

SEC Historical Society 18th Annual Meeting Securities and Exchange Commission

Dan Goelzer:

Welcome to the 18th Annual Meeting of the Securities and Exchange Commission Historical Society. I am Dan Goelzer, I am the 2017 president of the society. We also have Dave Lynn who is the chairman this year here with us today. On behalf of all the members of the Board of Trustees I'd like to welcome everyone to the meeting.

The SEC Historical Society's mission is to preserve and advance knowledge of the history of financial regulation. We accomplish that mission through our Virtual Museum & Archive which is available at www.SECHistorical.org. The Virtual Museum includes galleries devoted to specific topics, papers, oral histories, archive webcasts of programs like this one, photos and other materials that illuminate the evolution of financial regulation over the years. The Virtual Museum's collection is always available free of charge to anyone with internet access. The Museum had over 1.1-million visitors in 2016. If you haven't already done so I certainly hope that everyone in the room here today and everyone listening to the webcast will visit the Virtual Museum and see how it can be of use to you and informative to you whether you're a student, a professor, a researcher, a practitioner, a regulator or just someone who's curious about how the financial markets and the regulation came to be the way they are today.

The Historical Society isn't affiliated with the Securities and Exchange Commission or an independent nonprofit organization. However much of the Museum's focus is on the remarkable men and women who have served at the commission over the last eight decades. Each year we hold an event like this in early June at the Securities and Exchange Commission to mark the passage on June 6, 1934 of the Securities Exchange Act. The '34 Act of course created the Securities and Exchange Commission and transferred responsibility for administering the original piece of the federal securities laws, the Securities Exchange Act of 1933 to the new SEC.

On behalf of my fellow trustees I want to thank the commission and staff for once again hosting here at the commission.

This year marks something of a transition for the Historical Society. In March our long time executive director Carla Rosati departed after 16 years with us. We're very fortunate to have persuaded Jane Cobb, also here with us today. Jane is an SEC alum like many of us involved with the society. We've persuaded her to serve as our new executive director. We're taking advantage of Jane's arrival to step back and think a little about what the society is and what it can be and where we should be devoting our time and resources.

As part of that process the trustees met a few weeks ago to discuss strategic priorities including making the visitor experience to the Virtual Museum as optimal as possible. We think it's pretty good right now, in fact visitors to the Virtual Museum tend to stay about 30 minutes compared to 30-second stay for the average website visitors but we still want to make sure that visiting the Museum is as rewarding an experience as possible. There has certainly been a lot of innovation over the last 15 years in the way that people consume information is changing. The Museum's collection is exceptional but we want to make it as user friendly as possible.

The society traditionally uses these annual events to highlight some aspect of the commission's history. Thanks to generous supporters like Hardy Callcott and Investment Company Institute we're currently building a new gallery on investment company regulation. As part of constructing that gallery we're pleased to be able to bring together today three distinguished former directors of the Division of Investment Management; Paul Roye, Buddy Donohue, and Norm Champ. They're going to be discussing market dynamics that shaped regulatory policy and decisions during their tenure and how those decisions impact the industry and investors today. Dr. Kenneth Durr of History Associates is going to be the curator of Investment Company Regulation Gallery and he'll be the moderator of the discussion.

Finally we also have another tradition at these meetings that we'll be continuing today. After the program we invite everyone in the room to join us for ice cream in the main foyer outside this room. In lieu of a toast we're going to use ice cream to celebrate the SEC's 83rd anniversary. Those of you listening to the webcast will have to get your own ice cream I'm afraid.

With that I want to turn to today's program, as I said our moderator will be Kenneth Durr. Ken's a historian specializing in post WWII economics and politics. He's executive vice president of History Associates in Rockville, Maryland and has been working with the Historical Society on galleries and oral histories for about 12 years, since 2005. Ken on behalf of all the trustees thank you for all the work that you've done for us and your contributions to making the museum what it is, and I'll let you introduce your panelists and with that turn the floor over to you for today's discussion.

Thank you.

Kenneth Durr:

Thanks Dan. As someone who has spent the better part of the last year working my way through the very tangled history of investment company regulation I'm thrilled to have three directors of investment management with me today to talk a little bit about their experiences. Paul Roye is currently the senior vice president of Capital Research and

Management Company; he was the director from 1998 to 2005. Andrew “Buddy” Donohue was the director from 2006 to 2010 and Norm Champ currently a partner with the investments fund group Kirkland & Ellis and he was director from 2012 to 2015.

We’ve got quite a span of time that we can go through today, but I want to start by kind of setting a baseline a little bit and setting the stage for what follows.

To begin with what is it about the Investment Company Act, the ’40 Act that we should know about that we should think about that’s different from the ’33 and ’34 Acts, and Norm let me toss it all the way down the table to you.

Norm Champ:

Great thanks Ken and thank so much to the Historical Society for having us all here today. I look forward to talking about what I would argue is the most successful of the four federal securities laws as far as retail investors go, so why is the ’40 Act, Investment Company Act, different than the other Acts?

1933 Act and 1934 Act are mostly about disclosure and making sure that investors in public companies or investors in markets and people on markets and brokers are all disclosing the relevant facts to investors. The ’40 Act is distinct because it is much more prescriptive and much more focused on protecting investors. It is certainly disclosure statute but it’s also a statute with very defined rules to make sure that retail investors are getting the bargain that they want when they invest and is protective of those retail investors. I think that’s what distinguishes it from the others, even the Advisors Act also passed in 1940 is really a principle’s based regime, although it has become more prescriptive over the years but one that is trying to make sure that certain principles of advisor behavior are met.

The ’40 Act instead lays down very strict prescriptions, things that protect investors and the reason I would call it the most successful for retail investors is if you think about it about half of all America accesses securities markets through Mutual Funds and particularly since we have moved in this country from a pension based retirement system to an individual retirement account, 401K system, more and more retail investors are accessing the markets through Mutual Funds. Their retirements are now in Mutual Funds that are in those tax free accounts, and the industry has grown exponentially because of that, so Mutual Funds continue to grow and have grown tremendously since that evolution in retirement, and it remains a tremendously effective way for retail investors to get market exposure but in a way that is meant to protect them and make sure that advisors and funds are not doing things that are harmful to their interest.

I think about when I was at the commission and we traveled all around the world to non U.S. jurisdictions to talk about markets and funds, and really the place that our funds occupy that the '40 Act has created in our system is really not replicated anywhere else in the same and what it has done to spread market exposure and the returns that are possible with that exposure to the retail investor is really unprecedented and something the commission and all the staff here should be tremendously proud of.

Kenneth Durr:

Buddy something we hear a lot about is exemptive orders and exemptive provisions of the '40 Act.

