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June 2, 2015

The Honorable Mary Jo White
Chair
Securities and Exchange Commission
100 F St. NE
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Dear Chair White:

As the U.S. economy continues to recover from the 2008 financial crisis, the need for strong and effective regulations to protect Americans and their investments is more important than ever. The nation's largest financial institutions are mounting an aggressive effort to repeal, postpone, and dilute the laws Congress passed in the wake of the crisis.

The Securities and Exchange Commission (SEC) plays a critical role in the protection of consumers and investors. On April 20, 2013, you were sworn in as the Chair of the SEC. I voted for your nomination despite my concerns about your lack of experience as a regulator. As I said at the time, my hope was that you would be "the strong leader the SEC needs to be a tough watchdog for the American people."[1]

You have now been SEC Chair for over two years, and to date, your leadership of the Commission has been extremely disappointing.

At your confirmation hearing, you stated without reservation that you would implement a strong enforcement policy at the SEC. You said that the SEC's enforcement of regulations:

> [I]t will be a high priority throughout my tenure to further strengthen the enforcement function of the SEC – it must also be bold and unrelenting ... Strong enforcement is necessary for investor confidence and it is essential to the integrity of our markets. Proceeding aggressively against wrongdoers … also will serve to deter the unlawful practices of others who must be made to think twice and stop in their tracks, rather than risk discovery, pursuit and punishment by the SEC.[2]

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[1] Sen. Elizabeth Warren, Statement on the Banking Committee's Approval of the Nominations of Rich Cordray and Mary Jo White (Mar. 19, 2013).

[2] Testimony of Mary Jo White, Nominee for Chair of the Securities and Exchange Commission Before the United States Senate Committee on Banking, Housing, and Urban Affairs (Mar. 12, 2013) (http://www.banking.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=619e5603-c2c8-4085-98c6-0014ce29bde7).

During this confirmation hearing and in the period immediately after, you also made promises to members of the Senate in four key areas. In each case, you appear to have broken those promises. First, under your leadership, the SEC has failed to finalize important Dodd-Frank rules requiring disclosure of the ratio of CEO pay to the median worker. Second, the SEC has failed to curb the use of waivers for companies found to be in violation of securities law. Third, the agency has settled the vast majority of cases without requiring that companies admit guilt. And fourth, you have been unable to participate in numerous cases because of recusals related to your prior employment at a Wall Street defense firm, and you have been and will continue to be unable to participate in certain cases because of recusals relating to your husband's ongoing employment at a Wall Street defense firm.

These four major issues are not the only areas where there are concerns about your time as SEC Chair. You have also failed to act to address undisclosed corporate campaign contributions, have presided over new SEC rulemakings that have created large loopholes in important Dodd-Frank disclosure rules, and have issued new rules for small business capital formation that preempted important state consumer protections.

I am disappointed by the significant gap between the promises you made during and shortly after your confirmation and your performance as SEC Chair. We have continued to talk, and you and I met personally on Wednesday, May 21, 2015, to discuss these issues. At that meeting, however, you said little that indicated that you would be changing your practices at the SEC.

Even worse, at that same meeting, you provided me with what appeared to be misleading information about the timing of new CEO pay disclosure rules that was contradicted by an Office of Management and Budget (OMB) publication released that very same day. My questions and your answers at that meeting were both clear; there could not have been a misunderstanding, and I am perplexed as to how and why you would have provided me with this misinformation.

Below, please find additional information on the concerns related to the failure of SEC under your watch to consistently and aggressively enforce securities law and protect investors and the public, and specific requests related to each of these issues.

**1. Failure to implement Dodd-Frank rules on CEO Pay Disclosure**

Section 953(b) of the Dodd-Frank Act requires, for the first time, basic disclosure of CEO pay, pay for companies' median workers, and the ratio of the two. On at least four different occasions that are documented in the public record, you promised members of the Senate that you would move quickly to finalize this rule.

