OPEN MEETING OF

THE U.S. SECURITIES AND EXCHANGE COMMISSION

The Former Chairmen Roundtable

Wednesday, June 4, 2008

3:04 p.m. - 4:45 p.m.

United States Securities and Exchange Commission

100 F. Street, Northwest, Room L-002

Washington, DC

APPEARANCES:

Members of the Commission:

Christopher Cox, Chairman

Former Chairmen:

Richard Breeden

Bradford Cook

William Donaldson

Roderick Hills

Harvey Pitt

David Ruder

C O N T E N T S

P R O C E E D I N G S

INTRODUCTORY REMARKS

CHAIRMAN COX: Good afternoon and welcome to the SEC Chairmen's Roundtable, the third annual event to showcase the SEC's former chairmen. This is an opportunity to discuss in a public forum how current events fit in a broader historical perspective of securities regulation. And it is again my pleasure to serve as host to this historic event, which is I hope becoming a tradition here at the Securities and Exchange Commission.

Today's roundtable features former SEC Chairman Bill Donaldson, Harvey Pitt, Richard Breeden, David Ruder, Rod Hills, and Brad Cook. This is a wonderful opportunity to sample their unique and well-informed perspectives on current regulatory issues, and to benefit from their experiences as SEC chairmen.

INTRODUCTION OF FORMER CHARIMEN

I'll begin the introductions with the Dean of the Former Chairmen, G. Bradford Cook. Brad was born in 1936 in Nebraska. He's the son of an insurance company owner and a graduate of Stanford University, as well as the University of Nebraska Law School. He practiced corporate and securities law as a partner at the prestigious firm of Winston & Strawn in Chicago. In 1971 he became the General Counsel of the SEC, and the following year he replaced Bill

Casey as Chairman.

Rod Hills served as Chairman of the SEC from 1975 to 1977. Under his leadership, the SEC took the important initiative of halting improper corporate payments to foreign governments. He's the Founder and Chairman of the Hills Program of Governance at the Center for Strategic and International Studies. He also served as Counsel to the President. He's the Founder and former Chairman of the U.S.-Asian Business Council, and he's a Trustee of the Committee on Economic Development. He's been a professor at Harvard Law School, a distinguished faculty fellow at the Yale School of Management, and a visiting lecturer at his alma mater, Stanford Law School.

David Ruder served as Chairman of the SEC from 1987 to 1989. His time as Chairman included the stock market crash of 1987, in which he exhibited phenomenal grace under pressure. And that's not only an ability for which he is always remembered, but an ability that he still possesses. He also took charge of the Commission's enforcement action against Drexel Burnham Lambert. He launched a penny stock fraud program, and he moved the SEC in significant ways into the arena of international securities law enforcement.

As a former dean and now a distinguished professor at Northwestern Law School, he now supervises the administration of the San Diego Securities Regulatory

Institute; the Ray Garrett Corporate and Securities Law Institute, and the Northwestern Corporate Counsel Institute. He is also the current Chairman of the Mutual Fund Directors' Forum.

Harvey Pitt served as Chairman of the SEC from 2001 to 2003. He has shown his passion for securities law in every one of the many ways that he's applied his energies over a long and distinguished career. Before becoming Chairman, he was in the private practice of securities law for nearly a quarter century. He was a founding trustee and the President of the SEC Historical Society. He's participated in a number of bar and continuing legal education activities on securities law issues. And in his academic career, he was an adjunct professor of law at Georgetown, George Washington University, and the University of Pennsylvania.

In 1968 he came to work at the SEC as a staff attorney in the Office of the General Counsel. Remarkably, in just seven years he ascended to become General Counsel of the SEC and served in that capacity for three years. Today he's the Chief Executive Officer of the global strategic consulting firm, Kalorama Partners.

Bill Donaldson served as Chairman of the SEC from 2003 to 2005. He arrived at the Commission with over 45 years of experience, working in business, government, and academia. He co-founded and served as Chairman and CEO of the investment banking firm, Donaldson, Luftkin & Jenrette; and served as Chairman and CEO of the New York Stock Exchange. He co-founded the Yale University School of Management and served as that School's first Dean.

He also served in the United States Marine Corps. And his varied government service in the executive branch spanned five presidential administrations, including service as Under Secretary of State in the Nixon administration, and as a special advisor to Vice President Nelson Rockefeller. He was also Chairman of the Carnegie Endowment for International Peace from 1999 to 2003.

Under his strong leadership, the SEC made great strides to address the fallout from not only the dot.com collapse, but also the major accounting scandals that were incubated in the late 1990s and materialized in the early 21st Century.

Richard Breeden served as SEC Chairman from 1989 to 1993. In addition to an impressive career in government service, he has been both academic and practitioner; law school teacher, and lawyer at the prestigious firms of Cravath, Swain & Moore, Baker Botts, and Willkie Farr. He also served as an advisor to both Vice President George H. W. Bush and President George W. Bush on economic policy.

In July of 2002 he was appointed to act as

Corporate Monitor of WorldCom by the U.S. District Court for the Southern District of New York. In that role he saw to it that fraud and abuse at that company were stopped, recommending new methods of corporate governance. In June 2003, while still serving at WorldCom, the Board of Directors of Holenger International invited him to investigate problems at that company.

And in 2006 he founded the activist hedge fund, Breeden Partners, through which he's managed to assume the leadership of H&R Block.

So we have a pretty impressive panel here. This is really the integrity and the history of the SEC before us here; and the leadership of these men and the professionals that they attracted to service over so many years, many of whom are with us here in the auditorium today.

And I just want to make this as free-wheeling and open as we possibly can. And I'd like to start it off with a question that is truly open-ended; and that is looking forward, what fundamental changes do you see occurring in the capital markets and in the securities markets in particular, here and around the world in the coming years?, and what impact do you think that these changes will have on securities regulation? Based, if you like, on any aspect of your own experience while you were chairmen, or any aspect of your current experience.

And I'm going to leave it wide open for people to jump in, and I'll only referee if it becomes necessary.

SPEAKER: -- call on us?

CHAIRMAN COX: I'm not going to call on anyone, but if there's a long enough period of silence, then I'll just answer the question myself.

(Laughter.)

QUESTIONS TO AND DISCUSSION AMONG FORMER CHAIRMEN

MR. DONALDSON: Well, I'll start it off by turning my microphone on. And it seems like there are a number of trends going on. Clearly the inadequacy of our regulatory agencies, if you will, which were basically formed in the early '30s around a financial industry that existed at that point; and I think in the last couple of years we've learned that the due to the different sorts of instruments and the derivatives and all the fancy stuff that goes in marketplace, the definition of the role of the different agencies, SEC, Federal Reserve, et cetera, et cetera, are vastly changed. And we're going to need some changes there, as we go forward.

And then as we look at the global world, clearly we're faced with an unprecedented cross-border investment environment, the rise of large nations with markets and active investors, and so forth. And we're faced with trying to come up with a global regulatory system, if you will.

First, after we get done figuring out what ours should look like, we're going to have to try and integrate it on a global stage.

I'll stop there and let people pick up on that.

MR. RUDER: I have about a dozen comments to make, and I'll only make one or two right now. I agree with you, Bill, that we are in a period of unprecedented change in our securities markets. The international markets have expanded in ways that I don't think any of us would have expected ten years ago, and we're going to have to find ways to interact with foreign regulators.

The Commission has suggested this mutual recognition theory. It's a good idea, it has lots of problems, and it's something that needs to be pursued. And I think this kind of attitude of cooperation probably needs to be used in consideration regulation of our own markets. The concept of prudential supervision for banks is now something that we're going to be looking at, in terms of investment banks when they have access to the federal window.

