

# U.S. Sen. Baldwin, colleagues: Push to prevent corporate executives' insider trading

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WASHINGTON, D.C. – U.S. Senators Tammy Baldwin (D-WI), Elizabeth Warren (D-MA), Chris Van Hollen (D-MD), and Bernie Sanders (I-VT) sent a letter to Securities and Exchange Commission (SEC) Chair Gary Gensler in support of the January 2022 proposed rule regarding 10b5-1 plans that would increase transparency and curb corporate executives' abuse of "safe harbor" to trade their company's stock.

The SEC created the 10b5-1 "safe harbor" in 2000 to allow corporate executives, who often have continuous access to material nonpublic information about their companies, to sell their stock holdings without running afoul of insider trading laws. However, initial trades set up by 10b5-1 plans often appear to be based on material nonpublic information, and executives can and do modify or cancel their plans in response to inside information to increase their own profits.

"While these plans were designed to prevent insider trading, evidence indicates that corporate insiders have misused them to obtain huge windfalls making questionable trades at the expense of ordinary investors," **wrote the lawmakers.** "We urge you to consider additional, strong rules that would prevent these abusive practices and protect the integrity of our capital markets, and that you implement them without delay."

A recent report in the *Wall Street Journal* identified "scores of examples where company insiders adopted a plan when a quarter was nearly complete and sold stock under the plan before that quarter's results were announced," and found that "insiders who sold within 60 days reaped \$500 million more in profits than they would have if they sold three months later," indicating that the abuse of 10b5-1

plans is widespread and costly, further underscoring the urgent need for stronger rules.

“Corporate insiders cannot be allowed to continue to trade based on insiders’ knowledge with impunity,” **wrote the lawmakers.** “The SEC must act swiftly to ensure that Rule 10b5-1 is no longer ‘viewed as a ‘get out-of-jail-free card.’”

The lawmakers are also encouraging the SEC to consider strengthening its proposed rule by:

- Lengthening the “cooling-off period” between the adoption of a trading plan and the execution of that plan from 120 days to 180 days;
- Applying the “cooling-off period” requirement consistently to issuers and all employees who rely on the Rule 10b5-1 affirmative defense, rather than just officers and directors and;
- Completely eliminating the availability of a safe harbor for single-trade plans, rather than allowing one single-trade plan per 12 month period.

“If corporate insiders were willing to profit off of their own failed responses to the COVID-19 pandemic, they will likely continue to exploit safe harbor rules to line their own pockets,” **concluded the lawmakers.** “The SEC should consider all options to prevent all such abuses and finally level the playing field for ordinary investors.”

Full text of the letter is available [here](#).