At your confirmation hearing on March 23, 2013, you were asked by Sen. Menendez if you would "make sure that we get to the rule that is called for under the law." You replied, "I will, Senator." In response to questions for the record that I sent to you after that hearing, you told me that, "completing the rulemaking mandates that the Commission has received from

Congress will be a priority for me if confirmed. This is the case for … the Section 953(b) 'pay ratio' rulemaking mandate."[3]

Four months later, in July 2013, after you were confirmed, Sen. Menendez again asked you if you were moving forward with the rule. You replied that, "It should be in the near future. … I would hope that it is completed in the next month or two."[4]

Soon after this hearing, on September 13, 2013, the SEC released the proposed rule on CEO pay reporting, with the standard 60-day public comment period.[5] Almost a year later, the rule was still not finalized, but you testified that, "[o]ur focus now is on finishing … executive compensation rules as required by Dodd-Frank."[6] You told Sen. Menendez that, "It is certainly a priority to complete it this year …It is my hope and expectation to complete it this year."[7] But later that year, an update on the rule indicated it would not be completed until October 2015.[8]

When you and I met on May 21, 2015 — nearly two years after you predicted completion of this rule within, "the next month or two" — you told me that you, "hope[d] to be done by fall" 2015 with the rule. When you were asked if anything was likely to delay the rule past that point, you responded that there should not, "be anything that holds it up past this fall."[9]

Later that same day, OMB published its updated 2015 Current Unified Agenda of Regulatory and Deregulatory Actions. The SEC submissions for that publication were due on March 23, 2015 – two months before our meeting.[10] The newly published information from OMB indicates that the CEO pay rule is not expected to be finalized until April 2016, adding another six month delay compared to the previously posted OMB deadline.[11] I cannot understand how and why this rule has been delayed for so long, and I am perplexed as to why

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[3] Mary Jo White, Responses to Questions for the Record from Sen. Elizabeth Warren, Mar. 23, 2013.

[4] Senate Banking, Housing, and Urban Affairs Committee, Hearing on Systemic Risk in Financial Markets (July 20, 2013).

[5] https://www.sec.gov/rules/proposed/2013/33-9452.pdf

[6] Senate Banking, Housing, and Urban Affairs Committee, Hearing on the Financial Regulatory System (Sept. 9, 2014).

[7] Senate Banking, Housing, and Urban Affairs Committee, Hearing on the Financial Regulatory System (Sept. 9, 2014).

[8] OMB, Unified Agenda, Fall 2014, RIN: 3235-AL47 (Nov. 21, 2014) (http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201410&RIN=3235-AL47

[9] Sen. Elizabeth Warren, meeting with The Honorable Mary Jo White (May 21, 2015).

[10] OMB, Memorandum for Regulatory Policy Managers (Feb. 23, 2015) (https://www.whitehouse.gov/sites/default/files/omb/inforeg/for-agencies/spring-2015-regulatory-plan-and-unified-agenda-of-federal-regulatory-and-deregulatory-actions.pdf).

[11] OMB, Unified Agenda, Spring 2015, RIN: 3235-AL47 (May 21, 2015) (http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201504&RIN=3235-AL47); OMB, Unified Agenda, Fall 2014, RIN: 3235-AL47 (Nov. 21, 2014) (http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201410&RIN=3235-AL47

you told me personally that the rule would be completed by the fall of 2015 when it appears that you were or should have been aware of additional delays.

**2. Failure to Require Admissions of Wrongdoing in SEC Enforcement Cases**

On multiple occasions and with multiple regulators, Senators have raised concerns about enforcement patterns in which such regulators – including the SEC – fail to require admissions of wrongdoing from companies that appear to have violated the law.

At your confirmation hearing, you spoke of the need for strong SEC enforcement, stating that: [12]

> [I]t will be a high priority throughout my tenure to further strengthen the enforcement function of the SEC. … it must be bold and unrelenting….market participants need to know … that all wrongdoers … of whatever position or size, will be aggressively and successfully called to account by the SEC.