Andrew 'Buddy' Donohue:

Yes, to add to Norm's point, I think when you think of a statute that was passed in 1940 and still is very vibrant and works as well as the '40 Act does in the market place and in the protection of investors, the secret to that from the regulatory perspective is the ability that was put into the '40 Act for the commission to provide exemptions from its provisions, either the 6 (c) provisions, or the ability to provide either by rule or by order, the exemptions from the provisions of the '40 Act.

It has really allowed the '40 Act to grow and to adapt to changing circumstances and markets and products that otherwise would have been problematic under a statute that did not have that provision. I think that has really allowed the '40 Act to continue to serve its important purpose through the years and has allowed for innovation such as Money Market Funds and ETFs that otherwise would have been problematic under the '40 Act. So that differs a lot from some of the other statutory regimes where the ability to provide that exemptive relief wasn't provided in the initial drafts of the statutes, so it's been extraordinarily important and what we'll be talking about today.

Did we leave anything for you to talk about Paul?

Paul Roye:

A little bit. Let me just thank the Historical Society for the opportunity to be here. It's good to see some former colleagues here as well.

As Buddy and Norm pointed out, the '40 Act really is an amazing piece of legislation. I think it has fostered, as Norm pointed out, the growth in the industry. I think for 60 plus years the investment company industry, with the regulatory oversight of the SEC, largely avoided any kind of scandal or issue and if we look around the securities industry as a whole, other aspects of the industry were from time to time getting into trouble and having issues. But I think the prescriptive nature of the provisions, again going back to the history of the

statute itself, when the statute was framed based on an investment trust study done by the SEC ferreted out abuses that were happening in the '20s and '30s with investment companies and put in those prescriptive provisions but also recognizing as Buddy pointed out that circumstances would change, industry would change, things would evolve. There's something like 33 exemptive provisions at least in the Investment Company Act, as Buddy pointed out. The most sweeping of which is Section-6(c). It wasn't until 1996 that the '33 Act and '34 Act got 6(c) type exemptive authority. I think the industry and retail investors have really benefited and the industry has flourished as a result of the statute and the SEC's administration of the Investment Company Act.

Kenneth Durr:

Alright, so having talked about the fundamentals a little bit, let's go through the history which is the good part. Particularly the time span that we're talking about here was kind of kicked off by someone I know Paul that you remember well, Eliot Spitzer. I want to start by talking through the late trading and market timing scandals and how the SEC responded to that and sort of get a sense of the size and what it was you were faced with at that point.

Paul Roye:

I said 60 plus years without really a blemish on the investment company industry and unfortunately during my tenure, I was at the commission at the time of Enron and WorldCom that led to Sarbanes-Oxley. You had the analyst issues and the big settlement with all the major investment banking firms and then on the heels of that, on Labor Day 2003 we got news that Eliot Spitzer threw a tip, came across widespread fraudulent trading in the investment company industry.

It was a hedge fund that was late trading and market timing and it appeared at that point that it was doing that with the cooperation of various mutual fund companies and intermediaries that were selling mutual fund shares.

That of course kicked off maybe the most intense look at the mutual fund industry in the industry's history. At that time William Donaldson was chairman of the SEC. We launched an aggressive examination program and unfortunately that led to a number of enforcement actions. I think something like eight or nine of the 25 largest investment management firms were implicated and a number of major intermediaries were implicated. When it was all said and done there were significant fines and penalties, I think over \$3-billion as a result of that. And again coming on the heels of Enron, the analyst scandal, this was obviously a very important issue for the Congress.

In a one year period we had 15 congressional hearings focused on the mutual fund industry, and Jane Cobb who is the new head of the Historical Society got us through those

15 hearings. There were eight bills introduced to reform the mutual fund industry. Never let a good scandal go to waste. And so it seemed like every potential proposal that people could think up regarding the mutual fund industry was reflected in those various bills. They included taking away the SEC's authority to regulate investment companies and there was a proposal to create a separate agency called the Mutual Fund Oversight Board to regulate mutual funds. There were prohibitions on what mutual fund managers could do. One bill barred mutual fund managers from managing other types of vehicles. There was another provision that would have subjected the investment company industry to the RICO statute, the racketeering statute. So a wide range of legislative ideas floating around and hearings all put the commission under a lot of pressure. I think to Chairman Donaldson's credit, we put in place an action plan both from an enforcement standpoint but also from an aggressive rulemaking standpoint. And again this goes back to what we alluded to earlier, the broad authority that the SEC has to respond to changing circumstances.

In a seven month period, the Commission actually acted on 13 rulemakings, some of which were final rules; all part of the chairman's action plan to respond to the late trading and market timing scandal. Significantly, we put in the Chief Compliance Officer rule, the requirement for funds and advisors to have comprehensive compliance policies and procedures overseen by a Chief Compliance Officer reporting to the fund directors. There were also, a range of responses to the problem from improved disclosure, to enhanced governance provisions, as well as provisions designed to deal directly with the issues raised in the scandal.

I think looking back on it, it was, a very intense period for the commission. The staff did an incredible job responding and consequently even though there were eight Bills that were introduced and one actually was passed by the House of Representatives, the Congress I think viewed the SEC's response as aggressive and effective and therefore there was no legislation that impacted the industry.

Kenneth Durr:

You talked about 13 rulemakings but in the end a lot of it came down to governance and that really became the pivotal issue with the Chamber of Commerce decision. Why was governance really at the heart of what the SEC was doing at that point?

Paul Roye:

Investment company governance from the very beginning was an important issue and as Congress crafted the statute, it laid out a role for independent directors. They were viewed as the watchdogs there to protect the interest of investors, so it was reflected in the statute in 1940. Chairman Levitt when he came in undertook an initiative to really strengthen the governance framework and enhance the role of independent directors. And then when we

got to the late trading market timing scandals it was clear in some cases that the fund directors had been duped, they had no idea that these kinds of late trading and market timing issues were going on. But it also again raised the issue of whether or not there was effective oversight by independent directors and whether we could strengthen the hand of independent directors, and so we came out with another round of governance proposals that spurred initiatives by the ICI to do best practices on governance which a lot of the firms ultimately have adopted and incorporated.

The ICI created a separate independent directors group to raise the educational standards and knowledge base of independent directors. David Ruder, former chairman of the SEC created the Mutual Fund Directors Forum, again another educational organization for fund directors. These efforts raised the standards overall and I think we all benefit from that to this day, but I think the sense was that we needed to take action to really strengthen the hands of the independent directors in the boardroom to make sure that the right questions were getting asked and that they could fulfill their oversight responsibilities.

Some of the provisions were challenged in court and we didn't prevail but I think overall it was a good effort in terms of pushing the oversight function forward.

Kenneth Durr:

Buddy, did that emphasis on governance continue during your tenure?

Andrew 'Buddy' Donohue:

During my tenure I used to refer the fund governance really as the third rail which was you were never sure from which direction the current was going but you always knew there was current in that rail.

