OPENING STATEMENT OF
RANKING DEMOCRATIC MEMBER PAUL E. KANJORSKI

SUBCOMMITTEE ON CAPITAL MARKETS, INSURANCE, AND GOVERNMENT SPONSORED ENTERPRISES

HEARING ON REVIEWING U.S. CAPITAL MARKET STRUCTURE: PROMOTING COMPETITION IN A CHANGING TRADING ENVIRONMENT

THURSDAY, OCTOBER 30, 2003

Mr. Chairman, we meet today for the second time in the 108th Congress to review the structure of our capital markets and evaluate reforms that might enhance competition in light of recent technological advances and marketplace developments. In recent years a variety of participants in the securities industry have questioned one or more aspects of the regulatory structure of our capital markets. Today's proceedings will therefore help us to better understand these issues and their concerns.

In my view, we have come to a crossroads in the securities industry, facing a number of decisions that could fundamentally alter their structure for many years to come. As I did at our last hearing on market-structure issues, I must caution my colleagues on both sides of the aisle to move carefully and diligently in these matters. Because we have elaborately interlocking systems and relationships in our securities markets, I believe that we should refrain from pursuing change for change's sake. Moreover, in pursuing any change to fix those portions of the system experiencing genuine strain, we must also ensure that do not disrupt those elements of our markets that are working well.

In adopting the Securities Acts Amendments of 1975, the Congress wisely decided to provide the Securities and Exchange Commission with a broad set of goals and significant flexibility to respond to market-structure issues. From my perspective, this system has worked generally well over the last three decades in adapting to technological changes and other developments. This legal framework also ought to continue to provide the Commission with the flexibility that it needs to consider and adopt further reforms in the future.

In testimony before the Senate earlier this month, SEC Chairman Donaldson indicated that the Commission would be focusing with increased intensity on the structure of our securities markets in the upcoming months. I therefore look forward to hearing from the Chairman later this morning about his current views on these matters. I want him to know that it is my hope that the Commission will move expeditiously and methodically in its deliberations.

Mr. Chairman, I have made investor protection one of my top priorities for my work on this Committee. During my opening statement at our last hearing on market-structure issues, I outlined some of my thoughts regarding self-regulation in our securities markets. Today, I would like to focus on another important investor protection issue: transparency.

For our securities markets to work well and advance the interests of investors, I believe as a general rule that we should seek to promote transparency to the maximum extent possible. Transparency helps to ensure that all participants in a marketplace have access to the same information for making decisions. Transparency therefore ensures that no participant in a marketplace is either advantaged or disadvantaged because of their access to information.

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For these reasons, I have apprehensions about any market-structure reform proposals that would limit access to information, including those that would allow for the internalization of market orders. In my view, such proposals have the potential to jeopardize the transparency of our markets and harm investors. During their tenures, the two most recent former Commission chairmen have expressed concerns about the internalization of market orders by broker-dealers.

Additionally, the current SEC Chairman has previously observed that "internalization can discourage markets from competing on the basis of price and pose a conflict of interest for broker-dealers." As we deliberate on market-structure issues this morning, it is my expectation that he will comment further on the importance of further enhancing transparency in the securities industry.

In closing, Mr. Chairman, I believe that our committee must continue to conduct vigorous oversight of the securities industry to determine whether its regulatory structure is working as intended and to examine how we could make it stronger. The observations of today's witnesses about these complex matters will also help me to discern how we can maintain the efficiency, effectiveness and competitiveness of our Nation's capital markets into the foreseeable future. I commend you for bringing these matters to our attention and yield back the balance of my time.