Dear Member of Congress:

We, the undersigned organizations, write to express our strong concerns about the regulatory processes conducted at the Securities and Exchange Commission (SEC) under the leadership of Chair Gary Gensler. The SEC has issued rulemakings under the Biden administration that (1) provide inadequate time for public comment and (2) supersede its statutory authority by pursuing binding rules that lack any Congressional authorization. Accordingly, we ask that the appropriate committees organize comprehensive oversight hearings of the SEC’s conduct under Chair Gensler.

With Chair Gensler at the helm, the SEC has pursued an aggressive regulatory agenda that prioritizes politics over practical implementation. Instead of allowing the public to provide thoughtful responses to complex rules, the SEC has issued multiple rules with overlapping comment periods—forcing stakeholders to write comments at a dizzying pace.

The SEC refuses to provide an adequate amount of time for public feedback for complex rulemakings. From 2021 to March 2022, 74 percent of the SEC’s rules provided only 30-day comment periods. Under Mary Jo White, 96 percent of SEC rules had at least 60-day comment periods. Under Jay Clayton, 85 percent of rules provided at least 60-day comment periods. In 2019, House and Senate Democrats asked the SEC to provide a comment period of at least 120 days for Community Reinvestment Act rulemakings. Last month, forty seven House Republicans and Democrats submitted a comment letter expressing concerns that the SEC’s comment periods for complex rules “may hamper the ability for the public to provide effective and meaningful input.” Additionally, the Office of the Federal Register’s Guide to the Rulemaking Process wrote that federal agencies may want to provide comment periods of “180 days or more” for complex rules.

The SEC is unlawfully issuing rules without mandates from Congress. The Administrative Procedure Act requires that any “substantive rule or order” must be issued “within jurisdiction delegated to the agency and as authorized by law.” The SEC’s rules on private fund advisers, climate-related disclosures, Form PF, alternative trading systems, and special purpose acquisition
companies justify their provisions by stating they are in the “public interest.” However, court precedent clearly shows that federal agencies need statutory authorization to pursue rulemakings—issuing rules based solely on the “public interest” argument is insufficient.

Unilaterally issuing rules subverts the role of Congress and by extension citizens of the United States who elected members of Congress to represent them.

Due to the SEC’s unbridled executive overreach, we urge the appropriate committees of Congress to hold the SEC accountable and conduct oversight hearings with the chair and commissioners testifying.

We appreciate the time and consideration.

Sincerely,

Grover Norquist
President
Americans for Tax Reform

Adam Brandon
President
FreedomWorks

Ryan Ellis
President
Center for a Free Economy

Dick Patten
President
American Business Defense Council

Tom Schatz
President
Citizens Against Government Waste

Karen Kerrigan
President & CEO
Small Business & Entrepreneurship Council
Steve Pociask  
President / CEO  
American Consumer Institute

Seton Motley  
President  
Less Government

Phil Kerpen  
President  
American Commitment

Jim Martin  
Founder/Chairman  
60 Plus Association

Saulius "Saul" Anuzis  
President  
60 Plus Association

Andrew F. Quinlan  
President  
Center for Freedom and Prosperity

Pete Sepp  
President  
National Taxpayers Union

Curt Levey  
President  
The Committee for Justice

Gerard Scimeca  
Chairman  
Consumer Action for a Strong Economy

John Berlau  
Director of Finance Policy  
Competitive Enterprise Institute

Brent Wm. Gardner  
Chief Government Affairs Officer  
Americans for Prosperity
Bryan Bashur
Executive Director
Shareholder Advocacy Forum

Tom Hebert
Executive Director
Open Competition Center