On the other hand, my view, the concept of principles-based regulation in which we only say to the regulated, "Well, we hope you be good people, and if you're not, we'll talk to you again." is not an acceptable form of regulation for the U.S. So I think we need to be cautious about adopting what I would call the UK model in the United States.

MR. HILLS: I think the big problem is that there's a whole lot of money in places where there didn't used to be: Partly the oil money, partly the money that's accumulated in China. It's probably the problem that the United States has been the center of world trade for a very long time, certainly through the 20th Century.

And the center of trade is moving. China, India, Africa, and the Middle East are a grouping of interests that are different than ours. So to some extent, the question seems to me to be: For how long can the SEC be the blue chip? How long can we influence the world's markets? We may not always be as attractive a market as we have been for this last, say hundred years. And the question is whether or not the example of the SEC will be followed through the rest of the world.

MR. PITT: I think we're going in order, so it may be my turn. I'll leave the last word to Richard, which I learned long ago to always do.

(Laughter.)

MR. PITT: I think that you have to look at the question from two distinct perspectives. One is the short term and the other is the long term. Unfortunately, many people have accused Wall Street in particular of having a very short-term mentality, which for most people means what are they doing for lunch? But I think the short term may well have a dramatic impact on where regulation also goes. We're in the middle of a disastrous crisis, and it reflects certain things about our markets.

I also think that one has to look at the longer term, because some of the fundamental changes -- as you put them, Chairman Cox -- are going to occur over time. But if I had to identify just a handful of fundamental changes, I think one has already been said much better than I can say it. Globalization is clearly a major point, and from both perspectives. Our markets are global, our competition is global, and the days in which regulation of our capital markets could be confined just to our borders no longer exists.

The second is the creation of what I'll call for these purposes "synthetic securities". We are witnessing people who are crafting very, very unique and clever instruments. They provide real economic benefits in many cases. But the problem with synthetic securities is that our entire regulatory system is geared towards largely equity securities to a great extent.

And so the movement towards very diverse and unique forms of securities instruments is in particular a concern.

The third issue that I would identify is liquidity, which I am happy to see the Commission has identified and is now asking investment banking firms and others to report on liquidity. We've seen with the advent of synthetic securities the problem that we are observing lots of liquidity problems.

You have companies that have on their balance sheets assets that they would value at tremendous numbers, but those assets are only realizable if they can stay in the game over the long term.

And the final form of fundamental change, which I think is part of what's roiling our markets now is a need for improved focus on prudential regulation. I happen to agree with Dave Ruder that we cannot have a marketplace in which people are free to commit fraud and that there's no response coming from the regulatory authorities.

But the focus of prudential regulation is an effort to try and figure out how to help people who have to comply with the law, understand what their obligations are, and then how to meet them. I think that we are seeing a much greater need for that kind of regulation as well as continued strong enforcement effort, and I think that will be a fundamental change that certainly will be overtaking our own capital markets, as it has already overtaken other capital markets in other locations.

MR. BREEDEN: Well, I think you've had a pretty good list of some of -- those are certainly some of the major trends and major future-looking problems. And I can't add much too some of them, but I'll toss in a few observations.

One, I've been struck -- and I've migrated from the regulatory side of the table over to the regulated side of the table, running an investment fund these days -- and I've been struck by the steady growth of independently managed funds, if you will. In my era and before I think there was an awful lot of focus within the Commission and in the marketplace on mutual funds as the vehicle of growth with the retail investor. And the hedge fund world has continued to grow enormously over the last decade or so. And I don't see any likelihood it will change.

That has huge implications for banks, for the traditional broker-dealers, for regulation. I was trying to figure out the other day -- I believe that the investment funds managed where our fund is located, Greenwich, Connecticut, exceed comfortably the total market capitalization of the New York Stock Exchange when I was chairman.

And so we have had this tremendous growth of funds. And I know during Bill's era there was a lot of attention put on that. I think how to regulate people and the funds business is not a simple question. Funds are very, very different, and if there's five thousand funds, there are several thousand different -- I don't know what you can -- can anybody still hear me?, because I lost this -- z

Anyway, okay.

SPEAKER: I can hear you.

MR. BREEDEN: Okay.

It goes silent up here. It would be a good blessing for everyone, I guess.

Anyway, so I think we'll all be wrestling with the growth and governance and transparency and regulation of investment funds over the next -- for the foreseeable period of time.

I've also been struck, since I was Chairman at the change, the radical change in the world of securities exchanges, the markets themselves. The concept of the New York Stock Exchange being a public company would have been very far from most people minds back when I was chairman. I actually was on the Board of Archipelago Holdings when New York merged into us to accomplish their IPO prior to the subsequent transatlantic merger with Euronext.

And when you look at what's going on, you have first a movement into public companies, and then tremendous consolidation going on in the exchange world. I don't see anything inherently threatening about that. And maybe it will produce beneficial results for the long run in terms of access to capital.

But I think the one corollary that I would certainly be focused on if I was still here would be the consequent concentration of clearing risk as the trading markets consolidate; and particularly when you look at what's going on on the derivative side rather than the cash market.

I think we've all witnessed in the last year -- when I was here I had the dutiful pleasure of closing and liquidating and putting into bankruptcy Drexel Burnham, then the largest failure of a financial institution, we thought, in U.S. markets. And that was a traumatic event; it was handled very differently from how Bear Stearns was handled. We didn't bail out anybody, though there were certainly were discussions of it.

But in fairness, we were looking at it not at a time of unprecedented global stress in the markets; we were looking at a failure that was being driven principally by the consequences of criminality in one firm, and it was a problem limited to one firm.

But I think the last 12 months should have shown all of us that I think the regulators have been too complacent about complex capital rules. We've gotten perhaps too scientific in allowing people to stand closer and closer to the edge of the cliff in terms of leverage, and that makes the overall systemic risk much greater and it makes for a more brittle system than if some of the major players had to hold real substantial levels of capital.

And I suspect over the next five years, in the wake of once the current market crisis finally settles down, there's a lot of thinking that needs to go into how we ended up with the mortgage crisis of the magnitude it was, and what the lessons are for world markets from that.

And disclosure I would flag as a major issue there. It's quite clear that people ranging from towns people in little towns in Norway to large institutions found themselves invested in instruments that were pools of things; and they really didn't look beyond that label that said "AAA," and to the underlying quality of things in the boxes that they were buying. And that's going to be an issue I think for the Commission and others.

So I'll wind up. I think I agree with, if was David, who said that the UK system and principles-based, we shouldn't all fall over with envy. I would just remind people that the original principles-based securities regulation was created. A little agency called the SEC's Rule 10(b)(5), it's don't lie, cheat, or steal.

In fact, when I was Chairman, in my confirmation hearing I had to put up courtesy of Harvey with 800 questions about why the SEC wouldn't codify what insider trading was. And this was the big issue at the bar at the time was: Why did we have a principles' based standard that said you can't engage insider trading, and we'll know it when we see it, as opposed to drawing everybody a map of exactly what the contours of insider trading was.

So there's an ebb and flow of these principles versus rule-based discussion.

My last observation for this part would only be that no matter what changes in the markets, domestically or globally, in my opinion -- and it's gotten stronger and stronger over the last 20 years -- there will always be a role for a strong, capable, touch SEC. And the people who put forward proposed regulatory reorganizations that don't see a need for the SEC and the markets of the future are people who I simply wouldn't follow very far.