At the same hearing, when asked about prosecutions of wrongdoers by Sen. Menendez, you replied: [13]

> I think you proceed quite vigorously against … anyone that you find evidence of wrongdoing going on, but certainly, financial institutions … at the SEC, there's no institution too big to charge.

Sen. Menendez then asked you to clarify, "If you were to be confirmed as the Chair …to the extent that the SEC has powers of charging and proceeding, you would vigorously do that when you found the causes to be appropriate?" You replied, "Absolutely, Senator."

In June 2013, soon after your confirmation, you announced that you would take a stronger line on requiring admissions of wrongdoing. While acknowledging that, "[t]he option

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[12] Testimony of Mary Jo White, Nominee for Chair of the Securities and Exchange Commission Before the United States Senate Committee on Banking, Housing, and Urban Affairs, (Mar. 12, 2013) (http://www.banking.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=619e5603-c2c8-4085-98c6-0014ce29bde7).

[13] Testimony of Mary Jo White, Nominee for Chair of the Securities and Exchange Commission Before the United States Senate Committee on Banking, Housing, and Urban Affairs (Mar. 12, 2013) (http://www.banking.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=619e5603-c2c8-4085-98c6-0014ce29bde7).

to settle without admissions of misconduct will remain a 'major, major tool in the arsenal,'"[14] you also stated that:[15]

> We are going to in certain cases be seeking admissions going forward ... There may be particular individuals or institutions where it is very important it be a matter of public record that they acknowledge their wrongdoing, and if not you go to trial ... You are trying to get as strong a deterrent message out there as you possibly can, and in some situations it can be important that admissions be part of that process.

A year later, in September 2014, you provided me with a detailed explanation of when you would seek admissions of wrongdoing. You wrote that:[16]

> [W]e now demand an additional measure of public accountability through an acknowledgment of wrongdoing in certain of our cases ... Under this policy, [SEC] now considers requiring admissions in cases where the violation of securities law included particularly egregious conduct; where large numbers of investors were harmed; where the markets or investors were placed at significant risk; where the conduct obstructs the Commission's investigation; where an admission can send a particularly important message to the markets; or where the wrongdoing poses a particular future threat to the investors or the markets.

I also asked for specific details on the number of settlements in which the SEC had required admissions of guilt since your initial June 2013 announcement of the new policy. This information reveals that – as of September 2014 – in the vast number of cases, SEC continues to settle cases without requiring admissions of guilt. These records show that in 520 settlements, SEC required admissions of guilt in only 19 cases – less than 4 percent. The New York Times reached a similar conclusion, finding that, "it is clear that most of the time defendants are still being allowed to settle without admitting to or denying the agency's allegations."[17]

In fact, the record of the SEC under your leadership is even worse than those numbers suggest. In 11 of these 19 cases, SEC required only a broad admission of facts specified by the

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[14] Bloomberg, *SEC Says It Will Seek Admissions of Wrongdoing More Often* (June 19, 2013) (online at http://www.bloomberg.com/news/articles/2013-06-18/sec-to-seek-guilt-admissions-in-more-cases-chairman-white-says).

[15] Bloomberg, *SEC Says It Will Seek Admissions of Wrongdoing More Often* (June 19, 2013) (online at http://www.bloomberg.com/news/articles/2013-06-18/sec-to-seek-guilt-admissions-in-more-cases-chairman-white-says).

[16] Mary Jo White, Response to Questions for the Record, Senate Banking, Housing, and Urban Affairs Committee, Hearing on the Financial Regulatory System (Sep. 9, 2014).

[17] Gretchen Morgenson, New York Times, *SEC Wants the Sinners to Own Up*, March 14, 2015. (http://www.nytimes.com/2015/03/15/business/sec-wants-the-sinners-to-own-up.html)

SEC rather than requiring that these firms admit to violations of specific securities laws. One analyst described these types of admissions as, "the weakest admission of guilt as possible."[18]

### 3. Waivers Allowing Companies Found to be in Violation of Securities Law to Continue to Take Advantage of SEC Special Privileges

SEC rules allow certain large issuers – known as "Well Known Seasoned Issuers" (WKSIs) – to take advantage of special regulatory privileges that provide these issuers with shortcuts to bypass certain SEC reviews to raise capital and issue securities.[19] Other SEC provisions allow companies with clean records to raise private capital without undergoing the full SEC registration process.[20] These are significant benefits for the eligible companies.

