

United States Senate

WASHINGTON, DC 20510

July 12, 2022

The Honorable Gary Gensler
Chair
U.S. Securities and Exchange Commission
100 F Street NE
Washington, D.C. 20549

Chair Gensler,

In recent months, both Republican and Democrat Members of Congress have repeatedly raised concerns about the length of comment periods the U.S. Securities and Exchange Commission (SEC) is providing for a number of SEC rule proposals. As a result of these shortened windows for critical feedback, market participants are not being provided adequate time to provide effective and meaningful input.

During your recent appearance before the House Appropriations Subcommittee on Financial Services and General Government, you received several questions on this topic and stated that “we put out things on our website and say there will be a minimum of two months, 60 days, from when we put them on the website, or because there’s a delay often getting in the Federal Register, 30 days from when it’s in the Federal Register, the longer of that. So it’s always at least two months.” Unfortunately, this is not accurate.

Despite your testimony to the contrary, since you became Chair, the SEC has issued at least three rule proposals where the public was given less than two months to respond. The first and most egregious example of the SEC’s failure to provide adequate time to comment was the SEC’s Proxy Voting Advice proposal.^[1] The Commission voted to propose that rule (by a 3 to 2 vote) on November 17, 2021, and the comment period closed on December 27, 2021. Not only was this forty-day comment period far short of the two months you testified had been given, but the forty days encompassed both the Thanksgiving and December holiday periods.

In addition to the Proxy Voting Advice proposal, the public was also given less than two months to comment on the SEC’s Electronic Recordkeeping Requirements for Broker-Dealers, Security-Based Swap Dealers, and Major Security-Based Swap Participants proposal^[2] and the Commission’s Form PF proposal.^[3] Despite providing less than two months to comment on the Form PF proposal, you recently declined a request from a bipartisan group of forty-seven Members of Congress to reopen the comment period on that proposal.^[4]

^[1] Release No. 34- 93595, File No. S7-17-21 (Nov. 17, 2021).

^[2] Release No. 34-93614, File No. S7-19-2 (Nov. 18, 2021).

^[3] Release No. IA-5950, File No. S7-01-22 (Jan. 26, 2022).

^[4] Letter to Chairman Gary Gensler (Apr. 13, 2022), *available at* <https://www.sec.gov/comments/s7-03-22/s70322-20127548-288697.pdf>.

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In your aforementioned testimony, you also indicated that by giving the public at least 60 days to comment, the SEC was “giving adequate time for the public to comment.” Given that the SEC failed to give the public 60 days to comment on the three proposals referenced above despite your testimony to the contrary, we urge you to reopen the comment period on each of these proposals to ensure that the public has adequate time to comment and that your testimony is accurate.

If you choose not to reopen the comment periods for these three proposals, we request that you reply to this letter with an explanation of the basis for your decision and an explanation for why your testimony included inaccurate statements about the SEC’s track record during your tenure for providing the public with adequate notice and a reasonable opportunity to comment on the agency’s proposed rulemaking.

Sincerely,



Bill Hagerty
United States Senator



Thom Tillis
United States Senator