It is amazing to me, sitting on the market side of the fence how much the existence of the SEC and the rules regarding transparency are not resented around the world; how much investors in our fund and in others from around the world, as well as funds operating in other parts of the world try to emulate a system that they know is good, and the transparency, the values, the enforcement tradition we have here are very, very good. And hang to them. Don't let anybody try and convince you that things like enforcing the law are now old-fashioned.

MR. COOK: If you can't value these exotic securities, then what do you do?

MR. BREEDEN: If you can't value what?

MR. COOK: If you can't value them -- because they're so exotic or so synthetic is Harvey's term -- then do you just eliminate them?, or do you --

MR. BREEDEN: Well, I think if you have securities, that I'm very curious --

MR. COOK: It's after-the-fact kind of a situation.

MR. BREEDEN: Right. Well, I would be curious. As a fiduciary myself I can't imagine investing in something I didn't understand. I have a fiduciary duty to my investors, and if the thing is so complex that you can't understand it, you shouldn't be buying it.

MR. PITT: Well, there's a different element to the problem, putting aside for the second fiduciary duties. And that is if you've got complex securities for which there are no organized markets, so that you can open your Wall Street Journal and see what the price is, the problem we have is that particularly in the subprime fiasco you had counter-parties putting very different values on exactly the same instruments.

That doesn't necessarily have to be wrong; but there were some firms, I believe, that had multiple marks for the same securities. And so fiduciary duties are fine, but if people take the easy way out by saying in effect, "Well, these securities are not regularly traded; therefore, I have to apply my judgment, and applying my judgment I think that they should be worth X or Y or Z. We now has FAS 157 and

Fair Value Accounting, and that may extend this process to a whole host of assets that will have an impact on securities valuations as well.

But if people are free to do that without at least following some kind of regimen, some kind of approach that provides a certain amount of credibility. The difficulty you have is that valuations will be meaningless.

Richard, you spoke about the, in effect, inadequacy of a AAA rating, and I think that's absolutely true. It did become inadequate because basically people came up with models to price their securities and then they never went back and checked the underlying assumptions to see whether the original assumptions were still making sense, or whether the market had moved away from them.

The same thing, I think in response to Brad's question is that portfolio managers ought to have some independent assessment of their methodology. I'm not talking about the value, but some independent assessment of the methodology they're using to come up with securities valuations, so the people have the ability to rely on values, understanding, of course, that with many of these securities, valuations are going to be highly speculative and change from moment to moment.

MR. HILLS: I think you have two issues, Brad, when you talk about valuation. The subprime was I suppose largely caused by the fact that a whole of people loaned money without having to collect it. And then people bought those assets, accumulated them, so the great risk. I don't think there's much problem with the fact that the person that bought a subprime loan couldn't value it; but there is a system problem if that gets too large.

And for the system you need disclosure. And the problem was that there was no way to understand how many loans existed, created by people, as I say, who didn't have to collect them. Those were terribly risky things. You get a commission for loaning money, and you don't have to worry about collecting it.

So the valuation in the first instance I don't think is a problem for the regulatory agency; but when it accumulates as it did, and we don't have transparency to understand it, that's the problem.

MR. DONALDSON: You had the separation of the origination of loans, banks, mortgage brokers, who originated loans to be sold and packaged, and had no residual responsible, if you will, for what was thrown out there. And I think that's a problem that's really got to be solved.

I'd like to talk about another problem, which we haven't touched on, which is the organized markets, which used to be organized. We now have a glomeration of stock exchanges, if you will. At the same time that's happening, we have the arrival of so-called "dark markets". In other words, we're going in exactly the opposite direction, where it's getting tougher and tougher to figure out what's going on in the marketplace, and that's being driven by people who wish to keep it secret, what they're doing.

And so you have a tremendous amount of security transactions going on all over the world without any of the glomeration of transactions that we used to have. And I see that as a huge, huge problem.

MR. RUDER: I agree with you, Bill. The dark pools are a difficult problem. I'm Chairman of the Mutual Fund Directors' Forum, and we talked about valuation just today and the question of -- and best execution -- and we talked about how the dark pools are influencing that execution; fragmented markets, ECNs, electronic markets, and other things that are changing the environment in which securities are treated.

And I agree with you as well that we need to look at what you call "synthetic securities," Brad. We need to find a way to value them. And I agree with Harvey that we need to have some third party process to do that. In the corporate world, as I understand it, many corporations are using third parties to see whether the valuations of their derivative instruments are right. In the mutual fund world the mutual funds are using third parties to value their instruments.

And we need, I think, to ask whether the Commission itself has the ability to understand these synthetic instruments. It has undertaken its consolidated supervised entity program in which it is supposed to be looking at risk assessments. And I think it's a big burden on the Commission to find the kind of high-priced talent that will allow it to understand everything that's going on in these markets.

Even the fed didn't understand it, as I understand it. Even the Wall Street bankers themselves didn't understand it.

So I think in a sense the Commission has to ask itself whether it need to find funding mechanisms, so that it can have the really kind of sophisticated help that it needs, either in us or as a third-party basis, to do the analysis and risk assessment.

And I don't believe frankly that it ought to be relying upon the Federal Reserve Board; it ought to have its own capability, because it needs to regulate the securities markets and engage in a regulatory process, which is to protect investors. And that carries with it a lot of different attitudes than the banking regulators may have.

MR. PITT: If I can, I just want to pick up on something that both David and Rod touched upon, and I think that is you did have a problem; what makes capital markets work is transparency. Everybody will agree with that as a basic principle. It needs to be a free flow of information. There wasn't with respect to these subprime mortgages and the securitization elements that went on.

And the one thing that would be very cost-effective and not involve a great deal of regulation is requiring transparency, requiring firms to assess their risk, indicate what their positions are and exposure are, and the like. And I think without transparency, it's going to be very difficult.

As far as the Commission is concerned, I happen to agree with David that it's very hard for the Commission to do this kind of review. I also agree with David that if one wants to look around for blame, you can always find many, many candidates to point a finger at. I don't think that's ultimately going to be terribly constructive; but I agree that understanding of the markets is very difficult.

But if you look at what happened in terms of transparency, you have the heads of major investment banking firms, standing up and saying publicly as well as to the Commission, on day 1 they thought their losses were going to be $4 billion. On day 8 they said, "Gee, maybe it's $7 billion." And on day 23, they said, "No, it's actually $11 billion."

Now, the one thing you could tell from that progression -- and this all happened publicly -- is that they didn't have a clue. And I don't say that pejoratively; I just say it as a factual matter. So if they didn't have a clue -- picking up on David's point -- I don't know how the SEC is going to have a clue. But there is a way to do it; I think that the Commission should develop standards, as I think under Chairman Cox you have been for liquidity and disclosure. And then require all portfolio managers to retain somebody truly independent and competent to do an annual -- or a bi-annual, if they're smaller -- compliance inspection pursuant to standards, and report both to the fund management and board, as well as to the SEC's Office of Compliance, Inspection, and Examination.

And if you have that kind of effort, number one, the regulation would be paid for by the firms who are using the markets; second, the firms would have to get the kind of expertise they need as opposed to the Commission trying to replicate that at government salaries, which are not going to be adequate for the job; and third, it will enable the Commission to focus its efforts on where it wants to go, once it gets these reports, and provide broader coverage for the industry than it the Commission is capable of doing itself.

MR. BREEDEN: It sounds like a great full-employment act for consultants. I wish I hadn't left the consulting world behind.

You know, I, just to be contrarian, which I'm known to like to be, I sometimes think we get over-mesmerized by experts and people who run lots of fancy models. I spent three years running the financial services practice at Coopers & Lybrand, and we had to audit people like AIG and Goldman Sachs, and they had all big derivative books. And I can tell you, fine, you can go hire the best of the best experts. They all trot in with statistical models, and they'll sit and say whether it's in the hedge fund world, the long-term credit guys, or the mortgage world, or the valuation experts, everybody's carrying around ever-more complex statistical models, relying on what has and hasn't happened in history. Pick how many standard deviations you want to say that you're going to control risk to.

