

November 3, 2025

The Honorable Paul Atkins
Chairman
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

RE: SEC Policy Change Regarding Forced Shareholder Arbitration

Dear Chairman Atkins:

As institutional investors collectively managing assets exceeding \$8 trillion in capital in U.S. financial markets, including pension funds that provide retirement security to millions of people worldwide, we write to express our strong opposition to the Securities and Exchange Commission's (SEC) recent policy reversal that allows companies seeking to go public to include provisions in their governing documents that attempt to force shareholders into arbitration in the event those companies violate the federal securities laws. The SEC's recent policy change is a complete reversal of the Commission's longstanding policy which effectively prohibited forced shareholder arbitration clauses in public companies' governing documents. The SEC made this drastic change without hearing from investors and corporations in any public comment process which would have revealed widespread opposition to this policy change.

It is our strongly held view as long-term investors that this radical departure from the Commission's decades of precedent will destabilize confidence in U.S. markets. Under the new policy, companies that violate federal securities laws will be shielded from public accountability, putting investments at risk and stripping investors of their well-established rights to recover losses on a class-wide basis and in a proceeding that provides them with full due process. Moreover, companies will not benefit from imposing forced arbitration on its shareholders. Any attempted imposition of such provisions will give rise to immediate legal challenges which will be costly to resolve and create uncertainty in the interim. Over the longer term, if such provisions are allowed to stand, they will lead to numerous, time-consuming, and costly individual arbitrations; multiple arbitrations will inevitably inconvenience corporate executives who will have to respond to seriatim discovery requests and provide live testimony in tens if not hundreds of separate depositions, with no efficient mechanism for class-wide resolution or finality, and often without the right to appeal an adverse judgment. In practice, if it ever gets to that point, forced arbitration will lead to increased costs for all, which is the opposite of the Commission's intended impact.

By greenlighting this forced arbitration policy change, the SEC is countenancing companies' efforts to cut off shareholder class action lawsuits—which are the key means by which both federal and state investor protection laws have been enforced and investor losses have been recouped when securities fraud has been committed—to be replaced by a costly, unproven, and unwieldy system of private arbitration. Class action lawsuits also provide the mechanism through which a corporation can efficiently resolve such litigation allowing all investors, institutional and retail, to participate in any recovery; no such mechanism exists under a private arbitration system. Importantly, history has shown that private shareholder legal actions have

proved to be a far better mechanism than government enforcement to hold corporations accountable for wrongdoing and enable investors to recover funds.

Forcing shareholder cases into arbitration is also contrary to the interests of investors because forced arbitration cannot come close to matching the deterrent effect of litigation. Forced arbitration proceedings are private and do not provide for consistency in the law, as arbitrators are not bound by legal or judicial precedent, nor do they publish judicial opinions. This should worry corporations and their leaders as they may face multiple adverse judgments from multiple private arbitration panels (with limited rights of appeal), leading to an inability to adequately assess the risk to the company posed from any alleged securities laws violations. Public accountability, transparency, and the vindication of rights based on the consistent (and known) application of law are pillars of our legal system and provide essential guarantees of confidence to investors in U.S. markets. Forced arbitration would undermine these tenets of our legal system and reduce investor confidence, thus diminishing the integrity of the U.S. capital markets, ultimately discouraging investment and reducing corporate value.

For all these reasons, it is no surprise that forced shareholder arbitration provisions have been broadly opposed and rejected on multiple occasions. Indeed, just over five years ago on January 23, 2020, a proxy proposal to permit forced securities arbitration at Intuit garnered just 2.5 percent of the shareholder vote, with institutions like Vanguard and State Street voting against it. In addition to institutional investors and public pension funds, those who have opposed prior attempts to compel forced shareholder arbitration include former SEC commissioners, proxy advisories, investor protection organizations, state securities regulators, and publicly traded corporations and their counsel.

We also strongly oppose your recent recommendation that Delaware and other states amend their corporate laws to similarly limit investor rights and weaken corporate accountability. Specifically, we are alarmed by your suggestions at the Weinberg Center for Corporate Governance 25th Anniversary Gala, that Delaware should consider amending its corporate code to permit forced arbitration and institute loser pays fee shifting provisions. Delaware, through its judicial branch, has been a leader in developing dependable, transparent, and fair corporate law. Any changes to this, such as your suggestion to change the law to allow forced arbitration or loser pays fee shifting provisions, would destroy the confidence that issuers and investors alike have placed in Delaware's legal system and corporate code. These efforts are particularly misplaced because they are at odds with federalism concerns and it is beyond the SEC's purview to regulate matters of state corporate law.

