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The Honorable Gary Gensler
Chairman
United States Securities and Exchange Commission
100 F St NE
Washington, D.C. 20549

Dear Chairman Gensler:

We, the undersigned organizations, were heartened upon your nomination by President Joe Biden to lead the Securities and Exchange Commission. We were further encouraged by your record of fervently and independently scrutinizing the financial industry while serving as Chairman of the Commodity Futures Trading Commission.

This is why we are deeply surprised and concerned by your decision to nominate Alex Young Oh as SEC Director of Enforcement. Oh has spent over two decades defending corporate firms from regulation and white-collar investigation, including before the SEC. As a Partner at the BigLaw firm of Paul Weiss Rifkind Wharton & Garrison LLP, Oh defended big corporations against SEC enforcement actions. Her firm represented prominent banks and corporations against investigations into securities fraud and other white-collar crimes. Oh herself represented UBS against the Department of Justice in a lawsuit over its fraudulent sales of mortgage-backed securities, the product which caused the 2008 global financial collapse. She also represented Bank of America in its acquisition of Merrill Lynch at the height of the 2008 collapse, a period in which Bank of America hid information from its shareholders about Merrill Lynch's losses and bonuses.

It is entirely implausible for the public to expect Oh, at a moment's notice, to change her entire legal philosophy toward fully enforcing the very laws and regulations she has built a career out of undermining. In good faith, one cannot expect Oh or any other white-collar criminal defense lawyer to apply independent scrutiny and full-throated force toward overseeing and sanctioning her former — and likely future — clients. After years of open disregard for the necessary oversight of regulators during the Trump Administration, the public deserves appointees whose reputation and history represents the public good — not shielding big corporations from the public good.

Your work at the CFTC evinced a genuine passion for market regulation and white-collar criminal law enforcement, as well as a strategic understanding of how to carry out this passion effectively. It is therefore doubly puzzling and disappointing that your first act as SEC chairman would seem to stray this far from that tradition. The public is left with no indication that Oh will act in their interest aside from your personal endorsement via this hiring decision, and that is simply insufficient to supersede decades-worth of well-deserved skepticism of the BigLaw-to-government revolving door.

The fact that such turns from corporate defense to government regulatory roles have been commonplace in past administrations is no excuse. On the contrary, it is precisely the problem. One cannot extricate the revolving door between BigLaw firms and federal regulatory roles from the calamitous decline in white-collar criminal enforcement over the past decades. As a regulator, it is your duty to see these statutes rigorously applied, so hiring from the same pool of lawyers whose career focus is to undermine your own work can only hamstring your efforts.

When white-collar crimes, including securities fraud, go unpunished in an age of historic economic inequality, basic public faith in the systems of American governance and political economy decline precipitously. This is only exacerbated by the growing recognition of how marginalized and often poorer social groups face drastically disproportionate policing and sentencing for what are often crimes born of necessity and desperation.

Following your time at the CFTC, President Obama nominated Mary Jo White to run the SEC. White, to whom Oh once reported, was billed as the next “Sheriff of Wall Street.” Instead, as one expects from White’s history of litigating for corporate America and against regulatory scrutiny, White and her team of BigLaw revolvers became an enormous disappointment to not only progressive, but even centrist Democrats. Your SEC must learn the lessons of the Schapiro, White, and Clayton eras and break the status quo model. We therefore ask you to immediately reconsider your decision to nominate Alex Young Oh for this position, and instead to select an attorney with a proven track record of government or public-oriented service, of which there is no shortage.

A great deal hinges on your ability to effectively regulate and monitor our capital markets, and to do so even when that requires targeting powerful and wealthy interests. Selecting deputies who are less than fully committed to this mission, especially for roles as crucial as Director of Enforcement, will undermine its chances of success. We urge you to look beyond “business as usual” practices when those practices contribute to the systemic breakdown in accountability we have seen over the past decades, and to instead make the harder, necessary choices to revitalize the Commission at this moment.

Signed:

Demand Progress Education Fund
Progressive Change Institute
Revolving Door Project