I remember it used to be popular saying, you know, you would measure your risk models for, you know -- I forget what it was, two standard deviations or something -- which meant the Titanic sank every 40 years, and if you're the stewards of Merrill Lynch or Goldman Sachs on their boards, maybe that isn't an adequate standard. Maybe "We don't ever go bankrupt" might be a better standard than "We'll do it every 40 years."

Anyway, I'm not sure that more complexity is the answer. I hope after the subprime crisis, there will be a period of reflection. I think we have been on a 25-year binge of moving in the direction of asset-backed securities, away from traditional equity securities and debt instruments issued by companies. And there's nothing wrong with asset-backed finance; but, you know, we have seen perhaps some of the limits, and in a very powerful way the stability of world markets called into question by the level the which the disconnect between, as I think Bill was saying, the people who are originating these things, and who's supposed to collect them.

So understanding how far should asset-backed go, I thought we learned at Enron that putting assets off balance sheet and huge amounts of debt off balance sheet in the Raptors wasn't a very good idea. And yet you look at so many of the major banks, not just in the U.S., but internationally, who have had serious write-offs, and a lot of them with these special investment vehicles that are similarly taking assets and structured finance off the balance sheet, where the markets can't see it.

So I hope that in the wake of all this we will look hard at improving transparency, so that people in the markets can valuate how much risk fiduciaries are taking. If I was in the Enforcement Division, I'd be looking for a few fiduciaries who have now admitted that they invested trillions of other people's money in instruments they didn't understand, and I'd sue them. And that might induce some healthy caution among people who are flinging other investors' money down the drain, without knowing what they're doing.

And I hope that we will continue to push for transparency, rather than things off in whatever corner, where they can't be evaluated. And lastly that we have real leverage limits, that there be some institutions. The ones we're going to protect, the ones that the public policy says are essential to systemic stability, then they ought to have real limits on how far they can carry their financial engineering, and how far their risk-taking can go, so that they will be sources of stability in a storm.

Because the one thing we know for certain is that the subprime crisis will not be the last global financial instability that any of us will ever see. These things happen periodically, and the system has to be organized not just to deal with a nice, sunny day, but it has to be organized to deal with storms and hurricanes too.

CHAIRMAN COX: What got us to start off on this I think very productive discussion was the contemplation of where the markets are going structurally, where the market participants are going structurally and how that's going to change over the next several years, and what it means for regulation. I think we teased out some good issues on that topic.

All around, everyone agreed that transparency is a touchstone, that it's very important; it's vital, central to what the SEC does. And I think baked into that is a notion that, for example, when you have full disclosure and transparency, you get the best price discovery. It's made on the basis of the best information, and so on.

But Bill and David mentioned, for example, dark pools as an alternative to transparency. To the extent that increasingly the market structures themselves -- demutualized for profit exchanges that are now looking to market data as a great source of revenue; hedge funds and other market participants wanting to utilize dark pools and other aspects of prime brokerage to conduct, you know, their business to the extent possible on a proprietary basis; to the extent there are all of these things going on simultaneously -- sovereign wealth funds, which, you know, don't need to (except for perhaps best practices) subscribe to any regime of regulation -- when you add it all up, do you get something systemic?

Do you get something that challenges the fundamental basis on which the SEC's system of regulation is premised? And what does that mean for the future?

MR. DONALDSON: I think we know far too little about the trading techniques, if you will, that are being employed in the marketplace on a global basis. To bring up an old sawhorse here that we used to talk about when I was here, the hedge fund industry, I mean here you have this gigantic industry growing like topsy, with essentially no regulation, very little regulation. And people say that the sophisticated investors don't need regulation inside these pools. I mean the name "hedge fund" of course means nothing. I mean most of these funds are no longer hedge.

But I guess my question is: How are we going to get on top of, not so much what goes on inside the hedge fund itself, the regulatory needs inside there for prevention of insider trading and for pricing of securities and so forth and so on; but how do we get on top of the techniques being used by these funds when they deal with the outside world?

Every time a hedge fund buys or sells something, it's selling it to a public market; it's selling it to investments investors, or institutional, or endowments, and so forth. And I think we know far too little about what's going on. And that multiplies or compounds itself as you get going on a global basis. I don't have any solutions to this, but I think it sure is an area that we need to be looking at.

MR. RUDER: Well, Bill, after long-term capital markets, I told Congress, I testified that what they needed to do was to create a regime in the United States in which all of the counter-parties were required to reveal to some regulators someplace their risk position, so that somebody could look at the systemic problems that were involved in these opaque markets.

And I don't know how to get from my grandiose theory to practical realities about how to get this information into the regulators, and even then what they would do with it. But I do think that there needs to be some really broad thinking about how to coordinate this information gathering. And I would really add that this has to be a global phenomenon as well as a U.S. phenomenon, that we have to look at the foreign regulators and see what they're doing.

The Chairman is currently head of the IASCO Technical Committee, and you probably have some ways of getting at that problem through that as well.

So it is an extraordinary complicated question, but one that I do not think can be left alone.

MR. HILLS: I understood Harvey as saying that he wanted to use experts as much to identify the question of whether the risk was properly disclosed as much as trying to decide what the value of it was. And I do think it makes some sense to make sure that people who have these strange items in their portfolio have disclosed the risk.

Now the risk may be -- I can't tell you what we have; but the issue really is: Have companies that are regulated by the SEC properly disclose to the public the kinds of risks they're exposing themselves to.

MR. COOK: They are required to do that now.

MR. HILLS: I don't think most of them know how to do it.

MR. COOK: Right --

MR. HILLS: I think that's the point, that if you hold these synthetic investments, if you want to call it -- we used them options way back then -- people didn't really know how to deal with options -- the issue is: Has someone been able to make sure that J. P. Morgan Chase has made the people investing in that bank understand the real risks? And if you do that correctly, you'll probably create less risk-taking.

MR. BREEDEN: I mean the good news is that there is a regulator for many of these institutions; it's called the board of directors of their company. And if they don't do their job, somebody should haul them into court or jail, and take care of them; and put the fear of you-know-who into the boards, and they'll do a little better job doing their job.

I mean I know after David's proposals, and when I was Chairman, actually did enacted, some data collection powers for the Commission. But I think it's an illusory goal as well as an impossible assignment to try and hypothesize that no matter how generous Congress ever chooses to be with the budget of this agency or any other federal agency, that you're really going to understand every risk in the marketplace. That's too big a task. You can't possibly do it. I wouldn't try.

I would understand what the duties are of the different people who are stewards of other people's money. None of us cares if Paul Tudor Jones goes out and loses his own money. Right? Or anybody's. Not to pick on Paul. But somebody who goes out and loses their own money -- unless through fraud and abuse -- then we care. But we care about stewards of other people's money and how they behave. We care principally.

And I think without knowing the answer to every possible risk and where every trade has been made, and whose holding what in the world, which if you go too far, (a) it probably won't work, it will be very costly, and I do think there's a big risk of driving investors offshore when you do that.

But what we can do is try and do what the SEC has always been very good at, which is holding people accountable for how they comply with certain standards. Disclosure. I don't have to understand how to value every single instrument in somebody's portfolio; but if they had the legal obligation to disclose it properly, then they either had better comply with that disclosure, or not buy it in the first place. And it's their duty, and you can hold them to it.