It is no surprise that the law requires that persons or entities that have been convicted of felonies or misdemeanors or that have violated anti-fraud provisions of federal securities laws be deemed ineligible to receive these benefits. This is the rule, as provided by law, with an exception. The SEC may waive this ineligibility and continue to allow access to regulatory shortcuts even for those that have violated the law, but only "upon a showing of good cause."[21] In the wake of the financial crisis, members of Congress and the public became concerned about whether these waivers were provided too easily in cases where companies broke the law.

You have been asked about your policies with regard to these waivers on multiple occasions. In questions for the record from your confirmation hearing, Sen. Brown asked you, "Will you revisit this waiver policy in a manner that is less friendly to large broker-dealers?" You responded by promising to, "examine the issue if confirmed," adding that "I certainly believe that wrongdoers must be held accountable for their misconduct, including large broker dealers."

Less than a year later, in April 2014, SEC updated its guidance for the application of WKSI waivers, with new language that "raise[d] the bar for companies with criminal convictions or intentional fraud liability to demonstrate 'good cause' for why the SEC should grant them a waiver to retain their WKSI status."[22]

You elaborated on this new policy for the House Financial Services Committee two weeks later, stating that:

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[18] Stephen Gandel, Fortune, *Did the SEC Let JP Morgan Off the Hook?*, (Sep. 20, 2013) (online at http://fortune.com/2013/09/20/did-the-sec-let-jpmorgan-off-the-hook/).

[19] SEC, *Revised Statement on Well-Known Seasoned Issuer Waivers* (Apr. 24, 2014) (https://www.sec.gov/divisions/corpfin/guidance/wksi-waivers-interp-031214.htm).

[20] SEC, *Process for Requesting Waivers of "Bad Actor" Disqualification Under Rule 262 of Regulation A and Rules 505 and 506 of Regulation D* (2015) (online at https://www.sec.gov/divisions/corpfin/guidance/262-505-waiver.htm).

[21] SEC, *Revised Statement on Well-Known Seasoned Issuer Waivers* (Apr. 24, 2014) (https://www.sec.gov/divisions/corpfin/guidance/wksi-waivers-interp-031214.htm).

[22] Reuters, *Debate Brews at US SEC Over Waiver Policy* (Apr. 29, 2014) (online at http://www.reuters.com/article/2014/04/29/sec-waiver-gallagher-idUSL2N0NL25F20140429).

> Waivers of WKSI disqualifications should be granted only after a thorough analysis ... Waivers should not be granted to either "soften" the impact of an enforcement action nor should they be used to add additional penalties if disqualification is not warranted or necessary under the applicable standards and the facts and circumstances at issue. The burden to demonstrate that the standards are met is the responsibility of the applicant seeking a waiver.[23]

These were strong words, and they appeared to herald a new era in which the SEC would no longer rubber-stamp valuable waivers from SEC rules for companies that broke the law. However, information that you revealed in March 2015 indicates that in the majority of cases in which institutions requested a WKSI or "bad actor" waiver after the new policies were put in place – 20 of 38 – the wrongdoers received it.[24] Since you became SEC Chair, a total of 20 WKSI waivers have been granted,[25] with virtually all going to large financial institutions. This pattern has led one of your SEC colleagues to conclude that the SEC, "continues to erode even this lowest of hurdles for large companies, while small and mid-sized businesses appear to face different treatment."[26]

Moreover, under your leadership, the SEC, for the first time since 2005, has once again begun granting waivers for companies guilty of criminal misconduct. The first of these waivers – to UBS in September 2013, after the bank settled allegations of manipulating the key LIBOR benchmark interest rate – was granted by SEC staff, and the second, to the Royal Bank of Scotland, was approved on a 3-2 vote by the Commission, with your vote in support.[27]

