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RANKING MEMBER

United States House of Representatives
Committee on Financial Services

2129 Rayburn House Office Building
Washington, D.C. 20515

June 25, 2020

The Honorable Jay Clayton
Chairman
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Dear Chairman Clayton:

The United States continues to endure an unprecedented public health and economic crisis as a result of the coronavirus 2019 (COVID-19) pandemic, which requires that the federal government dedicate all of its focus and resources to protecting our families and shoring up the economy. At the beginning of the crisis, I called on all of our financial regulators, including the Securities and Exchange Commission, to immediately halt all rulemakings unrelated to addressing the pandemic. Subsequently in March, I introduced H.R. 6321, a comprehensive bill to protect individuals, families and the economy from COVID-19, including by requiring the financial regulators to temporarily suspend all rulemakings that do not address the impacts of the pandemic. At that time, I also emphasized that it would be unacceptable for any regulator to use this crisis as an excuse to justify rollbacks of important financial regulations that are in place to protect investors and our financial system. However, during these difficult times, the SEC under your leadership has pushed a deregulatory agenda, including rules that would rollback critical investor safeguards, limit shareholder rights, and deprive the market of important information precisely at a time when it is needed most. I again urge you to immediately halt further consideration of the following rulemakings that threaten to leave investors and our markets more vulnerable to financial instability and risk than ever before.

The COVID-19 pandemic has inflicted unprecedented harm on the American economy and has taken a significant toll on the financial security of millions of workers and families. More than 2 million people have been infected in the United States alone and over 120,000 lives have been lost.[1] Markets

[1] Coronavirus Disease 2019 Cases in the U.S., Centers for Disease Control (last accessed Jun. 18, 2020), available at https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html

continue to experience historic volatility, entire cities and states have shut down their economies for months, and a staggering 45 million of people in the United States have been laid off and filed for unemployment benefits since the beginning of the pandemic.[2] Tens of millions more have been subject to stay at home orders and other restrictions that limit their ability to fully participate in civil society, including being able to conduct a thorough review of the rules of your agency and several others. It is alarming that you continue to advance a regulatory agenda that has significant consequences for retail investors, including seniors living on a fixed income, when those same investors have been limited in their ability to review the rule.

Regarding your deregulatory agenda, I am profoundly concerned by the SEC's continued attempts to expand the private markets through Release No. 33-10763, *Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital Markets*. Private markets lack critical investor protection safeguards, are highly illiquid, and lack the transparency investors need to make informed investment decisions. Rife with fraud and few investor protections, the North American Securities Administrators Association has noted that private offerings are among the top sources of enforcement actions brought by state securities regulators.[3] Moreover, the further expansion of private markets comes directly at the expense of public markets, which have been specifically designed to facilitate capital formation while ensuring that investors and other market participants receive the full protection of the securities laws and have access to the tools and information they need to make informed decisions.

Additionally, I am deeply concerned that the SEC has continued to work towards finalizing the *Procedural Requirements and Resubmission Thresholds under Exchange Act Rule 14a-8*, [4] also known as the 14a-8 rule, with harmful changes initiated before the crisis that would significantly curb shareholder rights, including a proposal that would significantly hamper shareholders' ability to submit and resubmit proposals to the board of directors of the companies they are invested in. This proposal would increase stock ownership requirements to such a high threshold, that even some of the largest

[2] 1.5 Million More US Workers File for Unemployment Insurance, ABC News (Jun. 18, 2020), available at https://abcnews.go.com/Business/15-million-us-workers-file-unemployment-insurance/story?id=71318177.
[3] See Letter from NASAA President Christopher Gerold Regarding Concept Release on Harmonization of Securities Offering Exemptions, at 3 (Oct. 11, 2019), available at https://www.sec.gov/comments/s7-08-19/s70819- 6288085-193367.pdf.
[4] Procedural Requirements and Resubmission Thresholds under Exchange Act Rule 14a-8, SEC, 84 Fed. Reg. 66458, (Dec. 4, 2019), available at https://www.govinfo.gov/content/pkg/FR-2019-12-04/pdf/2019-24476.pdf ("Rule 14a8 Proposal"

investors would be unable to submit shareholder proposals.[5] For example, this proposal would make it nearly impossible for smaller investors, who are owners of a company, to repeatedly raise the importance of a corporation to publicly disclose the diversity of its board and management. Further, it appears that the SEC has tailored this proposed rule specifically to target proposals intended to address issues related to climate change, political spending disclosures, worker protections, CEO compensation, and other important environmental, social, and governance issues. To put this in perspective, an analysis on proxy filings from 2006 to 2018 conducted by Principles for Responsible Investment found that under this proposal, 399 resubmitted shareholder proposals would fail to make the ballot, nearly half of which were environmental, social, and governance proposals.[6]

The SEC's focus right now should be on addressing the immediate and dire impacts that the COVID-19 pandemic is inflicting on the economy, companies and investors, and providing the market with as much material information as possible, and not to engage in a partisan and deregulatory rulemakings that leave our investors exposed to great risk and leave our markets weakened. I urge you to suspend further consideration of these harmful rulemakings and ensure that all of the SEC's resources are used to address the unprecedented crisis we are facing.

Sincerely,

Maxine Waters

Maxine Waters
Chairwoman

Cc: The Honorable Patrick McHenry, Ranking Member

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[5] See Letter from Marcie Frost, CalPERS, to Vanessa Countryman, SEC, Feb. 3, 2020, available at https://www.sec.gov/comments/s7-23-19/s72319-6744100-207900.pdf.
[6] Letter from Principles for Responsible Investment to the Securities and Exchange Commission (Feb. 3, 2020), available at https://d8g8t13e9vf2o.cloudfront.net/Uploads/q/h/l/pris72319_february032020_882134.pdf