And similarly, I think -- and David has a lot more experience than I do in this area, but the issues of the fiduciary duties of mutual fund directors are tools that we have traditionally used to make sure that risk-taking -- there are people who are overseers in the private market of the risk-taking that their institutions have been engaged in. And I think what we've seen in the last year is pretty massive failures in the control systems of many large financial institutions.

And I actually think some of that comes from people having too much confidence in all the experts and all the models. And the problem is the models don't always work.

MR. RUDER: I wonder whether we would have been better off to have the same kind of discipline in the Wall Street firms that we have had in the mutual fund, where we had requirements that there be sound valuation procedures.

MR. DONALDSON: When year open that door, and then we're leading into another major subject, which is governance. In the broadest sense, how do these fiduciaries get in the position that they're in? I think one of the areas in this country that needs immediate attention is so-called proxy access. How do we maintain independence of governance? How do people become directors? How do different sort of investors get representation? It's a door that is open now. I think we're pretty much behind the rest of the world in some of our processes; but it's an area that needs attention, I believe.

MR. BREEDEN: And I have the biggest -- since we're an activist investment fund -- we're not a hedge fund, we don't hedge any; we're very dull, very boring. We just buy equity securities -- I don't buy anything -- and I try and understand those -- but the hedging world we leave to others. But I think Bill raises a great point. And I actually think there is a tie-in to safety and soundness, and systemic stability, because when you have self-perpetuating boards and governance that is not responsive to failures to oversee risk management, for example, and if the system makes it too difficult for the shareholders who are losing the money to replace people who are supposed to be protecting them, and who are not doing their job, then you build up risk-taking and you build up dangers to the system.

So having a system -- it's not to say the current system doesn't provide alternatives for shareholders -- having won several proxy contests, you know, you can go out and run against a board and you can win. But it's awfully difficult, and there are far too many companies where you have boards that have members who have been in power too long, have not been taking their job seriously enough. And more risk of accountability to directors would -- and I'm not saying people suing them, I'm talking about replacement via action of the shareholders might be a very healthy thing and might help control risk-taking.

MR. HILLS: The question really is: How do you want to construct a board? And I would suggest a bill that -- a series of proxy fights isn't the best way to construct a board. The possibility of a proxy fight is a good way to cure a bad problem; but what we're lacking through the country is a traditional way of selecting a board. It has become more and more common to say that only the independent directors can choose the director. And more and common is they keep the management out of the director process. In other words, do not let the CEO control the candidates for are being new directors.

And I think if we emphasize that, over time we'll have the kinds of directors we want. And I guess I think that it's not that hard to have a proxy fight today. There's very few companies today of any size that don't have six or seven organizations that own 5 percent of their shares.

Given the electronic data we have now, it's not that hard to start a proxy fight, if the company is in that bad a shape. I just don't like the idea of constructing a board through a series of proxy fights.

MR. DONALDSON: I wasn't suggesting that. I was simply suggesting the general area of governance; although it has, in my view, really improved with Sarbanes-Oxley. I think boards are running better; people take their jobs more seriously; directors are self-regulating, if you will, in terms of the obligations they've taken on. I think boards are doing a lot better job than they've ever done.

I was questioning how you change boards, how you get new dimensions into those boards. Certainly independent nominating committee is a step in the right direction. But I think there still is frustration out there, amongst certain classes of shareholders who want to have more of a say in the way the company is run.

MR. RUDER: The frustration comes from them not wanting to pay the money for the proxy fight. They want to use a management mechanism to put their candidates forward. I happen to think the Commission was right when it said in its proxy access proposal that its approach was that if a person was to be put up for directorship, there had to be the same kind of full disclosure for that candidate and its backers that there would be if there were a proxy fight.

I think that's a sound principle, and maybe it can be incorporated in a system in which you allow the companies funds to be used to support directors. But as you know, when you propose that kind of rule, it's very, very complicated.

MR. PITT: I believe I have to say I think there's not a real problem that I think we're grappling with. We're almost talking more about an ideal than a problem. Corporate governance is very, very important. I happen to agree with

Bill that people are doing a much better job in light of Sarbanes-Oxley. And I spent a lot of my time with people on these committees, and on boards, and so on. And we're seeing a real change in the attitudes and commitments.

Trying to open up access to the proxy process I think leads to enormous communications; and I think that we don't have that situation even with our elected leaders. People get to vote in primaries and for candidates that they don't often get to select, and they don't have a process. And we have representative government.

I think when you have funds like Richard's funds and others that are activist and seek to hold management and boards to a higher standard, that is a traditional way in which the process works. But if we were to now change the system to allow directors to be nominated; and in particular I thought one of the problems with the Commission's proposal was the effective equivalent of labeling a company as being troubled, which I don't think the government is really capable of doing, or should do. I'd much rather see private sector firms, like Richard's and others, make those assessments and go after them, with the profit potential that they see, as well as the desire to improve the governance.

The one thing I was curious about was when the Commission put out its policy statement in light of the Second Circuit's decision in the AFSCME against AIG case. I thought you had the potential of turning the bifurcation between the federal and state governments somewhat on its head. The rule of law is supposed to be that the states determine what the substantive rights of shareholders are, and the SEC deals with the mechanics and full disclosure.

But if under state law, shareholders have the right to change their bylaws, as was proposed in the AFSCME case, and that is assuming that that is a valid issue for the shareholders to vote on, having the Commission then effectively say, "Well, we're not going to allow the mechanics to be used to achieve that result," causes for me at least a concern that the Commission is then really, even though it's talking about mechanics, is effecting substance.

And to me the Commission had an easy way out of the problem. Of course, it's always easier when you're not sitting there with people shooting at you from all sides, as I know. But the easy way is simply to say, "State law tells shareholder whether they have the right to amend their bylaws or not, and if a majority of shareholders want to amend the bylaw to have a different process for nominating directors, that's great. And then those investors who don't like it will leave that company, using the Wall Street walk theory.

And it obviates the need for the Commission to make any substantive judgment about whether the company is being well run or badly run, how investors get access. But it would provide shareholder access if enough shareholders believe that the bylaws need amending.

CHAIRMAN COX: Since there is actual free consultation going on here on issues of current interest to the Commission, I want to try and interpolate here. Are you in tune with David's suggestion that your approach be tied with disclosure? That is to say, the disclosure that would be required in connection with the proposal to amend the bylaws would be the same as if there were a proxy fight?

MR. PITT: It could. I guess I certainly agree with David that when you're talking about specific candidates who are running, it doesn't really matter who nominates them; those candidates should be subject to full disclosure. I couldn't agree more with David.

What I'm saying is I don't know that the Commission -- if the Commission's concern is access to the proxies, et cetera, then it seems to me -- I don't know that the Commission has to even go that far. I'm saying I think there's an immediate solution which simply says, "State law." And if the law in your state permits shareholders to change a bylaw to let the shareholders nominate directors, so be it.

And we're not making that rule; we're just simply --

CHAIRMAN COX: Could the bylaw state that you can side-step the disclosure that David's talking about?

MR. PITT: It certainly could. And I guess, to put a finer point on it, I actually thought that the outcome -- and it's not that I'm somebody who believes that we need necessarily more shareholder access, because I think there are ways -- but I thought the outcome by the Second Circuit putting aside that it rejected the Commission's interpretation, which I always hate to see -- but I thought the outcome in that case was actually quite good. The court said they can put in a bylaw proposal if State law permits it. And that would have solved the entire problem.

MR. RUDER: Harvey, certainly in your federal-state dichotomy, you would not suggest that the states should be in charge of what kind of disclosure is required in a proxy solicitation?