I have viewed corporate governance and I think it's an extraordinarily important thing, but what a lot of people don't realize is that investment companies are creatures of state law and there's an overlay on that of the Investment Company Act and the specific responsibilities that are provided to those directors. There's a provision in the '40 Act regarding essentially that 40% of the directors have to be independent. Over the years there's been an increasing of the responsibilities of the directors, but also how they operate and so there's a philosophical divide regarding where the state law ought to be governing that or whether the SEC should be imposing its view in terms of how boards operate and what the Board composition should be. While the statute says 40%, exemptive rules that funds have to rely on, originally required that independent directors be a majority and subsequently imposed other requirements, on the fund boards and their operations.

If you were touching any of the areas that concerned those exemptive rules in any way the issue of corporate governance would be coming up. I always thought that was kind of a

shame because it got in the way of modifications that might have been appropriate to some of those rules, because the issue of corporate governance would come to the top. While I would say it was philosophical there were strongly held views among commissioners about what the right outcome should be so the debate would switch, at least in my view, from the propriety of what you might want to do to really the issue of corporate governance, one that I didn't think was necessarily going to be solved during my tenure. I thought that was somewhat unfortunate but I do think it's an extraordinarily important issue and I agree with Paul that I think there has been great advancement and I think while there had been objections particularly to the requirement for independent chair and for the other requirements.

Ultimately if you go look now at the composition of fund boards you'll find that the vast majority meet those standards and so the industry has really gone there in any event even though the provisions that would have required that have changed. I also think that from the industry's perspective the need to really have strong independent directors has been recognized by management because that is their first line of defense when in fact there might be litigation on a number of issues. To have a strong vigilant group of independent directors that have asked the right questions and reached a business judgment is a pretty good defense for management when a number of issues do come up.

Paul Roye:

I would just pick up on Buddy's point about the director's role being governed by state law. I think we kind of crossed over and imposed additional requirements when we did our rules. I get to see in my own firm how these things are working. So we have independent board chairs and I think that works very well. With the board chairs running the meeting and setting the agenda; he or she can reach out to the other independent directors and understand what they're concerned about. The boards go through a self assessment process which is required in the rules. How can they be more effective in their job? They meet in an executive session without management being there. We also had the independent counsel requirement in the rules where if they have counsel, that lawyer can't also work for the management company. And when you think about fund directors and think about funds, the funds have no employees. The directors are dependent on the management company for information and often times interests are aligned, but at other times it's up to the board to push and ask the right questions with their own independent counsel. With the directors having the tools to function independently as Buddy points out, from our perspective we view that challenge as a good thing and that ultimately we get to better outcomes and better results.

Andrew 'Buddy' Donohue:

One of the challenges I think that you and the commission had in passing those changes was its really hard on your economic analysis to be able to show that independent chairs or 75% of independent directors was related to outcomes that were being sought. Even though intuitively I'm sure you felt that was the right answer that is I think one of the challenges in the corporate governance area, probably not just for investment companies but elsewhere in terms of being able to demonstrate the benefits that economically would be derived from that change.

Paul Roye:

That's a good point and when we were doing this we got questions like – the funds with 75% independent boards, boards with independent chairs, are their results better than other funds? We had our economist look at that and the results were inconclusive but at the same time we were looking at a third of the largest investment management firms engaging in late trading and market timing, and you had to have a sense that something was wrong.

Andrew 'Buddy' Donohue:

I wasn't being critical in that sense but rather talking about some of the challenges that you wind up facing.

Norm Champ:

I think the other piece of it though, we've talked a lot about process and so you had so many of these reforms that were around process, so independent chairs and counsel and all the things that came out of this that improved the process of governance, let's say.

The piece that I think has probably not been focused on that potentially the commission might want to take up as we move forward is really the substance of what we are asking the boards to do. The history has been both before the late trading crisis and after, the tendency has been to add duties to the board. So all three of us worked on lots of rulemakings where various commission dynamics or whatever was at work, you couldn't necessarily get to a prescriptive answer you got to answer of we'll have the board supervise that or we'll have the board review these trades, or we'll have the board do this or we'll have the board do that.

I think I can safely say that throughout rulemaking by the division we have only added to those duties by the board and I don't think we've ever subtracted from what we ask boards to do, so if you've attended a board meeting and seen the kinds of reviews that boards are trying to do and the volume of material. So the boards that once met one day each quarter are now meeting two days and then three and then four and then meeting six times a year. We are asking a great deal of works on the substantive side and I think and open question

is whether every single one of those things we're asking boards to do is the right use of their time and the appropriate oversight for the funds. Particularly as both Buddy and Paul mentioned, state law fiduciary duties do apply to these directors so they have that duty and one of the things that has aligned the commission with the Mutual Fund industry other than those scandals has been the commission's duty is the same as the board of directors of the fund to protect the shareholders in the fund.

I would like to see the commission think about all those substantive requirements particularly because now we've moved to a realm where directors have been held liable for failing to meet some of these substantive requirements. So the Morgan Keegan case in 2012 brought by the Asset Management Unit of Enforcement is an example of in fact the commission is holding the boards to these requirements, and we would probably agree that's a good idea. The board should execute all the things we've given them but again are these really the right use of directors' time, are there things that directors are, are these matters that directors are in fact capable and equipped to pass judgment on and to make sure things are being done the way they should be done.

If you think about the directors are only there again maybe six times a year, management as was mentioned is there every day and is really the folks that are responsible for the day to day and for carrying out the duties. And so I think we've got to clarify a little bit for boards both the substance of what they're doing and their role vis-à-vis management and how much has the commission really asked of them to substitute for management and is that appropriate.

Kenneth Durr:

We've talked a lot about process here in governance in particular. I want to sort of get to the next big change which is one in a product, and I think at the beginning we spoke about how the '40 Act allows for the kind of innovation that we've seen in Exchanged Traded Funds, become a matter of concern to the commission in the mid 2000's something like that. Buddy I think you were probably in the driver's seat or in the passenger's seat when that was coming in. Tell us a little bit about that.

Andrew 'Buddy' Donohue:

ETFs, it's a good way to put it I probably was on the passenger's seat. There's enormous talent that was existing inside IM that was dealing with the issues arising from Exchange Traded Funds. And, of course, without exemptive relief Exchange Traded Funds would not have been possible. Redeemable securities that are not redeemable are problematic, and other issues that also arose with ETFs. I actually went back and looked and we had proposed a rule in March of 2008 that would deal with ETFs. Paul I think in 2001 you probably had done a concept relief on ETFs in particular actively managed ETFs.

I went back and looked and the release in 2008, it actually spoke about the fact that in 2007 the number of ETFs went from 357 to 601 and they now had \$580 billion of assets under management, kind of a huge growth, anticipated growth. And of course the division was being inundated with requests for exemptive orders that would permit competitors to those ETFs to start up their own ETFs. So that's one of the areas when you're seeing that, we look and say okay we've had a number of exemptive orders, we've provided this so we can do a rule so that new applicants coming in would not have to go through the hassle and the expense and the time delay really of securing the exemptive orders.

