MarketWatch

Gensler’s aggressive agenda continues as SEC proposes shortening settlement times in wake of GameStop saga

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Critics say he’s forcing an unnecessary ‘sea change’ in financial market oversight

Securities and Exchange Commission Chairman Gary Gensler has been one of the most active regulators appointed by President Joe Biden, proposing a slew of new regulations at a pace that could make his chairmanship the most significant era of financial reform since the passage of the Dodd-Frank Financial Reform Act more than a decade ago.

Gensler’s campaign continued apace Wednesday, when the SEC voted to propose three new rules: One requiring private equity and hedge funds to provide investors regular reports on performance, fees and conflicts of interest; another mandating funds and advisers to report significant cybersecurity incidents; and a third that would shorten the time securities transactions are settled from two business days to one.

“To no one’s surprise, he’s moved quickly on his aggressive agenda,” Jennifer Schulp, director of financial regulation studies at the libertarian Cato Institute, told MarketWatch. Schulp added that many rule proposals, including Wednesday’s rule governing private fund reporting, represent “dramatic changes” that will prove to be “contentious” as the public weighs in through comments and as affected parties seek to challenge rules in court if they are finalized.

Commissioner Hester Peirce, the lone Republican on the SEC, blasted the proposal as a “sea change” in U.S. financial regulation that “embodies a belief that many sophisticated institutions and high net worth individuals are not competent or assertive enough to obtain and analyze the information they need to make good investment decisions.”

Gensler defended the proposal in a press conference Wednesday morning, arguing that private funds manage $18 trillion, and their behavior inevitably impacts retail traders who invest alongside them, as well as unsophisticated savers whose pension plans invest in these funds. “This is a really important part of our capital markets and I think it’s really part of our remit,” he said.

The proposal to shorten the standard settlement time for securities from two business days to one is much less controversial, garnering support from Peirce as well as the SEC’s three Democrats.

The proposal is partially in response to the GameStop saga of January 2021, when Robinhood **HOOD, -0.58%** and other brokers temporarily prevented customers from purchasing shares of GameStop Corp. **GME, -2.00%**, AMC Entertainment Holdings Inc. **AMC, -1.64%** and other meme stocks in response to calls to post higher collateral by the central clearinghouse that settles U.S. stock trades. Shortening the time it takes to settle securities trades "should reduce the amount of margin that counterparties would need to post to clearinghouses," Gensler said in a Wednesday statement.
Market participants from Robinhood CEO Vlad Tenev to Ken Griffin, owner of market making giant Citadel Securities, have backed the idea of shortening settlement cycles, and Kenneth Bentsen, CEO of the broker industry group SIFMA issued a statement in support of the measure Wednesday.

The change will "will improve market resiliency by further reducing risk that exists while a trade is being finalized, benefit investors by shortening the execution time frame between buying or selling their securities, and reduce the level of margin market participants must post to offset the settlement risk," Bentsen said.

Despite the recent pace of rule proposals, some market observers believe Gensler has much left to do to address urgent needs in securities markets and to back up his tough talk on the crypto economy.

"If anything has been made clear over the past few years, it's that a lot of rules have to be fixed, from stock and treasuries trading to crypto," said Tyler Gellasch, executive director of Healthy Markets, a nonprofit organization of institutional investors. "Investors are increasingly questioning the stability and integrity of the markets, and restoring trust in our markets has to be a top priority."

"While the agency has been quick out of the gates with market structure reform proposals, that's a sharp contrast to the relative inaction on cryptocurrencies," Gellash added, noting that Gensler has publicly stated that he believes it's likely large crypto exchanges offer unregistered securities, in violation of federal law. "It's clear that speeches and statements aren't going to establish order in the digital asset markets; he's going to need more enforcement actions and rules to do that."

"We're going to follow the facts and the law to whatever appropriate conclusions," he said. "We have to allocate resources , as well, with an agency like ours. I would say to those that are following the securities laws to continue to do so because it's the law and it's a good business model."