MR. PITT: No. That was clearly allocated to the SEC --

MR. RUDER: Well, then --

MR. PITT: The SEC decides disclosure and mechanics. And so if the SEC thinks that shareholders have a right under state law, the SEC can prescribe what disclosure is appropriate for the exercise of that right. Absolutely.

MR. RUDER: I don't have any disagreement on that.

MR. PITT: I'm glad you agree with me on that. And then the next question is: Who decides who pays the expenses of that solicitation? Is that a state law question or a federal law question?

MR. RUDER: Well, the bearing of the expenses, I think is going to become less and less of an issue. I commend Chairman Cox and the Commission on going to its e-proxy rules, and so on. It seems to me that as we become more technologically oriented, the question of expense is going to become easier. But that's down the road a bit, and I can see that.

The problem is unless you know that someone has the support of a majority of shareholders, or, as Richard alluded to earlier, has a fiduciary obligation to protect shareholders, allowing anyone who wants to wage a contest to impose the costs on the company strikes me as a tyranny potentially of the minority over the majority, and I would be opposed to that.

MR. PITT: Well, the worst tyranny of the worst minorities are self-perpetuating board of directors who spend endless amounts of shareholder money on their own self-perpetuation and claim, "Well, we're the company and those, we're going" -- David's all worried about all the disclosures about the insurgents. And with all due respect, that ain't the problem.

The problem is we got boards that sit in American board rooms and do nothing. When companies have declining performance, when they're taking risks that they don't understand, when they're putting the shareholder interests at risk -- not at every company, but all too often. It isn't just Enron or Exxon. There are too many companies where the boards aren't doing a good job. And if the system makes it to too difficult -- and I kind of agree with Rod; you don't want boards that you have to have a proxy fight in every single company; I mean nobody would want to see that -- but at the same time, the system has to have enough accountability built in.

I've been quite interested; I find it a little striking that -- take off all the major financial institutions: Merrill Lynch, CitiCorp, UBS, and so on, where CEO's have been fired in the wake of the losses, horrendous losses to shareholders, in the subprime situations. How many announcements of board members stepping down and being replaced have you seen? Very few.

And so great, some people may argue that while they did their job, they replaced the CEO. But I do think we have a problem in the country -- in the system -- of too much insulation of a self-perpetuating group called the board of directors. And you want some insulation so people are willing to do it. It's a hard job. We have a lot of good directors in this country.

And you know, I'm very sensitive to those issues; but at the same time, if you put up too many walls and it's too expensive to challenge, you will end up with not the level of accountability that should exist of the people who are in the end fiduciaries for the shareholders. And it gets turned, the system gets turned on its head when we spend so much time worrying about how to protect companies from shareholders rather than to figure out how to protect the shareholders.

MR. PITT: Yeah. I just have to say one thing about that, Richard. You don't want the process to get too easy, because that's going to diminish your potential profits. So we want to be careful about that. But obviously the system isn't sufficiently hard that you can't manage it, and that others can't.

What we're really talking about is the impression of any majority by minority; and in some cases that can include boards. I think your point, for example, about major financial institutions is a great one. Anybody who thinks that it was an individual CEO at any of these companies and doesn't ask the question, "Where were the directors?, what were they doing?, what were they looking at?" I think is being very, very short-sighted.

So I couldn't agree with you more. The only issue that we have is, is it the function of a federal regulatory agency to decide what companies can be the subject of potential contests for control, by giving access to the proxy for some shareholders in some cases, but not for other shareholders or not in other cases?

And in my view I don't think it's necessary to go there. I think you can have a more relaxed system, based on the existence of already in-place laws in virtually every state in the union. And that keeps the federal government out of the business of having to dictate which companies can be subject to attack and which ones can't.

MR. BREEDEN: And I was sort of agreeing with you in saying that even though I'm arguing, as you point out, against my self-interest, that the system works best to the extent we let shareholders vote. The franchise works; it works in our political society; it should work, it will work in our corporate society. And the more we go to a system in which shareholders ultimately -- we have the system through e-proxy and other things to make it flexible enough to let shareholders vote and have major issues be decided by the will of the majority, not by either self-perpetuating small groups, or through federal regulatory agencies.

CHAIRMAN COX: You know, we've been now through a couple themes. Within the first portion of this discussion we talked about the challenges to the existing regulatory structure from changes in the marketplace, and what lies presently outside the realm of SEC regulation. In the second part we talked about governance of the portion that lies clearly within the realm of SEC governance, and how we can better constitute the governance of corporations in America.

One of the things that Richard mentioned leads me, I think, to what will be the third and final theme of this discussion -- because we'll come to a natural close in about 20 minutes -- and that is: If you have properly constituted the governance structure of a corporation in our system, then how do you hold them to account? What's the best way, as Richard says, to haul them before court or whatever, or throw them in a jail or what have you, in order to make sure that the performance is there?

Our system in the United States works pretty well that way. Certainly, it's superior to any system in the world when it comes to the enforcement tools that both the government and private actors possess. In this international environment, global capital markets' convergence, increasingly we can't do enforcement without cooperation from other countries. Bread-and-butter enforcement cases of old, the pump-and-dump schemes, the boiler-room operations, and so on, that might have been contained within the borders of the United States of America might just as well today be multi-jurisdictional with the computers and the telephones and the players all in different countries -- in part intentionally so that regulators and law enforcement have diminishing interest in pursuing the wrongdoers because their activities are spread across so many different jurisdictions and nobody really owns the problem.

So we find ourselves in a position now where we've got to ask these other regulators for help hundreds of times a year. Over 500 times this last year we've made demands on foreign regulators, and over 500 additional times they've made demands on us. So it's becoming the norm, and indeed, when you look at the numbers just a few years ago, that's a sharp, steep increase.

And the trajectory is even more interesting than where we are today. I mean it's pretty easy to see where we'll be in two or three years.

Given that we've been thrust into one another's arms and that we can't do law enforcement any longer by ourselves, what's the best way for the United States to true up enforcement and the calibre of it around the rest of the world, so that we can be comfortable that we no longer need go it alone?

MR. DONALDSON: Can I throw that back at you? I think the question is bilateral or multilateral relationships and if we need multilateral relationships, do we have the right entity out there, IASCO? Should that have more teeth, more power? Or is there some other organization that needs to be put together that will open up the cooperation --

CHAIRMAN COX: But I'll accept your invitation purely for purposes of stimulating discussion among the former chairmen. And I'll be exceptionally brief. IOSCO is an outstanding organization to bring different national approaches together and potentially to converge them. It's not either now or in my view in the foreseeable future going to be any good as a global regulator.

I think in a group of that size, if you attempt to actually do regulation, you're going to have to reduce it to the level of the lowest common denominator and it will account for very little. The group reaches most of its important decisions by consensus, which I think is appropriate in international forums such as that. And it can do a lot of good to bring people together and share information and even to have us all subscribe to the same principles, as we're implementing our national regimes. But it will fall to bilateral and possibly modest multilateral regimes to get the real work done.

I would just throw into the mix here that our Office of International Affairs and the SEC as a whole are engaging in ways that you all started, and have really blossomed. With our counterparts overseas we've trained this year along over 1,000 people, 1,000 regulators from over 100 countries, who come here. We do it in their countries. It's really quite a deep engagement. So we're after it in a big way, regulator to regulator.

But we're looking for all the ideas that we can come by from you, who are the architects of a lot of these programs, and who thought them up before they even existed. So, over to you.

MR. RUDER: Well, I'd just like to throw out the word, "regulatory arbitrage," which is a buzz word for the question of some markets being regulated less well than our markets are regulated, and the problem that the capital will flow to those markets that are less regulated.

