

May 4, 2023

The Honorable Gary Gensler
Chair
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Dear Chair Gensler:

The American Bankers Association (ABA)¹ is writing on behalf of the U.S. banking sector, as we are keenly focused on the aftermath of the recent bank failures and the side effects being felt within the rest of the industry and the U.S. economy. Though ABA believes that government actions immediately following the failures did much to restore market confidence and to preserve financial stability, further action to reassure the markets is appropriate, and the SEC has an important role in providing that reassurance.

Since the two bank failures in March, some of our members have experienced significant short sales of their publicly traded equity securities that do not appear to reflect the issuers' financial status or general industry conditions – indeed, short sales have followed relatively favorable earnings reports from some of the banks in question and from peer institutions. We have also observed extensive social media engagement about the health of various banks and the sector generally that appears disconnected from the underlying financial realities. We urge the SEC to investigate this behavior.

ABA recognizes that short selling can be a legitimate and important financial tool. Legitimate short selling can operate as a mechanism for generating market liquidity, securing price discovery, and facilitating important risk management activities. ABA is, however, unalterably opposed to short selling practices that distort the markets through manipulation and abuse. We urge the SEC to consider all its existing tools and to take measures to reduce the avenues for abusive trading practices and restore investor confidence. These measures include, at a minimum, a clear message and appropriate enforcement actions against market manipulation and other abusive short selling practices. Since short selling restrictions were relaxed in 2007, the importance to the markets of such enforcement has only increased. The harm caused by short selling that runs counter to economic fundamentals ultimately falls on small investors, who see value destroyed by others' predatory behavior.

¹ *The American Bankers Association is the voice of the nation's \$23.6 trillion banking industry, which is composed of small, regional and large banks that together employ more than 2 million people, safeguard \$19.2 trillion in deposits and extend \$12.2 trillion in loans.*

ABA recognizes that the market events of the recent few weeks have been trying for the industry, investors, and regulators, and that the SEC does much to address abusive, market-distorting short campaigns. Given the potential for damage to the interests of the broad investor community and to the perceived health of banks that are the targets of short selling, this is a time for those efforts to be reinforced and publicly highlighted.

Thank you very much for your prompt attention to this important matter. Please do not hesitate to contact me if you would like to discuss.

Sincerely,

A handwritten signature in black ink that reads "BOB NICHOLS". The letters are bold and slightly slanted, with a cursive-like flourish at the end of the last name.

cc: The Honorable Hester M. Peirce, Commissioner
The Honorable Caroline A. Crenshaw, Commissioner
The Honorable Mark T. Uyeda, Commissioner
The Honorable Jaime Lizárraga, Commissioner