TESTIMONY OF ARTHUR LEVITT, JR. -- Oral
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Thank you, Chairman Dodd and Ranking Member Shelby, for the opportunity to appear before the Committee at this momentous time in the life of our markets. I'd like to submit a written statement for the record.

From where we stand at this moment in this deeply serious and destructive market crisis, we already know that there is plenty of blame to go around, but let me be absolutely clear about one point. We are here today not because of what happened this year or last, but because of at least two decades of societal and political adherence to a deregulatory approach to the explosive growth and expansion of America's major financial institutions.

Furthermore, it is now readily apparent that our regulatory system failed to adapt to important, dynamic, and potentially lethal new financial instruments as the storm clouds gathered.

The list of failures goes well beyond the Securities and Exchange Commission, but today I want to focus my remarks on that agency.

Right now, the key problem plaguing our markets is a total breakdown in trust – in investor confidence.

Since 1934, a strong SEC – staffed by consummate professionals and led by independent-minded commissioners – has succeeded in maintaining investor confidence and helping to make our markets the envy of the world.

Unhappily, over the past few years, the SEC has not lived up to this storied history.

As the markets grew larger and more complex – in scope and in products offered – the Commission failed to keep pace. As the markets needed more transparency, the SEC allowed opacity to reign. As an overheated market needed a strong referee to rein in dangerously risky behavior, the Commission too often remained on the sidelines.

As this Committee examines the record, I believe it will find a lack of transparency, a lack of enforcement, and a lack of resources all played key roles.

Allow me to highlight a few instances of these problems

After all the markets have undergone the past few weeks, we still do not know the full extent of the losses incurred by banks and other companies on mortgage-backed securities – a lack of information about where risk resides is keeping investors suspicious and out of the markets.

One of the biggest steps we can take to bring to light a fuller picture of companies' financial health would be to expand fair-value accounting to cover all of the financial instruments -- the securities positions and loan commitments -- of all financial institutions.

Yet in recent weeks, fair-value accounting has been used as a scapegoat by the banking industry – the financial equivalent of shooting the messenger. If financial institutions were accurately marking the books, they would have seen the problems they are experiencing months in advance and could have made the necessary adjustments – and we could have avoided the current crisis.

As the markets grew more complex, there also was a failure of oversight to keep up with growing and risky parts of it. The recent revelations about the CSE program are a glaring example of this problem.

The last area where we have seen a deviation from decades of SEC history, tragically, has been the enforcement of the laws on the books.

In part, this is the result of a lack of adequate resources. Budget and staffing levels have not kept pace with inflation or financial innovation. And recent procedural changes at the Commission have led to a lessening of the imposition of corporate penalties against egregious wrongdoers, a reduction in the corporate penalty numbers over the past year, and a demoralizing of the enforcement staff undermining their efficacy.

Of course, resources alone will neither reinvigorate the SEC nor revive our markets.

For the past 75 years, the SEC has been the crown jewel of the financial regulatory infrastructure and the administrative agencies because its leadership from both political parties – chairmen like Kennedy and Douglas at its founding, and Ruder, Breeden, and Donaldson in recent times – understood the importance of public pronouncements and signals sent to the marketplace.

Recently, at critical moments and on critical issues, the SEC has been reactive at best or has shown no real willingness to stand up for investors.

And it's these moments that weaken the power of the agency and investors' faith in the markets.

Looking forward, restoring trust in our markets will require rejuvenating the SEC. It is the only agency with the history, experience, and specific mission to be the investor's advocate – a history earned under the chairmanship of individuals from both political parties.

Losing that legacy would be devastating to our ability to regulate the markets and restore investor confidence.

But let me be clear: a restoration of the SEC to its position from before this current slide is not enough. At this moment, we need a dramatic rethinking of our financial regulatory architecture – the biggest since the New Deal.

And the SEC will need to undergo changes and evolve to keep pace with the marketplace.

As we move forward in the process, we must make sure that there is an agency that is independent of the White House, dedicated to mandating transparency with robust law enforcement powers, with the wherewithal and knowledge to oversee and if necessary guide risk management, and built around one mission: protecting the interests of investors.

If we do, investors will know that they have someone in their corner, that the markets will be free and fair, and that they will invest with confidence.

Thank you.