I happen to think that's wrong. I happen to think that the capital will flow or should flow to the best regulated market. But I've been very pleased in the past few years to know that the Commission has been a leader in trying to persuade other governments to follow our path in some of the regulation. I see that in the development of the audit regulation and similar to the PCAOB, in foreign markets; I see it in the creation of the Caesar Group in the European Union. And I know that you've been meeting with the Japanese regulators and others.

And I think that to try to persuade those regulators that they need to have an optimum regulatory system rather than a bottom-feeding regulatory system is the right way to go. So it's your problem, Chris.

MR. HILLS: I see it as working, Chris. Thirty-three years ago the SEC -- we were complained about by a lot because we attacked the foreign bribery cases. At the time people said it was none of our damn business, and worse words. Today you find through all parts of the world a genuine interest in the bribery issue.

As you know, we have centers, a foundation we work with around he world, and each one of them at these universities in China, Korea, Indonesia, even Nairobi, are trying to find a way to replicate the effectiveness of the SEC. One of the problems, of course, is they don't have a plaintiff's bar, and they don't have a legal system that can enforce transparency.

One of the things this Commission can do is concentrate on the capacity of the accounting profession. The accounting profession is uneven around the world. The ability -- I think it was Ernst & Young that decided to have a single partnership rather than independent partnerships -- I think that's a step forward. I think the Commission can encourage that.

In other words, I think there's a large part of the world that is trying to find a way to have a system of securities trading that's as honest and as transparent as we are. And we are setting the example, and what you're doing is great. But my suggestion is that you can lean more on the accounting profession to do what I think they're trying to do.

MR. BREEDEN: I think it's a fascinating issue, and Chris, I was delighted to see you taking on the leadership of the technical committee. I think I was actually the first technical committee chairman then. It was a dubious reward doing that. But I thought at the time it was terribly important for the Commission, as the by-far the largest and the oldest of the securities commissions around the world, to play a leadership role in the world.

We can't dictate that the rules in other countries look like ours, but we can share our knowledge and our experience, and we can explain to people why our system, why we care about bribery, why we care about insider trading, why our rules -- our rules exist for reasons, and they're good reasons, and they're born our of our experience in building successful and competitive markets.

And I really think there is not a substitute for constant engagement by the Commission and its staff with their colleagues overseas. You know, if you think about law enforcement, there's always going to be a need presumably for the FBI; well, there's also a need for Interpol.

And in law enforcement and in the securities enforcement arena, I think you need bilateral arrangements. There will be cases that are simply between the U.K. and the U.S. or France and the U.S. or Japan and the U.S. And it's important to have a direct tie and a direct relationship.

We signed -- Mike Mann was the first director of International Affairs when I set up the division, and he had been in -- essentially the same effort under David in the enforcement division. And we made a huge effort to go around signing memoranda of understanding on enforcement sharing. And maybe we did too good a job, if you've got 500 cases a year coming in. But I think we signed 14, 18, 20 of them, something like that in the years I was there.

And I can remember quite vividly a meeting where we had in Zurich with one of the senior law enforcement officers of Switzerland. Obviously a banking haven. And at the time there had been the first entry of cooperation agreement between Switzerland and the U.S. And we started out to talk about the formal arrangements, and before we were 30 minutes into the dinner, my people from enforcement and this gentleman launched into it. They actually had two cases that were -- you know, one that the Swiss had we're very concerned about in our direction, and the other way around.

And so there's a tremendous, I think, benefit when you have bilateral relationships and the enforcement people in both countries know each other and feel comfortable sharing information.

At the same time I don't think that there is a substitute for having a multilateral effort as well, and Iasco is the only organization we have. I wish it had perhaps more institutional strength, similar to the Bosel Banking Committee. I mean maybe more in the way of a small secretariat or something. But I think as complicated as it looks, I think you got to keep after the bilateral relationships and the multilateral, and keep working together, because in the end there is a community of regulators and there should be a common interest around the world.

There will always be people who don't do it, and whose heart isn't in it. But if you can keep working, as I think you and Roel Campos, and a number of the Commissioners here over the last years, have worked very hard to continue to build through both the contacts and also the reciprocity arrangements and others that you have pushed through to show it's a two-way street, America is willing to cooperate, and the SEC is a good partner. And that's a never-ending job.

MR. COOK: But is the concern with commercially recognized countries or rogue countries, or both? Rogue I mean by some Caribbean island.

CHAIRMAN COX: That's a good question.

MR. COOK: Like offshore gambling.

CHAIRMAN COX: It's a good question, and I think our approach, at least thus far, has been centered on the major markets, with a view to trying to build a coalition of high standards countries. Hopefully the outliers will either remain outliers and modest size and be marginalized in that way, or alternatively over time we'll get them too.

But I think from my own standpoint, starting with major market centers where most of the throwaway of investment is, is the best way forward.

MR. PITT: I'd just like to make a few observations on this. I think the Commission has over the last several years done a terrific job of its outreach, and I really congratulate both you and Ethiopus Tofar. I think there have been a lot of very impressive initiatives, and I think that's one way to do this; although that's going to take a long time.

I also happen to agree with your assessment that IASCO is not going to be the vehicle, and for a number of reasons, including political with a small "p" reasons. I think there are risks associated with IASCO becoming the entity that does this. I think it can do a lot of good in the areas it's working in.

But I think that what's really required are one, proceeding with unilateral-bilateral agreements, as has been discussed already. I think that's going to solve some of the problem, and it has, and the Commission is doing a terrific job on negotiating those agreements. k

But I think the other thing is coming up with some form of regulatory/enforcement body that represents global viewpoints,. I'm not sure that it would need to have specific authority -- and it may be impossible to get that in the short term, anyway.

But I think having an organization in which everyone can discuss how we bring regulatory convergence as well as enforcement convergence to the world really ought to be useful, and the U.S. by being willing to participate in that, particularly if the SEC were willing to participate in performing that, I think, would go a long way to say "We're part of the world community, we want to work with you." Obviously, we're always going to protect investors. We're not necessarily going to give up authority, but want to find a common way of handling global issues, both on a regulatory and an enforcement basis.

And I think an organization that's really designed to come up with new ideas would be very useful. If you look at the success that the IASB has had, and the Commission's incredible support of what the IASB has done, I think that has made a dramatic statement to the rest of the world that American geocentrism may be waning, and that the SEC is a participant, not necessarily dictating how things come out.

I think trying to get to those points in a whole variety of regulatory areas, exchange regulation in particular, now that you have global mergers of stock exchanges, and so on, is absolutely critical to the

Commission, and the Commission has a very important leadership role to play.

So I would think working toward that kind of result in a way that's seen as collegial and cooperative I think can do a lot of good. And while it may not be, you know, a complete answer to all this, I think the Commission should be commended for what it's doing, and I think you should continue doing it. You are clearly headed, in my view, in this area on the right path. And I think there will be success from it. It's just probably not going to come this year. And I think it may take longer. But I think you're moving in the right direction, and you should keep up with it.

CHAIRMAN COX: Well, we are now at the point in the program where I'm going to invite you to say whatever you want, just in closing here, to help us wrap up. And I would encourage you to think of this as an opportunity to be provocative, controversial, headline-grabbing, sensational, or shamelessly complimentary to the current Commission.

(Laughter.)

INVITATION TO OPEN DISCUSSION

CHAIRMAN COX: Bill, do you want to start?

MR. DONALDSON: I started it all --

CHAIRMAN COX: All right. We'll start with Richard, if you want?

