AFR Americans for Financial Reform

March 1, 2021

The Honorable Sherrod Brown
Chairman
Senate Committee on Banking, Housing & Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Patrick J. Toomey
Ranking Member
Senate Committee on Banking, Housing & Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Members of the U.S. Senate Committee on Banking, Housing, and Urban Affairs,

On behalf of the undersigned 41 organizations, we are writing in strong support of the nomination of Gary Gensler as the next Chair of the Securities and Exchange Commission. The work of the SEC is critical to everyday Americans. It is the lead regulator of U.S. securities markets that provide capital for business as well as investment savings for families to provide for retirement and their children's education. The public counts on fair, just, and effective SEC market regulation to support corporate accountability, protect investors, ensure company's access to funding for growth, and prevent financial instability. Under the right leadership, the Commission should also play a critical role in ensuring that public companies and investors integrate climate related risks into their decisions. Every American who works for a company that issues debt or equity, or invests their savings in such securities, has a stake in strong and effective leadership at the SEC.

Mr. Gensler would bring an unparalleled depth of experience and knowledge to the position of SEC chair. He began his career by learning Wall Street from the inside at Goldman Sachs, where he became the youngest partner in the firm's history and gained experience in mergers and acquisitions and fixed income trading. However, after leaving Goldman Sachs in the late 1990s, over the last two decades he has devoted himself to public service and academia, including at the U.S. Treasury Department, as the Chair of the Commodity Futures Trading Commission, and in his current position researching and teaching at MIT.

When President Obama nominated Mr. Gensler as chair of the CFTC, some of our organizations had doubts about his commitment to reform of Wall Street due to his background as an investment banker. However, those doubts were dispelled as we observed his leadership on effective regulation of the derivatives markets, first by engaging productively with Congress in ways that strengthened the Dodd-Frank Act and then working tirelessly to implement that legislation at the CFTC.

Mr. Gensler's record at the CFTC speaks for itself. The CFTC is the smallest and most underfunded major financial regulator but was given one of the largest new responsibilities under the Dodd-Frank Act as the lead regulator of previously unregulated over-the-counter swaps markets. Under Mr. Gensler's leadership, the CFTC led the way in finalizing and implementing difficult new financial regulations. When he left his chairmanship of the CFTC in early 2014, the CFTC had finalized over 80% of the 60 rules it was charged with completing, almost all with bipartisan support on the Commission. Other regulators had completed fewer than half of their assigned rules.[1] These were thorny and complex rules governing multi-trillion dollar markets with billions in profits at stake. Mr. Gensler was subjected to a constant flow of personal attacks and criticism for working to finalize strong rules. But he was undaunted.

The SEC is sorely in need of a leader with Mr. Gensler's knowledge, energy, and willingness to pursue significant new rules and reforms, even in the face of opposition from powerful interests that benefit from an unfair, unsafe, or abusive status quo. SEC-regulated entities including broker-dealers, credit rating agencies, and securitization markets were at the center of the 2008 financial crisis. Yet the agency has engaged in much less fundamental reconsideration of its regulatory framework since the crisis than other major financial regulators. The March 2020 financial market disturbances, which necessitated a major Federal Reserve bailout, were also significantly related to issues in SEC-regulated debt markets and in the activities of private funds such as hedge funds which act within SEC-regulated markets. Equity markets rules are also in serious need of fundamental reform. The growth of private markets, in which companies can grow to enormous size without meeting core disclosure and governance requirements for public companies, is an extremely disturbing development that threatens to fundamentally undermine both corporate accountability and the ability of investors to trade equities in a transparent and liquid market. The recent stock market volatility and the growth of retail brokerages like Robin Hood also underline the need for better protection of both retail investors and retirement savers.

Action is also needed on the problems that have come to light in the "alternative investment" space, which includes hedge funds and private equity. From 2008 to 2017 total alternative assets under management (AUM) grew from $3.1 trillion to $8.8 trillion, and analysts expect it to

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[1] [1] Polk, Davis. "Dodd-Frank Progress Report January 2014," n.d., 15, https://www.davispolk.com/sites/default/files/Jan2014_Dodd.Frank_.Progress.Report_0.pdf

reach $14 trillion by 2023.[2] Since the Commission began regulating private equity fund managers after the passage of Dodd-Frank, it has twice issued warnings to investors that the managers were charging inappropriate fees and expenses. The SEC must bring enforcement actions to hold accountable firms responsible for overcharging investors, many of which are pension plans investing to provide for the retirement security of working class people. It must also enforce and improve fiduciary obligations and disclosure requirements for alternative investment managers.

The SEC must also address the pressing issue of climate risk regulation in the financial sector. Today, investors simply do not have the information they need to understand either the contribution of specific investments to climate change or the financial risk posed by climate change to the performance of a company or an investment. Ensuring that climate-related risks are fully incorporated into financial disclosures and decision making in SEC-regulated financial markets will be yet another demanding task on the agenda of the next SEC chair.

The need for strong regulatory reforms at the SEC is long standing, but the last four years have only increased their urgency. In recent years SEC rules have been significantly weakened in key areas ranging from private market fundraising to investor protection to oversight of global derivatives markets. A new SEC Chair will thus face the dual challenge of reversing dangerous recent deregulation and leading a large agency in fundamentally updating and strengthening its rules for a rapidly changing market environment.

Taken together, these demands constitute a tremendous challenge to the next SEC chair. We believe that Mr. Gensler has demonstrated that he has the knowledge, energy, drive, commitment to the public interest and courage to meet this challenge. We urge you to vote to confirm him.

Sincerely,

20/20 Vision
Adrian Dominican Sisters, Portfolio Advisory Board
AFL-CIO
Alliance for Retired Americans
American Economic Liberties Project
American Family Voices
American Federation of State, County and Municipal Employees (AFSCME)
Americans for Financial Reform
Businesses for a Livable Climate
Call to Action Colorado
CatholicNetwork.US
Center for Economic and Policy Research
Center for Popular Democracy

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[2] Preqin, "The Future of Alternative Investments," October 2018, https://docs.preqin.com/reports/Preqin-Future-of-Alternatives-Report-October-2018.pdf

Congregation of St. Joseph
Consumer Action
Consumer Federation of America
Dana Investment Advisors
Daughters of Charity, Province of St. Louise
Economic Policy Institute
Financial Accountability and Corporate Transparency (FACT) Coalition
Fund Democracy
Harrington Investments, Inc.
Interfaith Center on Corporate Responsibility
International Brotherhood of Teamsters
Media Voices for Children
Mercy Investment Services, Inc.
Northwest Coalition for Responsible Investment
OIP TRUST
Open Markets Institute
Public Citizen
Public Investors Advocate Bar Association
Publish What You Pay--United States
Rapid Shift Network
Roumell Asset Management, LLC
Service Employees International Union
Strategic Organizing Center (formerly CtW)
Strong Economy For All Coalition
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