If you felt that you had developed the expertise really to appreciate what issues needed to be addressed and the best way to address them as you were going through the evolutionary process of the exemptive orders. And so in 2008 we felt like we probably had reached that point. I likened it to trying to get on a moving train and the train was moving pretty fast. We got on and I looked back and said why didn't that move forward? I would point out that there were a couple things that did develop I think that would have made movement on that particular rule proposal problematic.

The first thing is that it was in March of 2008 and so as we all know in fall of 2008 it seemed like the world was coming apart with the problems on Wall Street and Lehman Brothers bankruptcy and Reserve Money Market Fund issues and a lot of other things that needed to be dealt with.

The second thing was related to particular types of ETFs, and in particular the leveraged and the inverse leveraged funds that don't behave that well when there's a lot of volatility in the market place. I would point out that there was an investor alert that was put out in August of 2009 that actually pointed out some of the issues related to those so investors would be aware. For an example what was cited there was that you had from December 2008 to April 2009, so relatively short period of time where you had an index that was up 8% and three times it was actually down 53%. So think of this, you're up 8% you're supposed to be three times you'd think you should be up 24%, no you're down 53% and three times the inverse was down 90% , all caused by volatility.

In that environment it would be extraordinarily difficult to adequately address the issues and come out with a rule adoption during that period. Those numbers actually I think also help folks understand a little bit on why there was a moratorium put on the exemptive orders during that period of time for ETFs that expected to utilize derivatives to a significant degree. There are findings that the commission needs to make or on a delegated basis that the division needs to make in terms of being in the best interest of investors.

I did think it was problematic to try and make those determinations when you had outcomes such as I just described. So interesting time and I think up here you have a number of folks who had to deal with ETFs throughout the years. I think the exemptive

order process has been significantly streamlined and I think that's been helpful. But I think there is probably enough out there that hopefully it can move forward and go back and look at the ETF rule and proposal and see whether or not it can be modernized and moved forward.

Kenneth Durr:

I guess for the non-specialists out there it's important to point out that each fund had to have its own exemption under the '40 Act.

Andrew 'Buddy' Donohue:

Well it started out that each fund initially had to then it went to the group of funds actually could come out with new ETFs. And so ETFs are interesting in that they generally also need listing requirements from the exchanges that they're going to end up being listed on. Norm, I think you had the privilege really of trying to deal with some of the issues that arose from that in a shortened timeframe that I think the listing standards had to wind up being dealt with. There's a lot going on in ETFs and I went back and looked and interestingly I think as of April 17 there's over 1,700 ETFs with about \$2.8-trillion of assets. For those that are out there people that are less familiar with it, I'd point out and there's probably some I don't know about but there's at least four different types of products out there that people think of as ETFs.

You have ETFs that are really '40 Act investment companies, you have Exchange Trade Notes that are put out by some firms, you have Exchange Trade products some of which are really the equivalent of commodity pools that are listed and out there, and you have Exchange Traded Managed Funds which is kind of a new version that Norm I guess you can help take credit for that. But they're all basically referred to as Exchange Traded Funds even though they're of different models and at least two of those, Exchange Trade Notes and the Exchange Traded Products are really not investment companies.

Norm Champ:

But the Investment Company ETFs Ken to your point still do require the exemptive relief and I think the appeal of the so-called plain vanilla ETF rule over the years has been should funds really incur the expense required to get counsel and essentially go back to the last approved ETF exchange application and dupe that and change the names then file looking for exemptive relief for essentially what has become a fairly plain vanilla or rootenized set of index based ETFs. And just for clarity we're talking about the idea of a plain vanilla rule so that if you were going to have an index based ETF you would have an exempted rule that would allow that to be started without an exemptive app. Not the more complex ones like you were talking about, I think the leveraged and the inverse and so forth, I'm not sure

anyone is proposing that we have a rule for those to be done without exemptive relief. But the cost of obtaining exemptive relief, why do funds have to pay that when we really have gotten to a point where there's a pretty standard index based ETF. I think that's something as we look forward here potentially into more deregulatory environment, is that something the commission might consider in the ETF realm is to go back and read, is the plain vanilla work.

Andrew 'Buddy' Donohue:

So you want to adopt a regulation during the deregulatory environment?

Norm Champ:

This particular rulemaking would be deregulatory, now would account for removing two rules if you add one rule. I don't know we'll have to see how that test would be administered. But I do think it's a fair question in the environment and to think about lower cost. On the flipside of this as Buddy is pointing out there's been tremendous growth without a plain vanilla rule so it is happening but it is happening with cost that potentially that funds don't have to incur so we'll see whether there's any appetite on that at the commission. I think it has been a pretty live idea when Buddy was director it was certainly a very live idea when I was the director, and we worked on it quite a bit. I think a theme kind of running through these topics though is that obviously external events come along and they have a habit of kind of pushing to the side some of these more bridges and tunnels or efficiency type rulemakings because something happens and you end up having to deal with whatever's happened. And so we seem to always not quite get back to these rules that would make things easier and you wonder now maybe if "knock on wood" if we have a time when there aren't other events, potentially there could be a focus back on some of those rules that would help ease the process for launching ETFs.

I think Buddy referenced the listing standards, I certainly not a fan of very much in the Dodd-Frank Act, but I would say that shortening the listing, the time for trading markets to decide on the listing applications that go with the Exchange Traded Funds certainly has had the effect of speeding up the entire process around ETFs and that's been a good thing. So we have firms being able to get through the process more quickly because of the time limits that Dodd-Frank put in place, and so that has as Buddy alluded to, that's certainly got the Exchange Traded Managed Fund application moving along because they did file their listing application. I think in that case it is a real hybrid, so the Exchange Traded Managed Fund is not the traditional ETF, it is a Mutual Fund that trades with a spread so it's a slightly different animal.

I think again back to our theme of innovation, is a fund manager coming out with a very innovative product in order to have active management in an ETF, so this is not something I

think would be a plain vanilla topic, but a way to have active management in a product and not have to have the disclosure of the active management that people wanted. Now at the same time Exchange Traded Managed Funds got approved another product for non-transparent active management did not get approved so it remains a decision of the staff and the decision of the commission whether to have them be approved or not.

I do think in those cases I think also the commission explained those decisions very carefully and put out a lot of material about why one was approved and one wasn't approved and I feel like we got a lot of positive reaction on that because there was much more transparency around why the commission had to chose to approve one product and not another.

Andrew 'Buddy' Donohue:

Norm, I didn't think of that particular product as really being similar to an Exchange Traded Fund I just looked at it as a fund that would be something with a different form of distribution.

