BETTER MARKETS

July 2, 2026

Vanessa A. Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Draft FY 2026 – FY 2030 SEC Strategic Plan, File No. DSP-3

Dear Ms. Countryman:

Better Markets[1] appreciates the opportunity to comment on the SEC's Draft Strategic Plan for fiscal years 2026 to 2030. The problem with the strategic plan is its preoccupation with innovation. The strategic plan mentions innovation ten times over the course of its 14 pages.[2] Innovation is important, but it is not part of the SEC's mission. The SEC's mission is to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation. Indeed, innovation is not included in the description of the SEC's mission on its own website.[3]

This makes sense. Innovation is barely mentioned in the statutes that the SEC enforces. The word "innovation" appears only once across the four foundational federal securities laws. It is entirely absent from the Securities Act of 1933, the Investment Company Act of 1940, and the Investment Advisers Act of 1940.[4] And its only mention in the Securities Exchange Act of 1934 is with respect to joint rules with the CFTC to permit the offer and sale of securities futures products.[5] That is one mention of "innovation" in almost 600 pages of legislative text.

Conversely, the federal securities laws mention "investor protection" and the "protection of investors" repeatedly. The Exchange Act references the "protection of investors" over 200 times. The need for the SEC to consider the "protection of investors" appears another 125 times across the SEC's three other organic statutes. The Supreme Court recognized as recently as three years ago that "Congress established the SEC to protect investors in securities markets."[6] Yet the

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1 Better Markets is a non-profit, non-partisan, and independent organization founded in the wake of the 2008 financial crisis to promote the public interest in the financial markets, support the financial reform of Wall Street, and make our financial system work for all Americans again. Better Markets works with allies—including many in finance—to promote pro-market, pro-business, and pro-growth policies that help build a stronger, safer financial system that protects and promotes Americans' jobs, savings, retirements, and more.

2 https://www.sec.gov/files/draft-strategic-plan-fy26-fy30.pdf.

3 https://www.sec.gov/about.

4 *See* https://www.govinfo.gov/content/pkg/COMPS-1884/pdf/COMPS-1884.pdf; https://www.govinfo.gov/content/pkg/COMPS-1879/pdf/COMPS-1879.pdf; https://www.govinfo.gov/content/pkg/COMPS-1878/pdf/COMPS-1878.pdf.

5 https://www.govinfo.gov/content/pkg/COMPS-1885/pdf/COMPS-1885.pdf, at 79.

6 *Axon Enterprises, Inc. v. FTC*, 598 U.S. 175, 180 (2023).

SEC's draft strategic plan contains fewer references to investor protection than it does to innovation. The lip service paid to investor protection is inconsistent with the SEC's mission.

The focus on innovation is not the only part of the plan that is inconsistent with the role Congress envisioned for the SEC. One of the plan's goals is to "return our enforcement approach to Congress's original intent." According to the plan, that intent was a focus on "clear violations of established law—particularly fraud and manipulation—rather than on expanding regulatory reach through ad hoc enforcement actions." Nothing could be further from the truth. Instead, as the legislative history shows, "Congress intended that the SEC robustly enforce the Exchange Act and use Section 10(b) as a catch-all to thwart new and cunning fraudulent schemes."[7]

The Supreme Court has said that the definition of a security should be interpreted flexibly so "that it is capable of adaptation to meet the countless and variable schemes devised by those who seek the use of the money of others on the promise of profits."[8] Congress "meant to prohibit the full range of ingenious devices that might be used to manipulate securities prices."[9] So the securities laws enable the SEC to prosecute not only "clear violations of established law" but also "new manipulative or cunning devices."[10] The securities laws proscribe fraud in all its forms, "whether it is a 'garden type variety of fraud'" or "'a unique form of deception'"; novel or atypical schemes do "'not provide immunity from the securities laws.'"[11] As a result, Congress wanted the securities laws to be "applied to radically different and ever-evolving sets of facts."[12]

Congress also intended for the SEC to enforce all of the securities laws' requirements and not simply the antifraud provisions. Specifically, the Supreme Court has recognized that the registration requirement of the Securities Act of 1933 is "the heart of the Act."[13] It "protects investors by requiring publication of material information thought necessary to allow them to make informed investment decisions concerning public offerings of securities."[14] As a result, the SEC itself has "long regarded violations of the registration provisions to be among the most

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7 Victor D. Quintanilla, *(Mis)Judging Intent: The Fundamental Attribution Error in Federal Securities Law*, 7 N.Y.U. J.L. & Bus. 195, (2010) (citing Stock Exchange Regulation: Hearing on H.R 7852 and H.R. 8720 Before the H. Comm. on Interstate & Foreign Commerce, 73d Cong. 115 (1934), reprinted in 7 Ellenberger & Mahar, Legislative History, Item 23 (1973) ("Subsection (c) says, 'Thou shalt not devise any other cunning devices.' . . . Of course subsection (c) is a catch-all clause to prevent manipulative devices. I do not think there is any objection to that kind of a clause. The Commission should have the authority to deal with new manipulative devices."); *see also* Robert T. Denny, *Beyond Mere Theft: Why Computer Hackers Trading on Wrongfully Acquired Information Should Be Held Accountable Under the Securities Exchange Act*, 2010 Utah L. Rev. 963, 978 (2010) ("In fact, Congress probably intentionally left section 10(b) vague to allow the SEC to pursue 'new types of fraud and deception in connection with securities transactions.'").

8 *SEC v. W.J. Howey & Co.*, 328 U.S. 293, 299 (1946).

9 Santa Fe Indus., Inc. v. Green, 430 U.S. 462, 477 (1977).

10 *Ernst & Ernst v. Hochfelder*, 425 U.S. 185, 203 (1976).

11 United States v. Russo, 74 F.3d 1383, 1390 (2d Cir. 1996) (quoting Superintendent of Ins. of N.Y. v. Bankers Life & Cas. Co., 404 U.S. 6, 11 n.7 (1971)).

12 *SEC v. Pirate Investor LLC*, 580 F.3d 233, 254 (4th Cir. 2009).

13 *Pinter v. Dahl*, 486 U.S. 622, 638 (1988).

14 *Id.*

serious, having noted that Section 5 is the 'keystone' of the Securities Act and 'serves to protect the public in the offer and sale of new securities issues.'"[15] The strategic plan's suggestion that only cases involving fraud and manipulation deserve the SEC's attention betrays not only congressional intent but also the agency's own view up to now that vigorous enforcement of the registration provisions of the federal securities laws is essential to protect investors. The SEC has failed to explain how it will stop fraud and manipulation before they harm investors if the threshold registration requirements under the federal securities laws are not enforced, bringing with them examination authority for the SEC and the ability to inspect books and records.

Conclusion

We hope these comments are helpful as the Commission considers this matter.

Sincerely,

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[15] *Mark S. Parnass*, Exchange Act Release No. 65261, 2011 WL 4101087, at *2 (Sept. 2, 2011) (citations omitted).