

**OPENING STATEMENT OF  
RANKING DEMOCRATIC MEMBER PAUL E. KANJORSKI  
SUBCOMMITTEE ON CAPITAL MARKETS, INSURANCE,  
AND GOVERNMENT SPONSORED ENTERPRISES**

**THIRD HEARING ON REVIEWING U.S. CAPITAL MARKET STRUCTURE:  
THE ROLE OF THE SPECIALIST IN THE EVOLVING MODERN MARKETPLACE  
FRIDAY, FEBRUARY 20, 2004**

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Mr. Chairman, we meet for the third time in the 108<sup>th</sup> Congress to review the structure of our capital markets and evaluate the need for further reforms in light of technological advances and competitive developments. Today's hearing will examine the role of the specialist on the New York Stock Exchange and recently announced changes to the Big Board's trading systems.

As I have noted at our previous hearings, a variety of participants in the securities industry have questioned one or more aspects of the regulatory system during the last several years. We have also, without question, come to a crossroads in the securities industry, facing a number of decisions that could fundamentally alter its structure for many years to come.

Because we have elaborately interlocking systems and relationships in our securities markets, however, I believe that we should refrain from pursuing change for change's sake. At our last hearing, the Chairman of the Securities and Exchange Commission further observed that in pursuing any change to fix those portions of the system experiencing genuine strain, we must ensure that we do not disrupt those elements of our markets that are working well.

In the near future, the Commission is expected to put forward for comment a series of proposals that would reshape the structure of our securities markets. In adopting the Securities Acts Amendments of 1975, the Congress wisely decided to provide the Commission with a broad set of goals and significant flexibility to respond to market-structure issues. From my perspective, this legal framework has worked generally well over the last three decades.

Mr. Chairman, I have made investor protection one of my highest priorities for my work on this Committee. As the Commission proceeds with its reform proposals, it is therefore my expectation that it will thoroughly examine the effects of these plans on average retail investors.

Under our present regulatory system, retail investors are guaranteed the best price that our securities markets have to offer regardless of the location of a trading transaction. By ensuring fair treatment, this best-price guarantee has significantly increased confidence in our securities markets.

Interestingly, some recent news reports have suggested that the Commission may issue a proposal to permit participants in our capital markets to opt out under certain circumstances of this best-price guarantee. Such a plan has the potential to produce unintended consequences like fragmenting our securities markets, decreasing liquidity, and limiting price discovery. Because such results could prove deleterious for small investors, I will be monitoring this issue very closely in the weeks and months ahead.

At our previous hearings on these matters, Mr. Chairman, some have further suggested that specialists are an anachronism in our capital markets. I have a different view. The human

involvement of specialists in the trading process can contribute to the smooth and efficient functioning of our capital markets. Rather than complain about the specialist system, each securities marketplace should -- with the appropriate oversight of the Commission -- have the freedom to decide for itself the best way to organize its trading operations.

As I have studied the role of the specialist on the New York Stock Exchange, I have also come to appreciate its similarity to the role of legislators in Washington. With today's technology, we could each remain in our district offices and vote on pending bills. It is, however, our interaction with one another in the halls of the Capitol complex and during the debate on the House floor that allows us to improve legislation and get the best deal for our constituents. In the same way, it is the interaction of the specialist with brokers and others that should help to produce the best price for investors.

Before I close, Mr. Chairman, I should acknowledge that we are fortunate to have John Thain, the new leader of the New York Stock Exchange, with us today. In the last five weeks, he has announced several important reforms, including one to significantly expand the Big Board's automatic trading platform and another to restrict specialists from participating in certain trades. As the Commission proceeds in its market-structure deliberations, I hope that it will follow a prudent course of action and allow sufficient time for the effective implementation of these recently announced changes before creating greater uncertainty with respect to reforming our National Market System.

In sum, Mr. Chairman, I believe that our panel 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.

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