Norm Champ:

Agreed.

Andrew 'Buddy' Donohue:

And I went back and I looked recently in advance to see who was the proponent and it seems like those funds have under \$100-million in assets under management, so it doesn't mean it won't and I don't know. I didn't look at that as being the functional equivalent of Exchange Traded Fund as much as a way really to get around traditional distribution.

Norm Champ:

I agree with you, I think clearly distribution was a large part of it. I do think the fact that it was a Mutual Fund with an NAV, right, so that really was the distinction from ETFs with a trading price, having a Mutual Fund with an NAV thus allowing the less transparency because you're going to strike an NAV at the end of the day and the only question is what spread does the trade settle on between that NAV and where it was traded, that's why it got approved, because it had that feature of NAV and that they would trade for that plus or minus the spread which I think was clever. I think both a clever way of dealing with a non-transparency issue but also clearly a way to distribute a product without going through traditional.

Andrew 'Buddy' Donohue:

And of course Paul's now done it where you just do it as a broker.

Paul Roye:

I think the discussion really points out what we've talked about - the exemptive process and the '40 Act and how great it is and how it facilitates innovation. I think one of the things that we all struggle with is the exemptive process and how long it takes and you hear folks in the industry complain. When you get to the fifth, sixth, seventh, cookie cutter application it's nice to be able to step back and be able to codify that into a rule so folks don't have to wait for relief.

Early in my tenure a lot of what we did was just codify exemptive rules and then as Norm points out something gets in the way, and in my case it was late trading and market timing, Money Market Fund issues, other issues that get in the way of this. But you look at something like the ETF rule and it would have been nice to have had that in effect for the plain vanilla products which today folks are still having to get exemptive relief. Often time's things are fast moving but you know sometimes you have to stop, do the rule, and let things evolve.

One of the challenges with rulemaking is that you can't anticipate necessarily what's coming down the pike and you can't draft the rule to anticipate what's going to happen in the future, but if you can get those rules on the books it makes life a lot simpler both for the Commission staff and the industry as a whole.

Andrew 'Buddy' Donohue:

One of the things I would point on the ETF rule proposal is I think actually right now the commission staff is much better suited to identify the issues that they worry about and how they are best addressed as any number of divisions and offices that actually have been part of a group looking at ETFs and trying to make a determination of what do we care about, why do we care about it, how do we address it. I think that type of an approach, including the folks with the economic background is extraordinarily helpful in terms of crafting a rule that will work appropriately and will be enduring.

I have hope in that particular area.

Norm Champ:

I think that's right because the commission has much more capability now to look at in fact how do these products trade. So I think that although from the time ETF started to now the commission has much better ability to look at those and really quantify. A lot of work that we did in support of the plain vanilla rule in 2013 was getting a real quantitative handle on, but you alluding to trading problems and I actually would argue that the data mostly doesn't show that. We've had a couple instances but sometimes they have been because an authorized purchaser had an internal issue as opposed to a market issue. So I think the

commission's ability to look at those things and marshal those resources and support potentially the plain vanilla rule is much stronger than it was and something I think you alluded to, the difficulties in analysis.

I think the commission knows much more know about ETFs than it ever did and it could be a time potentially to do a rule that would get at the plain vanilla issue. I will say one other thing on the other side of all this is that ETFs have also been part of the move to passive investing. So it's interesting, passive investing is all the rage right now, it helps that since the spring of '09 the market generally has gone up and that's when you start talking about passive investing and we don't need hedges anymore.

Some day there will be volatility again and so I think we also have to look at ETFs in that context and think about the fact that they are certainly a big part of that growth of passive investing and again active management will at some point come back in style, so you have to think there as well. I think if we could get a plain vanilla rule you might see the market forces, so to your point. ETMF has guarded a lot of assets and that's the way it should be, right. It should be that the commission, when appropriate disclosure is in place the commission gets these things out there and then allows the market to decide whether it's a desirable product or not. Currently ET is very desirable, again we get some volatility and some downs they may not be as attractive as they once were but either way can't we codify the simpler ones.

Kenneth Durr:

So ETFs are still evolving as we speak obviously and Money Market Funds are evolving, too. I thought it was interesting Paul mentioned Money Market Funds as something that got in the way for you when you were doing something else. I think Buddy, Money Market Funds really got in the way for you, tell us a little bit about when the Reserve Fund broke a buck.

Andrew 'Buddy' Donohue:

Money Market Funds getting in the way I think is probably a simplified way of looking at it.

Norm Champ:

It might be an understatement as well.

Andrew 'Buddy' Donohue:

During my tenure in the fall of 2007 Money Market Funds started coming under a certain degree of pressure. It was then about a \$3.3-trillion industry. In the fall of 2007 structured investment vehicles that had issued commercial paper, had commercial paper that came under stress and you wound up with funds that had some paper that was threatening to "break the buck". The firms were able to deal with that effectively and that stress that was

in the Money Market Fund. By the way when I talk about stress, you don't need a money market instrument to default, in order to have a problem in the money market fund, all you need is a significant widening of spreads and therefore a decline in the value of particular instruments to potentially call into question the ability to maintain a stable net asset value of a dollar.

So in 2007 you really had commercial paper of structured investment vehicles coming into play. In September of 2008 you had the Lehman Brothers bankruptcy which then led to the Reserve Fund which had about \$785-million worth of commercial paper issue by Lehman in its portfolio of a \$60-billion Money Market Fund. The Reserve Fund was held a lot by institutions that were immediately getting out saying get me out of the fund. So the Reserve Fund was really suffering significant redemptions during that period of time, and during that week that fund really had to recognize that the real value of Lehman Brothers commercial paper and actually published an NAV of 97-cents on the dollar per share. It then sought and got permission to suspend redemptions.

During that period of time you wound up with a number of other events that were happening where particularly institution investors were getting out of money market funds and were putting redemption requests in. In the week of September 15 you had about \$300-billion worth of redemptions that took place, 14% of the assets that existed and for the last two weeks of September you wound up with money market funds reducing their ownership of commercial paper by about \$200-billion or about 29%. The structure of money market funds were themselves undergoing a fair amount of stress and at the same time where they were the funding vehicles particularly for firms on Wall Street and for main street, they were no longer really fulfilling that need as they had in the past.

During that period of time we then had Treasury step in and implement the Treasury Temporary Guarantee program and you had the Fed step in and have the asset backed commercial paper Money Market Fund liquidity facility put in place, all in relatively quick order. During that period of time the Division of Investment Management also issued about 17 or 18 no-action letters that permitted firms representing over 100 money market funds to deal effectively with the issues that they were having either in terms of being able to support the net asset value of a dollar per share, purchase securities that might not have defaulted from the fund but they needed liquidity or otherwise deal effectively with the issues that were coming.

