

Congress of the United States
Washington, DC 20515

December 7, 2022

The Honorable Gary Gensler
Chair
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549

Dear Chair Gensler,

We are writing to request additional information about your plan to propose significant changes to the way retail investors interact with United States financial markets. In comments you delivered earlier this year, you indicated that “retail investors have greater access to markets than any time in the past.”¹ You also described your intention to modify rules governing key aspects of our national market system. Given these comments, we would like to better understand the direction the Securities and Exchange Commission (Commission) will pursue through a potential rulemaking process, including the concerns it is meant to address. We believe that any proposed changes should be supported by a fact-based and data driven demonstration of how investors will be better served than under the existing equity market structure.

Retail participation in U.S. markets has grown across every demographic, and today, self-directed retail investors make up a significant portion of daily activity in our markets. The current state of equity markets is the product of years of private-sector innovation and prudent, fact-based and data driven public-sector rulemaking. The result is a market where retail investors enjoy better prices, increased liquidity and, in many cases, no transaction fees. These conditions have been fostered by current SEC regulations that promote robust private sector competition among market centers and retail brokers alike.

We welcome further innovations that can be shown to add meaningful competition to the marketplace and further improve the experience for retail investors. We are concerned, however, that certain changes being considered at the Commission, in particular one that would require order-by-order auctions, are not supported by robust empirical evidence that demonstrates the potential benefit these changes provide to American investors. We believe a thorough analysis of the current functioning of the market is necessary to eliminate the risk of unintended consequences.

Given the importance of the market for publicly traded companies, both for investors and for the broader U.S. economy, we believe it is prudent that the SEC conduct a thorough analysis of how equity markets function today. This analysis should document the ways in which the market performs well for retail investors, identify any perceived shortcomings, and gather data for how any proposed changes to market structure would or would not benefit retail investors.

¹ <https://www.sec.gov/news/speech/gensler-remarks-piper-sandler-global-exchange-conference-060822>.

We note that previous wholesale market structure reforms were conducted with extensive outreach prior to formal rulemaking. Regulation NMS, for instance, which shapes much of our modern market structure, was formally proposed after months of public engagement, public/private dialogue, and stakeholder feedback.

Further analysis by the SEC should include a cost-benefit evaluation in the following areas:

- Clear identification and quantification of problems identified by the SEC in current market functioning, and where retail investors are not getting a fair result.
- Evidence supporting the notion that any proposed changes will produce a better result for retail investors, including by lowering the cost for retail investors to trade.
- An analysis of the anticipated effect of these changes on the broader market, institutional investors, and publicly traded companies.
- Specific, quantifiable, and data-driven analysis of the economic impact of contemplated changes including:
 - equity auctions,
 - quoting increment changes,
 - changes to exchange access fees, rebates, and payment for order flow, and
 - any other significant changes to market structure.
- The projected cost of implementing these sweeping changes, and analysis of the potential alternatives.

Lastly, a recent report by the SEC's Office of the Inspector General (IG) raises concerns about the level of expertise and infrastructure needed to complete a potential rule of this size and scope.² We support the IG's recommendation for the Commission to take action that will reduce missteps that could significantly impact external stakeholders.

One of the SEC's chief mission objectives is to maintain fair, orderly, and efficient markets, which is something we wholeheartedly support. However, market reforms should be developed transparently with input from affected stakeholders, and with evidence that the proposed changes will achieve the intended goal. We look forward to receiving your response.

Thank you for your consideration.



Bill Huizenga
Member of Congress



Josh Gottheimer
Member of Congress

² <https://www.sec.gov/files/inspector-generals-statement-sec-mgmt-and-perf-challenges-october-2022.pdf>