U.S. SECURITIES AND
EXCHANGE COMMISSION

Public Statement

Statement on Opportunity Zones

Chairman Jay Clayton

July 15, 2019

Today, together with our regulatory colleagues at the North American Securities Administrators Association (NASAA), our staff issued a statement explaining the potential application of state and federal securities laws to fundraising for Opportunity Zones. Separately, our staff also provided guidance regarding the ability of Main Street investors to participate in these offerings. Our staff, and our state colleagues, have my deep appreciation for their proactive and cooperative approach to this matter.

The Opportunity Zone staff statement and guidance demonstrate that Main Street investors can invest in their communities in a manner that is compliant with our securities laws. Opportunity Zones provide a community-specific incentive for long-term investment. There are well established paths for institutional investors and high net worth individuals to invest in these projects. The path for Main Street investors and, in particular those who live in the Opportunity Zone itself, to invest in these projects is often more complex and could cause those raising funds to exclude, or significantly restrict participation by, Main Street investors. I believe we should actively explore whether this complexity can be reduced in order to foster greater access to certain Opportunity Zone investments by Main Street investors, particularly those who live in or near the Opportunity Zone.

Recently, we issued a comprehensive concept release regarding our regulation of private securities offerings. One of the key issues on which we are soliciting public comment is whether we can increase access to private securities offerings for Main Street investors, either directly or through funds or other intermediaries, while maintaining appropriate investor protections.

As we consider how best to approach the issues raised in the concept release, a specific question I have is whether we can make changes to our rules to provide a simplified path to allow individuals who live in or near the Opportunity Zone to invest in the project on a basis that provides appropriate investor protection. For example, if we had an exemption where the investment opportunity is limited to residents of the Opportunity Zone or adjacent zip codes within the same state in a manner similar to our intrastate exemption from Section 5 provided by Rule 147A, maximum investment size is scaled to reflect the individual's circumstances in a manner similar to the Regulation Crowdfunding rules, and the terms of the investment ensure an alignment of economic interest with institutional or high net worth investors in the project, can some of the complexities associated with traditional private placements be eliminated without a reduction in investor protection?

As noted above, Opportunity Zones can provide a way for Main Street investors to invest in local communities. When considering these investments, it will be important for Main Street investors to understand the potential risks and benefits, including whether or not they will be able to take advantage of any tax benefits typically associated with Opportunity Zone projects.

Our Office of Small Business Policy in our Division of Corporation Finance and the SEC's Office of the Advocate for Small Business Capital Formation stand ready to work with community groups, bar associations, project sponsors and others who would like to explore these issues in practice.