Without transparent accountability and a consistent set of legally enforceable requirements for corporations, investor confidence diminishes and market participation suffers, threatening the value and security of U.S. capital markets and our economy.

We thank you for the opportunity to share our views, and we urge you to take prompt action to reverse course and ensure that the level of public accountability that is the hallmark of U.S. capital markets is upheld.

Sincerely,

1. American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)
2. Arkansas Public Employees Retirement System (APERS)
3. Arkansas Teacher Retirement System (ATRS)
4. Association of Benefit Administrators
5. Brad Lander, Comptroller of the City of New York and investment advisor to and custodian of the funds of the New York City Retirement Systems
6. Brunel Pension Partnership
7. Cambridge Retirement System
8. Central Pennsylvania Teamsters Health & Welfare Fund
9. Central Pennsylvania Teamsters Pension Fund
10. Chicago Teachers' Pension Fund
11. City of Fort Lauderdale Police and Fire Pension Fund
12. City of Hallandale Beach Municipal Firefighters and Police Officers Retirement System
13. City of Hollywood Firefighters Retirement System
14. City of Hollywood Police Officers Retirement System
15. City of Miami Firefighters and Police Officers Retirement Trust
16. City of Miami General Employees and Sanitation Employees Retirement Trust
17. City of Miami Police Relief and Retirement Fund
18. City of Miramar Police Retirement System
19. City of Orlando Police Pension Fund
20. City of Pembroke Pines Firefighters' and Police Officers' Pension Fund
21. City of West Palm Beach Firefighters Retirement System
22. City of West Palm Beach Police Officers Retirement System
23. Denver Employees Retirement Plan
24. Dereck E. Davis, Chair, Board of Trustees, Maryland State Retirement and Pension System
25. Elizabeth Steiner, Oregon State Treasurer
26. Employee Retirement System of the City of Providence
27. Employees' Retirement System of the City of Baton Rouge and Parish of East Baton Rouge
28. Employees' Retirement System of the State of Hawaii
29. Erick Russell, State Treasurer - The Office of the Treasurer as Trustee for the Connecticut Retirement Plans and Trust Funds
30. Fire & Police Pension Association of Colorado
31. Fort Lauderdale Fraternal Order of Police Health Trust
32. Hank Kim, Executive Director & Counsel, National Conference on Public Employee Retirement Systems
33. Heat & Frost Insulators and Allied Workers L. 6 Pension Fund
34. Imperial County Employees' Retirement System (ICERS)
35. Interfaith Center on Corporate Responsibility
36. Iron Workers District Council of New England Funds
37. James A. Diossa, General Treasurer, State of Rhode Island Office of the General Treasurer
38. Laborers' & Retirement Board Employees' Annuity & Benefit Fund of Chicago
39. Local 353, I.B.E.W. Pension Fund
40. Louisiana District Attorneys Retirement System
41. Louisiana Firefighters Retirement System
42. Louisiana Municipal Police Employees' Retirement System
43. Louisiana Sheriffs' Pension and Relief Fund
44. MAPERS – the Michigan Association of Public Employee Retirement Systems
45. Michael W. Frerichs, Illinois State Treasurer

46. Minerva Analytics
47. Municipality of Anchorage Police and Fire Retirement System
48. National Coordinating Committee for Multiemployer Plans (NCCMP)
49. Nest Corporation
50. Ohio Police & Fire Pension Fund
51. Oklahoma Firefighters Pension and Retirement System
52. Oklahoma Police Pension and Retirement System
53. Pensions UK
54. People's Partnership
55. San Antonio Fire and Police Pension Fund
56. Shoaib Khan, Director, New Jersey Division of Investment
57. Sonoma County Employees' Retirement Association
58. Thomas P. DiNapoli, as Trustee of the New York State Common Retirement Fund
59. Trustee Sustainability Working Group (TSWG) (UK)
60. Universities Superannuation Scheme Limited (acting in its capacity as sole corporate trustee of the Universities Superannuation Scheme)
61. University Pension Plan