The third WKSI waiver granted to a bank despite a criminal conviction was given to Deutsche Bank just this month, on May 1, 2015. Like the others, Deutsche Bank was accused of manipulating LIBOR and other key interest rates. For more than six years, Deutsche Bank engaged in criminal conduct to rig interest rates in a manner that was "systemic and pervasive"

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[23] The Honorable Mary Jo White, Response to Questions for the Record from Rep. Keith Ellison (Apr. 9, 2014) (http://www.datacoalition.org/wp-content/uploads/archivedfiles/white-qfr-replies.pdf).

[24] Chair Mary Jo White, *Understanding Disqualifications, Waivers, and Exemptions Under the Federal Securities Laws* (Mar 12, 2015) (online at http://www.sec.gov/news/speech/031215-spch-cmjw.html).

[25] SEC, Division of Corporate Finance No Action, Interpretive, and Exemption Letters (accessed May 27, 2015) (http://www.sec.gov/divisions/corpfin/cf-noaction.shtml#405).

[26] SEC, Commissioner Kara Stein, *Dissenting Statement in the Matter of Deutsche Bank AG, Regarding WKSI* (May 4, 2015). (http://www.sec.gov/news/statement/dissenting-statement-deutsche-bank-ag-wksi.html#_ftnref6).

[27] BBC, *UBS Fined $1.5bn for LIBOR Rigging* (Dec. 19, 2012). (http://www.bbc.com/news/business-20767984); SEC, Commissioner Kara Stein, Dissenting Statement in the Matter of Royal Bank of Scotland Group, plc, Regarding Order Under Rule 405 of the Securities Act of 1933, Granting a Waiver From Being an Ineligible Issuer, (Apr. 28, 2014) (http://www.sec.gov/News/PublicStmt/Detail/PublicStmt/1370541670244).

and sought profits at the expense of its customers.[28] This waiver was granted by a 3-2 vote of the Commissioners, and once again, you voted for the waiver.

And last week – one day before our meeting – five banks (BS AG, Barclays Plc, Citigroup Inc., JPMorgan Chase & Co., and the Royal Bank of Scotland Group) pled guilty to "conspiring to manipulate the price of U.S. dollars and euros exchanged in the foreign currency exchange" and paid fines of more than $2.5 billion.[29] Despite the widespread criminal conduct to which these large banks admitted, the SEC granted WKSI waivers to each of them. The Commission also granted them several additional waivers, which in effect allow the banks to continue conducting their business with minimal consequences.[30] These waivers apparently reflected the Commission's view that these banks deserved to continue to enjoy special privileges under the securities laws despite the deep breaches of trust and evident mismanagement displayed in these cases.

SEC Commissioner Kara Stein dissented from this decision, noting the "recidivism" of the banks, and the fact that SEC has, "granted at least 23 WKSI waivers to these five institutions in the past nine years."[31] Commissioner Stein concluded that, "the latest series of actions has effectively rendered criminal convictions of financial institutions largely symbolic."[32]

**4. Failure to Address Conflict of Interest Concerns Related to Your Husband's Role as a Wall Street Attorney**

When you were nominated to head the SEC, you were employed by the law firm

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[28] CFTC, *Deutsche Bank to Pay $800 Million to Settle CFTC Charges of Manipulation, Attempted Manipulation, and False Reporting of LIBOR and Euribor* (Apr. 23, 2015) (http://www.cftc.gov/PressRoom/PressReleases/pr7159-15).

[29] Department of Justice, *Five Major Banks Agree to Parent-Level Guilty Pleas* (May 20, 2015) (http://www.justice.gov/opa/pr/five-major-banks-agree-parent-level-guilty-pleas).

