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Opening Statement
Rep. Elijah E. Cummings, Ranking Member

Hearing on "The Future of Capital Formation"

May 10, 2011

Thank you, Mr. Chairman.

Today's hearing will examine ways to help small and emerging businesses gain access to additional capital to help them grow and hopefully succeed. This issue is critical to the continuing economic recovery and future success of our nation. If U.S. firms cannot grow, they cannot create jobs.

Our examination must begin with the simple concept that permits our markets to function effectively, and that is investor confidence.

If people or institutions do not have confidence that a market is safe and sound, they simply will not invest, and this lack of confidence will impede the ability of growing companies to access much-needed capital.

This was a key lesson of the 1929 market crash. As a result, Congress created the Securities and Exchange Commission to enforce securities laws in a way that enables firms to access capital while providing investors with sufficient information to have a basic level of confidence in the system.

We learned this lesson again in 2008 as inadequate financial oversight led to recklessness, fraud, and unscrupulous behavior, resulting in the greatest financial crisis since the Great Depression.

The SEC has now charged 66 entities and individuals with securities violations leading to or arising from the recent financial crisis.

For example, Goldman Sachs paid a record penalty of $550 million after the SEC charged the firm with "defrauding investors by misstating and omitting key facts about a financial product tied to subprime mortgages." Charles Schwab paid $118 million to settle charges regarding "misleading statements" the firm made to market a mutual fund "invested in mortgage-backed and other risky securities."

As a result, Congress passed the Dodd-Frank Act last year making critical changes to the U.S. financial regulatory system to enhance accountability for banks and Wall Street firms that caused the financial crisis.

Some people now argue that we should repeal these protections in their entirety, as if the crisis that crippled our economy in 2008 never happened.

In my opinion, that is exactly the wrong approach. We will not restore lost confidence by removing protections that safeguard investors. Instead, we must find an effective balance – one that ensures investors that they will be protected in the future – while carefully examining ways to optimize growth.

I fully support helping U.S. firms access additional capital – but I also believe this must be done without sacrificing critical protections that assure our fellow citizens that our markets are fundamentally sound.

It is important to remember that the investors we are trying to protect are everyday Americans. In fact, according to an April survey by Gallup, a majority of Americans – 54% – reported owning some form of stock.

I am encouraged by the fact that since she has begun her tenure, Chairman Schapiro has taken an active role in guiding her staff to conduct comprehensive reviews over a range of issues concerning capital market formation, including many of the issues that we will discuss here today.

The 25-page letter she sent to the Committee on April 6, 2011, demonstrates that she is serious about exploring innovative and new ideas to assist market participants while implementing robust consumer protections that will help investors retain confidence in our markets.

In that letter, she made this statement:

> Cost-effective access to capital for companies of all sizes plays a critical role in our national economy. Regardless of the form or size of the offering, companies seeking access to capital in the U.S. markets should not be overburdened by unnecessary or superfluous regulations. At the same time, all offerings must, of course, provide the necessary information and protections to give investors the confidence they need to invest in our markets. Striking the right balance between facilitating access to capital by companies and protecting investors in our rules and orders is a critical goal of the SEC.

I wholeheartedly agree. I ask unanimous consent that Chairman Schapiro's entire letter be made part of the official hearing record, and I look forward to hearing from Chairman Schapiro and all of our witnesses.

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