Interesting time I will tell you, you just never knew what the next phone call was going to be. We didn't have a lot of the insight into money market funds in terms of what was really happening. We needed at that point really to reach out to the industry and say tell us what is going on, give us some facts, tell us what issues you are facing. What can we do that would be helpful? We did make the decision on no-action letters even though there was

concern about letting investors know that the funds were under stress. We made public the money market fund no-action letters, so that yes the investor would know that and yes we did run the risk that that could precipitate runs on money market funds if folks felt concerned about that. But we did think that transparency was quite important during that period of time.

The staff at the division was enormously helpful I think to the industry in providing quick responses and letting people know what we had seen in terms of ways to address those issues. From that experience, we really then had to look at the money market fund Rule 2a-7 and say what should we do so that we, investors and money market funds are not in this position again. What can we do to lessen the likelihood of this type of concern? In 2010, the commission adopted a number of money market fund reforms to deal with many of these issues. The commission put into place provisions that would improve liquidity, daily liquidity requirement of 10%, weekly liquidity of 30%, limits on the illiquid investments of no more than 5%, higher credit quality, lessening of the amount of second tier securities that could be held. shortening maturity, with a weighted average maturity decreasing from 90 to 60 days, implementing a new requirement regarding average life, putting in periodic requirements for periodic stress testing. The commission also put in requirements for more information being out there for investors and more information being provided on a more timely basis into the commission so that we have a better handle in terms of what was going on and what we could do in order to deal effectively with issues that might arise.

One issue that we did not address and we recognized that we did not address, was the run risk. We had pretty good consensus about what to deal with regarding the other issues but we didn't have the answer on what to do about the run risk.

I was an advocate of floating the NAV back then and I think the industry didn't like me at that point when I would point that out. But we had to leave something for Norm to deal with, this is legacy, Paul left stuff for me to deal with, I had to leave some stuff for ultimately Norm to have to deal with and I think that's the nature of what we do. Norm's already leaving stuff for Dave to deal with, so telling him stuff you didn't get done that you think he ought to do now.

Kenneth Durr:

You answered my question Buddy which was why not let the NAV float and apparently this was coming up in the 2000's, this was in the air. What did you run into with that and why did you leave it for Norm?

Andrew 'Buddy' Donohue:

We had asked questions in proposing release on the amendments whether or not floating NAV would address the run risk, and there's a real debate about whether the floating NAV actually would have prevented a run or whether if you floated the NAV whether that actually might precipitate runs. You don't have a lot of real life experience out there, it really is kind of a hypothetical what you think investor behavior would be and really what the degree of precision you might need for the NAV to float in order to properly reflect value. A floating NAV would address some of the issues which is some of the first mover advantage, but even there if you had a floating NAV if you wound up having to dump distressed securities into the market place there was concern that would further exacerbate the issues.

It really needed some time for folks to settle down, to think about and to develop a game plan in terms of how to deal effectively with that.

Paul Roye:

Buddy with the Reserve Fund managing that whole process ultimately how much did folks get back on their dollar?

Andrew 'Buddy' Donohue:

During that process they wound up with 99-cents on the dollar.

Paul Roye:

The one thing in my mind about Money Market Funds is whether or not the industry and the Commission made a mistake in preserving the sanctity of breaking a buck and maintaining a dollar.

They got 99-cents back on a dollar in a crisis situation, right?

Andrew 'Buddy' Donohue:

If you think of money market funds they are funds that are trying to meet several different needs, some of which, particularly in stress times, are really hard to meet, provide liquidity, provide a stable net asset value, at the same time to investors and provide a high yield. Those three are difficult and when you talk to people that manage money market funds they say they can do two of them, three is hard. They can't do all three at the same time. I think that particularly in times of stress I think that became an issue.

Norm had to deal with it so I could watch from the sidelines.

Norm Champ:

I would actually argue that the legacy of this goes back to far before all of us, so the initial rule which essentially took the commission, moved away from its security based regime into this product which as Buddy rightly points out, has these very unique characteristics where it's trying to keep a fixed dollar price at the same time it is trying to take a risk on its securities and it's trying to get a return for that risk. That tension in the product played out in the fall of 2008 and while we were able to get reforms that changed part of that equation for some of them, it did not change all of that equation for all of them which we couldn't there and obviously I hoped we could get there and we couldn't, because it is that bank-like feature of it that we're going to have this one dollar in one dollar back that caused the problem in the product and also brought us to the attention of the Financial Stability Oversight Council which was created by Dodd-Frank in 2010. Not only did we have the Money Market issues from the fall of '08 but then the issues that the Financial Stability Oversight Council got very interested in what the SEC was doing partly because of this product and the fact that it did have bank-like features and in their minds - well if it's a dollar in dollar out that sounds a lot like a bank account not so much like a securities product.

We had not only the tension within the product that didn't work out that well, we had the tension within the federal government of other agencies, particularly the banking agencies wanting to get involved in this product and thinking about regulating it themselves. So Buddy appropriately took the story up to the 2010 amendments and one piece of what he said is the most important piece of why we were ultimately able to get reform of Money Market Mutual Funds, which is that the 2010 amendments gave the commission much more data about what was going on inside Money Market Funds.

The piece that was missing as Buddy appropriately points out, in the fall of '08 was in fact that transparency into the funds, so the 2010 amendments get the commission the improvements that Buddy mentioned but I would argue most importantly get the commission the data about actual Money Market Mutual Fund holdings and with that data comes the ability to actually look at these funds and think about the risks that are there and so the division is able to look right into that data and be able to spot issues in particular Money Market Funds. But at a broader level that data also allows the commission and the economists at the commission to start analyzing much better what might happen with different reform scenarios, and that is why we were able ultimately to get to floating NAV for part of the industry.

We couldn't get there without the meltdown in the summer of 2012, as I talk about in the book I wrote about being at the SEC, going public.

Andrew 'Buddy' Donohue:

You had to get that in didn't you?

Norm Champ:

At some point it was going to have to come up.

Andrew 'Buddy' Donohue:

There are copies in the back and he'll be autographing them for you if you want.

Norm Champ:

We found out earlier there is one in the library so we need to get some more in the library, but Mary Schapiro did not mention about three weeks after she appointed me to be director of Investment Management that the commissioners would dissolve into acrimony over the draft Money Market Mutual Fund proposal and in fact in August of 2012 take the extraordinary step of issuing statements criticizing each other about their positions on Money Market Mutual Funds which although commissioners have criticized each other in the past I'm not sure they've done so in written statements posted on the SEC website.

From that difficult time in the summer of 2012 where we could not get a compromise that we could get three votes for, so we had better data and there were a lot of ideas floating around including as Buddy points out, floating NAV have been floating around for a long time. There were capital buffers that the Financial Stability Oversight Council and the bank regulators really wanted these products. In their mind they wanted the product, if you're going to do a dollar in dollar out they wanted more bank-like features to the product so the bank regulators are pushing for capital and it will have some kind of capital to back up that dollar value and bridge the gap between the 99-cent and a one dollar value, if we get there.