[30] In addition to the WKSI waivers, the Commission granted UBS AG, Barclays, and JPMC waivers from automatic disqualification provisions related to the safe harbor for forward-looking statements under Section 27A of the Securities Act and Section 21E of the Securities Exchange Act of 1934, and UBS AG and three Barclays entities waivers from the automatic Bad Actor disqualification provided under Rule 506. SEC, Commissioner Kara Stein, *Dissenting Statement Regarding Certain Waivers Granted by the Commission for Certain Entities Pleading Guilty to Criminal Charges Involving Manipulation of Foreign Exchange Rates* (May 21, 2015) (http://www.sec.gov/news/statement/stein-waivers-granted-dissenting-statement.html).

[31] SEC, Commissioner Kara Stein, *Dissenting Statement Regarding Certain Waivers Granted by the Commission for Certain Entities Pleading Guilty to Criminal Charges Involving Manipulation of Foreign Exchange Rates* (May 21, 2015) (http://www.sec.gov/news/statement/stein-waivers-granted-dissenting-statement.html).

[32] SEC, Commissioner Kara Stein, *Dissenting Statement Regarding Certain Waivers Granted by the Commission for Certain Entities Pleading Guilty to Criminal Charges Involving Manipulation of Foreign Exchange Rates* (May 21, 2015) (http://www.sec.gov/news/statement/stein-waivers-granted-dissenting-statement.html).

Debevoise & Plimpton and your husband was employed by the law firm Cravath, Swaine & Moore. Both firms frequently represent companies with business before the SEC.

These connections raised concerns about whether the recusals required due to these conflicts of interest would affect your ability to do your job as Chair. You were asked about these concerns in your confirmation hearing, and you replied:[33]

> Before I agreed to be nominated for this position, I detailed to the White House, the Independent Office of Government Ethics, and the career SEC ethics official the nature and extent of my and my spouse's and our firm's legal practices to be certain that there were no conflicts that could be problematic or limit my ability to function effectively as SEC Chair . . . I was also focused in that process very much on making certain I could effectively function as the Chair. . . . while I have recusals, as do many nominees, mine were not out of the ordinary in scope, nor out of the ordinary for past Chairmen or other Commissioners of the SEC. … I do not believe, Mr. Chairman, that the recusals, the extent of them, will prevent me from fully performing my duties …the scope of those recusals is also quite narrow.

I was particularly concerned about both the potential for conflicts of interest and the potential that regular recusals could disrupt the Commission's work. I raised those concerns personally with you in a meeting prior to your nomination, and you assured me that potential recusals would lead to minimal disruption.[34]

But this does not appear to be the case. A recent review by the New York Times found that: [35]

> In the nearly two years since Ms. White took over the agency, she has had to recuse herself from more than four dozen enforcement investigations, the interviews and records show, sometimes delaying settlements and opening the door, in at least one case, to a lighter punishment.

As you know, the impact of a recusal on the operations of the SEC can be quite damaging. If, for example, the SEC is split 2-2 on whether to pursue a prosecution, your recusal would mean that no prosecution could go forward.

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[33] Mary Jo White, Testimony of Mary Jo White, Nominee for Chair of the Securities and Exchange Commission Before the United States Senate Committee on Banking, Housing, and Urban Affairs (Mar. 12, 2013). (http://www.banking.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=619e5603-c2c8-4085-98c6-0014ce29bde7).

[34] Sen. Elizabeth Warren, Meeting with SEC Chair Nominee Mary Jo White (Mar. 5, 2013).

[35] New York Times, *She Runs S.E.C., He's A Lawyer. Recusals and Headaches Ensue* (Feb. 23, 2015) (online at http://www.nytimes.com/2015/02/24/business/dealbook/sec-hamstrung-by-its-leaders-legal-ties.html?ref=topics&_r=0).

