



## **Opening Statement**

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**Before**

**The U.S. House Committee on Financial Services**

### **Game Stopped?**

**Who Wins and Loses When Short Sellers, Social Media, and Retail Investors Collide, Part II**

**March 17, 2021**

Good morning Chairwoman Waters, Ranking Member McHenry, and Members of the Committee. Thank you for holding this important hearing and for the invitation to Better Markets to testify.

As we have already heard, many of the market structure and regulatory issues addressed by this hearing are complex, hotly disputed and often difficult to understand. But, it's important to remember that they directly affect economic activity and growth. In fact, these issues actually impact how businesses form, grow and create jobs.....or not.

That's what is really at stake and why everyone has a stake in these issues.

Simply put, the purpose of our financial system and our markets is supposed to be wealth creation for the many, not wealth extraction for the few. That's why the work of this committee is so important to the lives and livelihoods of all Americans.

However, because of the limited time and format for hearings like this, many of those issues won't be able to be adequately covered today. That's why the written testimony I've submitted is so long. It covers many of those issues extensively and in detail. It is intended to be a resource to you and your staffs long after this hearing.

While all of that written testimony is – of course - fascinating and well worth reading, I want to draw your attention in particular to the attached Appendix C. That Appendix has 7 slides that I created to visually show how payment for order flow works and how retail investors do not get best execution. Indeed, those slides show how retail investors are virtually guaranteed to get the worst execution.

That written testimony and those slides demonstrate that the markets are not a level playing field. They are rigged to advantage the sell side against retail investors, pension funds and the buy side generally. Put differently, these markets are too often a wealth extraction

mechanism to enrich the few at the expense of the many. That is all detailed in my written testimony.

I want to make just 2 other quick points before my time is up.

**First**, our markets may be the envy of the world today, but that is not pre-ordained, guaranteed, or destined to always be the case. It is only because people believe our markets are, *relatively*, transparent, well-regulated, and policed. That's due to the hard work of legislators like yourselves and regulators like the SEC.

That work has engendered faith and confidence that our markets are fair and *relatively* free of fraud. That confidence underpins our markets. Lose that, and our markets will not function. If they don't function, then our economy will be hurt. That means, jobs, growth and living standards are at stake.

That, unfortunately, is the precipice we currently stand on. While the world may be envious of our markets, poll after poll shows many Americans are losing faith and confidence in our markets. That's why the many issues raised by the GameStop frenzy are so important. If not properly addressed, it will happen again, and it could be worse, much worse. If that happens, investor confidence will be crushed, then our markets, then our economy.

Remember, a growing, thriving economy is the very purpose of the markets: capital allocation and formation to fuel economic growth, rising living standards, decreasing inequality, and making the American Dream available to more people.

That requires a level playing field, full and fair price discovery, and serious investor protection. Anything that interferes with that erodes investor confidence and should be eliminated. That's why payment for order flow and the many other wealth extraction activities and conflicts of interest revealed and highlighted by the GameStop frenzy have to go.

**Second**, and finally, Congress must remain deeply skeptical of the disingenuous argument that retail investors have "never had it better." While that is arguably true, it is not attributable to payment for order flow. The actual causes of increased market access and narrowing spreads over the last 25 years are due to:

- technological improvements,
- cost reductions,
- the introduction of electronic trading,
- implementation of decimalization, and
- other elements of the Regulation NMS framework.

In fact, without payment for order flow and the other intentionally created complexity used to disguise the many wealth extraction activities, retail investors would be much better off today.

And, investor and public confidence would be much higher. That could be the foundation for a virtuous cycle where: more people invest; more capital is available; more businesses are formed and funded; more jobs are created; and, economic growth increases and broadens, benefiting all Americans, ensuring our markets remain the envy of the world.