There was another idea floating around of fees and gates and whether to address the run risk, the remaining run risk issue, would you have fees and gates or some way to stop runs so that would actually literally stop them and you could then have a period of time when liquidity could be restored in a fund through maturity of short term securities and then whether that would deal with a problem with a fund.

There were many ideas and then there was a first risk of loss idea as well or certain losses would go to money that was left behind by investors. So we had a number of different ideas floating around.

In the summer of 2012 that proposal went to the commission and the chair did not have three votes to get that proposal out for public comment and she issued a statement, other commissioners issued statements and things did not get any better from that point forward. But the kernel of all of that however was the fact that eventually the commissioners were able to agree that there were additional issues that they would like studied within the Money Market Fund product.

Ultimately commissioners Gallagher, Paredes, and Aguilar agreed on a set of questions around Money Market Funds and the impact of reform on Money Market Funds and asked the division of Economic Risk and Analysis with the chair's blessing to study those issues. So that study came out in November of 2012, really then laid the foundation for in fact achieving a compromise on Money Market Fund reform because we then had much more data about what particular reforms might do and that also was the basis for much more study that went into the 2013 proposal about what might happen with various reform scenarios.

The thing to take away from it is that now that we have gotten Money Market Fund reform and the industry has actually adjusted to that the impact on assets and the impact on prime funds and the growth of government funds and the actual market impact of what has happened is almost exactly what the SEC economists predicted. So whether you like the reforms or don't like the reforms the commission took the decision to make those reforms based on data that turned out to be accurate and based on data that was pretty predictive of what would happen.

And so again whether it was the right thing to do or not will I'm sure debated continually, I've been on some panels not too long ago where people are still debating that, but the commission took that decision with the right data in front of it, and I think that represents a real change and real step for the commission to have that kind of analysis, that in depth analysis which we let drive the rulemaking process. So where did that drive things?

What it drove to was floating net asset value at the time of the proposal in 2013 for all Money Market Mutual Funds, ultimately for only a portion of the industry, and then to fees and gates as an alternative so you actually had a way to have a hard stop on runs.

In the end in 2014 the compromise was that it would be floating NAV for everyone except retail funds and that fees and gates would in fact be put in. Now once again fees and gates put in with a board role so back to my - I'm guilty of adding things to the board list of responsibilities that I was talking about earlier because then boards then have that additional tool of fees and gates to be able to stop, to literally stop runs.

The compromise forged in 2013 and coming out in a proposal in the summer 2013 a proposal that was, I will note, 5-0. So we had agreement across the commission to at least get the proposal out there and essentially that was the same lineup. So we got the proposal out, ultimately when the proposal was approved in the summer 2014 I truly believe it was a real compromise because the commission split right down the middle politically so we had one republican and two democrats vote for it, one republican and one democrat vote against it. If you can split things out that way so there's a split between the parties you know you're somewhere in the middle maybe you're not in the right place or not but we did achieve something that was a compromise and was in the middle of those groups.

Andrew 'Buddy' Donohue:

You had two new commissioners.

Norm Champ:

We had two new commissioners, commissioner Stein and commission Piwowar, were the no votes, one from each side and it clearly parted it being I think potentially they came in and there had been this nuclear explosion around this issue and they may not have wanted to get involved and to vote yes for it each for their own reasons. But I do think forging the compromise based on the data all of which is tied to the commission, chair Schapiro and Craig Lewis the head of DERA at the time, committing to economic analysis in the economic analysis guidance that was issued earlier in 2012. That being a key piece of using that economic analysis and that economic data to let that drive the policy as opposed to let's go back years, we go back before these guys to a time when rules potentially were formulated and then an economic analysis was done afterwards to sort of try and evaluate them. Really I think in this rulemaking process economic analysis was the driver of it and was a significant change of letting that analysis drive where we headed.

I also think to something both Buddy and Paul alluded to is that if you think about rulemaking in the commission, I don't know how these guys would view it, but for me seeing that when you're on the outside, when I was on the outside the commission has this aura about it and all of their coming down with a rule and they've worked out this rule and it's presented to the public. Obviously rulemaking is much more complicated than that and there are many forces buffeting the SEC than I think most people would realize, so around this issue we have the Financial Stability Oversight Council as I mentioned, extremely interested in what kind of resolution the commission could come up with. Still the only time that the Financial Stability Oversight Council ever told a federal agency we think you should go do something or we're going to report you under Section-120 which said that they can name and shame the SEC to Congress. Still the only time that's happened so you had the forces of the bank regulators and the Financial Stability Oversight Council watching you had the press all over this issue and on all sides. You had Congress very interested in Money Market Mutual Fund reform and calling us to the Hill not so much hearings that Paul was describing but lots of meetings behind closed doors asking about different reform proposals and asking what was going to happen. And you had the industry with its views of what was going to happen as well, so the commission is always buffeted by all of those external factors as well, so at the same time you're trying to use the economic analysis and get to the right answer there are lots of different constituencies and stakeholders who are asking you questions and wanting to understand what's going to happen and I think there the industry played a very important role in helping us in supplementing, even though we had better data because of the 2010 reforms. The industry also came forward with

additional data during that whole rulemaking process and that data our economists were able to use as well.

One of the things that sometimes when we see rulemakings that is a little worrisome is a lot of times industry is not willing to come forward with data so the commission asks for comment on certain issues or ask for data and they don't get anything back. In this case we did get a lot of data from the industry and that data was used to analyze the compromise.

Andrew 'Buddy' Donohue:

I would point out that I think Paul during your tenure there were any number of pressures from the outside and whatever, I think one of the strengths really of the commission is maintaining its independence and while those stresses may be out there, the folks trying to influence the result I think the strength through the years of the commission has been maintaining its independence, reaching what it believes is the right answer and hopefully with a sound basis for reaching those results.

Norm Champ:

I don't disagree with that but it doesn't help trying to reach the right answer is more difficult because of the various stakeholders.

Andrew 'Buddy' Donohue:

I never said it was easy.

Norm Champ:

No, it is not easy but I agree with you but is buffeted by forces trying to influence the outcome.

Kenneth Durr:

We're getting to the point where we can kind of talk about what's happening today and maybe where rulemaking is going to take us in the future. I thought it was interesting Norm that you mentioned that the SEC really anticipated an increase in government funds and that's something that we're looking at now and I wonder if I can get a little bit of input on what the considerations are, what the complications might be of that.