The article noted that while your personal restrictions ended in April 2015, your restrictions related to your husband's work would continue indefinitely, despite the fact that you have already recused yourself from at least ten investigations into clients of your husband's firm.[36] The article- and a new article published late last week - described the circumstances of a settlement with Computer Sciences Corporation, in which your recusal created a deadlock among the four remaining commissioners "that at times have imperiled the case altogether" and resulted in significant reductions in fines.[37] It also raised the specter that companies might seek to hire your husband's firm to "neutralize" you, and it concluded that your recusals, "remain an important issue for the agency."[38]

**5. Other Concerns**

There are several additional concerns about your leadership. Even as it unleashed unlimited corporate spending on political campaigns in its 2010 *Citizens United* decision, the Supreme Court noted that, "prompt disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters. Shareholders can determine whether their corporation's political speech advances the corporation's interest in making profits."[39] As you are well aware, there is overwhelming interest and demand in a corporate campaign spending disclosure rule: more than one million public comments in support of a 2011 petition to the SEC have called on the agency to set disclosure rules.[40] Just this week, a letter from a bipartisan group of former SEC Chairmen described the SEC's failure to require these disclosures as, "inexplicable," and said that the lack of action, "flies in the face of the primary mission of the commission."[41]

Such disclosure rules had been on the SEC agenda at the time you took over the agency, but in December 2013, you removed a potential rulemaking on this topic from the Commission's agenda, later noting that the Commission and its staff, "have not devoted resources to a

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[36] New York Times, *She Runs S.E.C., He's A Lawyer. Recusals and Headaches Ensue* (Feb. 23, 2015) (online at http://www.nytimes.com/2015/02/24/business/dealbook/sec-hamstrung-by-its-leaders-legal-ties.html?ref=topics&_r=0).

[37] New York Times, *Political Fights Throw Sand in the Gears of SEC* (May 29, 2015) (http://www.nytimes.com/2015/05/29/business/political-fights-throw-sand-in-gears-of-sec.html?ref=dealbook).

[38] New York Times, *She Runs S.E.C., He's A Lawyer: Recusals and Headaches Ensue* (Feb. 23, 2015) (online at http://www.nytimes.com/2015/02/24/business/dealbook/sec-hamstrung-by-its-leaders-legal-ties.html?ref=topics&_r=0).

[39] Supreme Court of the United States, *Citizens United v. Federal Election Commission* (2010) (http://www.supremecourt.gov/opinions/09pdf/08-205.pdf).

[40] Corporate Reform Coalition, *As Dark Money Monsters Torment Investors, Shareholders Need SEC Chair to Be Superhero; They Ask: 'Where Is Mary Jo White?'* (Mar. 30, 2015) (https://secure.avaaz.org/act/media.php?press_id=644).

[41] Letter from William Henry Donaldson, Arthur Levitt, and Bevis Longstreth to the Honorable Mary Jo White (May 27, 2015) (http://www.citizen.org/documents/sec-commissioner-letter-re-political-spending.pdf).

consideration of a corporate political spending disclosure rule."[42] One month later, in January 2014, 16 of my Senate colleagues and I wrote to you to express our disappointment about this decision and requested that, "disclosure of corporate political spending would have great value for investors and should also be a top priority" for the SEC.[43] But your reply indicated that the agency would not be addressing the issue. More recently, in March 2015, you again indicated to the House Committee on Financial Services that the SEC was not focused on this issue.[44]

Under your leadership the SEC also backed down on important Dodd-Frank rules (Rule "ABII") requiring disclosure of information for asset-backed securities.[45] The goal of this rule was to increase transparency and improve investor information, and the SEC initially published a strong draft. However, in May 2013 – one month after you were sworn in as SEC Chair – the SEC named an industry insider who had publicly opposed a strong rule to lead the group writing that rule.[46]

Unsurprisingly, by the time it was finalized in 2014, the new rule was watered down substantially: "disclosure rules advocated by many within the agency had been stripped out. Of particular concern: Banks could continue to sell asset-backed securities to institutional investors on the private market with no new disclosure requirements."[47] One expert described this outcome as an, "end run around all the disclosure efforts" by the big banks.[48]

Finally, in March 2015, the SEC implemented rules to carry out Title IV of the JOBS Act, which facilitates mid-sized companies in making public offerings of their securities. During the rulemaking process I wrote to you about my concerns that the SEC rules would preempt state rules protecting investors, noting that such action, "could unnecessarily place many ordinary investors at risk of securities fraud."[49] But, under your leadership and with your vote in support, the SEC finalized rules that, "provide[d] for the preemption of state securities law registration

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[42] Mary Jo White, Response to Questions for the Record, Senate Banking, Housing, and Urban Affairs Committee, Hearing on the Financial Regulatory System (Sep. 9, 2014).

