeden, it's been a pleasure.