Norm Champ:

Certainly as I mentioned the SEC economists predicted, turned out accurately, that people investors would sort themselves out with regard to Money Market Funds, so when all Money Market Funds are as Buddy said, coming back with a dollar and going and taking risk, investors have essentially no incentive to sort themselves among the products because

the risk has been removed by the fixed dollar and then you can also have funds that get higher returns, the prime funds. What we have seen in the shakeout of the reform is that capital has pretty behaved as you would expect so that investors who cannot take a risk at all on the value of the fund have primarily moved into government Money Market Funds, investors, institutional investors who can take that risk have stayed in prime funds but obviously the amount of money in prime funds has declined about the same number as has gone into government, so we have seen that sorting among funds.

As more of a free market advocate I would have preferred to see us float the whole thing so you can have true sorting, we don't really have true sorting by risk but we have much better sorting by risk than we had before and it was exactly what the economists predicted would happen.

Andrew 'Buddy' Donohue:

What I would anticipate is as we go forward a couple years if we get back to what would have been probably a normal interest rate environment where there was significant difference between the yields that are available in the government sector versus that available in the commercial sector that you would have more money going into the alternative really to the government funds, more into the prime funds. As I would put it I'll take a little bit of capital risk but maybe I'm getting paid a hundred basis points more that is certainly something that over time probably is not problematic. I think you probably would wind up with firms because of the potential risk for fees and gates of choosing several different funds as opposed to concentrating in one particular fund, but that's what I would anticipate happening over the years as we get back hopefully to a more normal interest rate environment.

Norm Champ:

There are obviously are a broad swath of institutional investors who need a fixed price product because of charters, there are requirements on them which are all predated Money Market reform so a lot of times you have investors who must have a fixed price product, so I think you'll have them going to governments and then it raises, we have by this reform, the commission has shifted more capital into government funds thus that has its own impacts in being able to support government debt. And Buddy the one other side is if we get normal interest rates the government debt obviously becomes far less sustainable than it is now so we'll have that other piece to factor in as well.

Paul Roye:

There was a trillion dollars at least that moved into government Money Market Funds, that's a trillion dollars that America's corporations could have been using for short term

financing purposes; it's not there anymore. And then I would just note that one of the concerns with the flood to the government funds is what are the ramifications of that if there's a government shutdown and they can't rollover short term treasury instruments. What if Congress fails to raise the debt ceiling and government can't pay its bills, can't pay interest on securities, does that create a run on government funds. I think there's some unknowns out there with the huge amount of money in government funds today.

Kenneth Durr:

Now that we're into prognostication this is a great place to sort of run to the end here. I want to get a little bit from both of you, where do you think the next big thing is going to be because each of you have had your area of focus. What are we going to see down the road in investment company regulation?

Paul Roye:

I guess I would pick up on Norm's point about the role of fund directors. I think the industry and the SEC whenever there was a need for an exemption, looked to the independent directors to sign off on things and certify and make determinations. We all were guilty of putting burdens on fund directors, and there needs to be a rethink of that. When we did the Chief Compliance Officer rule one of the things at least in the back of my mind was that the Chief Compliance Officer reporting to the fund directors could take on a lot of these responsibilities and take the burden off the fund directors.

Buddy just became an independent director, he's probably the most qualified independent director in the entire country.

Andrew 'Buddy' Donohue:

Yeah, what'd you guys do to me?

Paul Roye:

For the ordinary independent director, some things that they're asked to do in the provisions of the '40 Act like valuation put burdens on directors; they're not experts on valuation. The Commission recently adopted rules on derivatives and they're not experts on derivatives. There just needs to be a recognition that there's a limitation on what directors can do. They can be very useful from an oversight and monitoring standpoint but the responsibility needs to be I think refocused on the management companies, the people running the firms, and they need to be held accountable.

We saw it in my tenure with the late trading and market timing scandals. When you lose trust in the asset management industry you lose business and I think asset management firms have a strong interest in doing the right thing and maintaining the trust of their

investors. I think the rules should hold the management companies accountable and recognize the limitations of fund directors. So that's one thing I hope the Commission would focus on going forward. I have a laundry list of things that I could mention like electronic delivery of shareholder reports and a uniform fiduciary standard for brokers and advisers, but I'll turn to my colleagues.

Andrew 'Buddy' Donohue:

A couple things that I would just point out I think are things I'm sure IM has been working on. It's not unusual, if you're an IM director, you actually inherit a lot of the previous work that was done under your predecessors, a lot of good work that just continues to be done down in the division. I think one area that a lot of attention has been paid to is really the potential for modernizing and shortening shareholder reports so that they're more understandable and useful by investors, and you could have probably the layered approach that was used in terms of mutual fund prospectus disclosures so folks can get all the information if they want but you'd have a much more usable document. Whether it's e-delivered or not significant there would be cost savings to the funds and its investors. But more particularly I think better information that people will read, and I think that will be helpful.

Another area that I worked a little bit with or the staff did in IM, and I think has continued to do work on is really the potential in variable annuity area for a more simplified prospectus or summary prospectus. Enormously difficult but precisely for that reason, enormously important for investors to be able to understand what they're getting into. I concur, I think all of us do in terms of relooking at director responsibilities and how to tinker with them to make sure directors are spending time on areas that they're adding value and that's important.

Norm Champ:

I'll go with my hope that nothing befalls us like market timing or Enron and anything else such that the commission and the division and all the great folks in the division who know this stuff backwards and forwards and who do such great work all the time that they would have some time to focus on what we refer to as the bridges and tunnels of the asset management industry. The focus by Financial Stability Oversight Council on our industry really distracted a lot of our time and attention from the basics of how the industry runs, and just think of all the things that have changed since even Dodd-Frank. We've got private funds advisors registered in the Advisors Act that was designed for Mutual Fund folks.

Andrew 'Buddy' Donohue:

Do you realize that when the Advisers Act was first passed, if you managed only investment companies you didn't have to register.

Norm Champ:

I would hope there is a period of time where the staff and the commission can look at how things work and the basics of asset management and look to guidance in rulemaking. We talked about plain vanilla ETF, that would be an example, just places where the staff would have a little bit of a breather to work on the plumbing of asset management, there are friction points that aren't working very well. They just never get addressed because events overtake things and I hope that it is in fact a calm period where the staff could tackle some of those things and be able to rationalize some of the inconsistencies that have grown up over the years. Hopefully that's where we head.

Kenneth Durr:

Speaking of bridges and tunnels, I really thank the three of you for building a bridge to 15 years of investment company regulation. It's been a lot of fun. We're out of time. Thanks very much for a great conversation and I'll turn the program back over to Dan Goelzer.

Dan Goelzer:

Let me add my thanks for a terrific discussion, Ken, Paul, Buddy, Norm thank you very much for the points you've made and for a little tour through some of the high points of investment company regulation during the last couple of decades.

I'd like to ask for a round of applause for the panel.

That completes our 18th Annual Meeting and I'd like to again invite everyone to join us for ice cream to celebrate the SEC's 83rd birthday. Thank you very much.

END