[43] Letter from Sens. Menendez, Warren, et al., to The Honorable Mary Jo White (Jan. 9, 2014) (online at http://www.menendez.senate.gov/news-and-events/press/senators-to-sec-disclosure-of-corporate-political-spending-should-be-part-of-2014-agenda).

[44] The Honorable Mary Jo White, Hearing on Examining the SEC's Agenda, Operations, and FY 2016 Budget Request, House Financial Services Committee (Mar. 24 2015) (http://financialservices.house.gov/calendar/eventsingle.aspx?EventID=398795).

[45] P.L. 111-203, §942(b).

[46] Charles Levinson, Reuters, *How Wall Street Captured Washington's Effort to Rein in Banks*, (Apr. 9, 2015) (http://www.reuters.com/investigates/special-report/usa-bankrules-weakening/).

[47] Charles Levinson, Reuters, *How Wall Street Captured Washington's Effort to Rein in Banks*, (Apr. 9, 2015) (http://www.reuters.com/investigates/special-report/usa-bankrules-weakening/).

[48] Thomas Adams, quoted in Charles Levinson, Reuters, *How Wall Street Captured Washington's Effort to Rein in Banks*, (Apr. 9, 2015). (http://www.reuters.com/investigates/special-report/usa-bankrules-weakening/)

[49] Letter from Sen. Elizabeth Warren to Mary Jo White (Aug. 2014).

and qualification requirements for securities offered or sold to 'qualified purchasers,'"[50] thereby undermining important investor protections.

**Conclusion**

The public relies on the SEC to act as the cop on the beat for an honest marketplace — issuing rules that ensure that investors can make informed decisions and holding rule breakers accountable for their actions. When the SEC falls down on the job, the impact is felt throughout the economy, and it touches every American family.

During your confirmation hearings two years ago, I said, "The SEC needs a strong leader to issue meaningful and final rules under the Dodd-Frank Act and to hold big banks and other powerful interests accountable when they break the law." I am disappointed that you have not been the strong leader that many hoped for – and that you promised to be. I hope that you will step up to the job for which you have been confirmed, and that you will guide the SEC once again to meet its core mission of protecting investors and maintaining fair, orderly, and efficient markets.

In addition, I ask that you provide the following information no later than July 1, 2015 so that the public can better understand your previous actions and assess your ongoing actions as SEC Chair.

1. An explanation of the inconsistencies between the statements you made about the timing of the CEO pay disclosure rules in your confirmation hearing, in questions for the record, in other hearings, and in our private meeting, and the continuing delays of this rule, including the latest delay posted on the OMB website on May 21, 2015.
2. A detailed timeline for completion of the CEO pay rule.
3. A list of all SEC settlements since September 2014, with information on whether the settlement contained an admission of guilt, and if so, the details on these admissions. Moving forward, I ask that you provide updated information on these settlements every six months.
4. A list of all waiver decisions by the SEC from January 2015 to the present, including information on who requested the waiver, what kind(s) of waivers were requested, the reason for the waiver, the outcome of the waiver request (including information on any votes by Commissioners on waivers), and the reason why the waiver was or was not granted. Moving forward, I ask that you provide updated information on these waivers every six months.
5. A list of all SEC investigations or cases from which you have had to recuse yourself from January 1, 2014 to the present, the reason for the recusal, and the outcome of the investigation or case. Moving forward, I ask that you provide updated information on these waivers every six months.
6. An explanation for why the SEC removed campaign finance disclosure from its rulemaking agenda, and an explanation of why the SEC has not responded to Petition 4-

637 which asked the agency to require public disclosure of the use of corporate resources for political activities.

Sincerely,

Sen. Elizabeth Warren