MR. BREEDEN: Well, I'll be shamelessly complimentary. I've been very proud to see many of the initiatives the Commission is doing. I think we have all gone in the market through the last months, perhaps the most difficult 12 months. I sit on the board of a major European bank, and the problems are certainly not just American, and we've gone through probably the most difficult issues of stability of capital markets that we've seen in the last 20, 30 years.

So it's been a dangerous time in regulatory terms. The subprime market mess has cost a lot of people an enormous amount. I think we have found out that regulatory systems, both securities and banking, both the U.S. and internationally, don't work as well as would like them to work. In spotting risks and figuring out methods to controlling them, it's perfectly crystal clear that the Fed and the other central banks do not have a handle on risk that's any better than that of the SEC, or any other regulators around the world.

I think all the regulators, all the rating agencies, most big investors, the whole market was evidently a little bit asleep at the switch in realizing the depth of the risks and how far these instruments had permeated around the world and the risk that could -- if there was a downturn that lasted any period of time -- could be imposed systemically.

And I think there's a real challenge there over the next year or two or three for regulators to put their heads together across industry lines, both the central banks and the securities regulators, U.S. and around the world, to think through what would be better ways of disclosure, better transparency in the marketplace, better accountability for risk-taking, to build a stronger system.

I was disheartened would be the mildest term I can think of to read of a plan emanating from the treasury that appeared to contemplate the SEC's ceasing to exist, and that because someone decided to intervene in a major securities firm, Bear Stearns, that suddenly the SEC is no longer needed. Maybe I read the plan wrong.

But I think the SEC is still very much needed. I think this is an institution that provides stability and balance and values, and protects investors not just here but helps make the world markets what they are. And I hope that Mr. Chairman, yourself and your successors long into the future will ensure agencies have responsibilities that change at the margins. But this is an agency that remains intensely relevant, perhaps more relevant than it's ever been, to today's markets. And so hang in there.

MR. HILLS: Maybe I could express on behalf of Brad and myself the appreciation for how the rest of your have maintained and increased the reputation in the 31 years since I left. If I go to Nairobi or I go to Jakarta, and I say I was once the Chairman of the SEC, I get a lot of respect, thanks to all of you.

MR. PITT: I'm not prone to giving provocative or controversial comments --

(Laughter.)

MR. PITT: I apologize. But, I think that there is a real issue with respect and in a sense your last question, Chairman Cox, is very similar to your first question, which is fundamental changes in the regulatory system. My concern is I think there is a real need for the SEC. I think there are many things that the SEC can bring to bear.

But I think that the problem for the Commission is maintaining its relevance in a world that is light years away from the world any of us -- even -- I'll certainly speak for myself, but I think it's probably true for Bill as well -- even for the two most recent SEC chairmen -- this world today that you are confronting is very different from the world I think any of us had to confront. I think these issues are very complicated, and although I am never in doubt, even though I'm seldom right, I don't think there are easy solutions to any of this.

But I do think that the Commission has an opportunity here to lead the discussion instead of, shall we say, being led in the discussion. I view the treasury report as a thoughtful effort to get issues on the table. The irony I think is that in the early '90s when the democrats controlled Congress and the Senate, there were similar proposals that were rejected then by the republicans, who were opposed to that.

These issues have come up ever since the SEC was created. I think they'll continue to come up. But I don't think the answer is to sort of beat our chests and say the SEC is the world's greatest agency. I think the SEC is a great agency. I think it has an illustrious history. But I think it's also a wake-up call to sort of say: How to we become even more relevant in a world that's changed beyond anyone's expectations?, beyond anything any of us could have imagined, including -- and I don't mean to sound startled -- including the current members of the Commission, who ought to be as taken by surprise by the developments of the last month, as all the rest of us were.

Because nobody necessarily saw a lot of these changes. But having had them, my strong recommendation is that rather than run from the issue, or rather than hide behind the issue, the way we've always done is always the best way. And there's truth in that point. It's just a question of how much truth.

I really think the Commission should be leading the discussion of how financial services should be regulated and administered, not just in this country, but throughout the world. There's a real need for thoughtful and careful consideration.

And I will throw out one sort of observation. If you look at what happened with Bear Stearns, okay? -- and we've all read and seen various different things -- one of the things that the Commission has unique perspectives on is what lessons can we take -- not who's to blame, because there may be people to blame, there may be cases that are going to be broad, or there may not -- but what lessons do we learn about our regulatory system? What ways can we improve its effectiveness?

And I really think that the Commission should be at the forefront of that discussion, rather than having other people tell it whether I should exist or not exist, or if it does exist how it should exist. I think it's always better to try and be in a leadership role on what is clearly a very, very important issue, going forward.

MR. COOK: Well, this agency has always been very nimble. It's got the best talent that you can find in any government. And I feel that under any circumstances it would be leader in any kind of regulatory process that evolves out of the recent debacle. And so to you employees who are here in the room, you're the best. So good luck.

Thank you

MR. RUDER: I'd just like to emphasize the concept of the SEC as an independent agency. I agree that the Paulson proposal seemed to be pushing towards the lowering of the Commission's independence. And I think it is extremely important that the agency retain its independence, its regulatory posture within any possible restructuring of our own financial system and within its role in the world.

At the same time, it must play a leadership role and be cooperative in whatever it's doing, and I think it is important, Chris, that the Commission continue in its role, not only now but in the future. And whatever legacy you can leave for your successor I think you should.

MR. DONALDSON: I think from what everybody said, we all share a great respect for the SEC. I think that comes from everybody sitting on this side of the table.

One of the things I worry about in terms of the SEC providing too much of a leadership position here is that we do have our own biases. I mean we think the SEC is pretty great and we think we should be leaders. What goes through my mind is trying to really understand what's going on here. What's brought us to this stage we're at?

And I fear that this solution may be thrown to the politicians. It may be thrown in a biased way. Again, I guess what I'm sort of calling for is some kind of an independent investigation, a Commission, or whatever you want to call it, to take a look at the circumstances we find ourselves in. Maybe can lead in putting that together, but it seems to me it has to have strong voices from the other regulatory agencies in the country.

I don't know we really understand yet what happened here. I don't know -- not because I want to find fault with some agency -- but I don't really know whether we should have been on top of the subprime thing long before it happened, whether we the SEC or the whomever.

But I do believe that we need to, before we get into the next political environment that we're going to be at the end of this election year, I really think we need to get together some independent thought and be willing to not dominate it ourselves, but be willing to be partners with some thinkers from other parts of the financial regulatory community.

CLOSING REMARKS

CHAIRMAN COX: Well, thank you, each one of you. This has been absolutely fascinating and enjoyable, and I hope that this discussion was as enjoyable and illuminating to all the people here in the auditorium and all the people watching electronically as it has been for me to chair it.

I'd like again to thank six of the past chairmen from this agency, six of the eight living chairmen. So this is really quite a spectacular event for us. We are indebted to each of you, and since you were so generous in thanking the current professional staff and Commission, I want to, in turn, thank each of you for what you've helped build here.

This is a remarkable American institution. It will undoubtedly prosper and continue to play a leading role, not only in regulating and undergirding America's capital markets, but in cooperation with our regulatory counterparts around the world, the world's capital markets. And it is, as I've said throughout this discussion, in large measure thanks to what you have been the architects of and what you've built here.

For all of us here in the auditorium, for all of us at the SEC celebrating with you the SEC's 75th anniversary starting in a just a few months, and celebrating even this year the 75th anniversary of the '33 Act, I want to thank you and ask everyone present to give a rousing show of appreciation to the former Chairmen of the Securities and Exchange Commission.

(Applause.)

CHAIRMAN COX: Thank you and good evening.

(Whereupon, at 4:45 p.m., the meeting was adjourned.)