

Chair Atkins' Agenda is the Industry's Agenda

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Introduction

Four months ago, the Senate confirmed Paul Atkins as the [34th chair](#) of the Securities and Exchange Commission (SEC). Although the SEC has not yet published its rulemaking agenda under Chair Atkins, his speeches, statements, and actions since being confirmed reveal his priorities. Those priorities appear to be giving the crypto industry anything it wants, turning private markets into public markets except without the rules that protect investors, and preventing investors from benefiting from the rules the SEC adopted under his predecessor.

These would be sensible priorities if the job of the SEC Chair was to promote the interests of the financial industry, but the job of the SEC Chair is to protect investors. William O. Douglas, the SEC's third chair and a future Supreme Court justice, [said](#) in his first press conference in 1937: "We have got brokers' advocates. We have got exchange advocates. We have got investment-banker advocates. And we are the investor's advocate." That sentiment—that the SEC is the investor's advocate—is so powerful that the quote appears [outside the chair's office](#) at the SEC.

In contrast, Chair Atkins' priorities appear to be the industry's priorities and mark him as the industry's advocate. Chair Atkins [pays lip service](#) to investor protection, but his agenda tells a different story. After President Trump nominated Atkins to be chair of the SEC, [crypto organizations](#), [private asset managers](#), and [industry trade groups](#) all celebrated. It turns out they had good reason to do so. If his agenda thus far is any indication, they now control the SEC.

Crypto

Chair Atkins's subservience to the industry is most evident in his approach to crypto. In December 2024, after the election, crypto industry group The Digital Chamber [sent a letter](#) to the SEC in which it urged the SEC to dismiss enforcement actions against crypto companies; withdraw rule proposals to subject crypto firms to the same regulations as traditional financial firms; create bespoke rules for crypto assets; issue no-action letters and exemptive relief to immunize crypto firms from the securities laws; and adopt safe harbors for crypto projects. Under Chair Atkins, the SEC has either [taken](#) all of these [actions](#) or indicated that it [intends](#) to do so. He has launched what he calls "Project Crypto," an initiative to ensure "[crypto market primacy](#)." Chair Atkins has

gone so far as to endorse putting [traditional securities on the same blockchain technology](#) that undergirds crypto—unsurprisingly a “[huge priority](#)” for Coinbase.

The extent to which Chair Atkins has been, and promises to continue to be, a [cheerleader](#) for the crypto industry is remarkable. When Congress passed the GENIUS Act to legitimize stablecoins on July 17, Chair Atkins issued a [statement](#) congratulating Congress for doing so and stating that he looked forward “to continuing to work to make America . . . the center of crypto asset innovation.” The next day, after President Trump signed the GENIUS Act into law, Chair Atkins issued another [statement](#) calling the signing “a monumental step forward for crypto assets” and inviting market participants “to engage with the SEC staff on what is needed for our securities markets to take advantage of the GENIUS Act’s full potential.” And just last week, after the President’s Working Group issued recommendations for incorporating crypto assets into the mainstream financial system, Atkins issued yet another [statement](#) in which he trumpeted the goal of making America “the crypto capital of the world.” One could be forgiven for thinking that Atkins was a [lobbyist](#) for the crypto industry and not the chair of a supposedly independent regulator.


Indeed, it wasn’t that long ago that promoting an industry would have been considered incompatible with the role of SEC Chair. In 2018, Jay Clayton, the chair of the SEC during the first Trump Administration, [said](#) that it was not the SEC’s job to get involved in picking industry winners and losers. He said that the SEC’s job was to protect the interests of small, long-term Main Street investors. He also said that the SEC was not going to “change the rules” and that “new technologies should adapt to our rules.” We have come a long way in a short time.

Chair Atkins’s cheerleading is especially unusual considering the criticism his predecessor received for adopting a rule to give investors information about the risks companies face from climate change. Despite repeatedly [emphasizing](#) that the SEC was not a climate regulator and wanted only to supply investors with material information, Gary Gensler was [criticized](#) for using the rule to “direct capital to favored businesses and to advance favored political and social goals.” It was one rule on a lengthy rulemaking agenda, yet it led Commissioner Peirce to give a speech [entitled](#), “We are not the Securities and Environment Commission - At Least Not Yet.”

Chair Atkins seems disinterested in disavowing any attempt to favor an industry. Indeed, it is hard to imagine a more transparent attempt to favor an industry than the chair of the SEC stating that it is his goal to make the U.S. the crypto capital of the world. The SEC may not be the Securities and Environment Commission, but it is quickly becoming the Crypto Promotion Commission.

Private Markets

Crypto is the most glaring example of Chair Atkins’s agenda mirroring that of the financial industry, but it is certainly not the only one. Chair Atkins is no less submissive to the private funds industry. The private funds industry has long viewed access to the retirement savings of ordinary Americans as a [holy grail](#). Leading private asset managers such as Apollo and Blackstone [want nothing more](#) than such access. Stephen Schwarzman, Blackstone’s CEO, has described access between private funds and ordinary investors as a “[dream](#).” Marc Rowan, Apollo’s CEO, has [said](#) that Apollo




and the private funds industry would benefit from gaining access to 401(k) savers through broad-based changes in current U.S. rules. These firms and their CEOs have found an ally in Chair Atkins, who recently [criticized](#) past efforts by the SEC to uphold existing law rather than bend the rules to allow private funds to sell to retail investors, and indicated his intention to facilitate efforts to expose retail investors and their 401(k)s to private market assets.

Chair Atkins [says](#) that this is something retail investors want, but that does not appear to be the case. Retail investors are [unfamiliar](#) with the private markets, which [lack](#) the transparency and liquidity of the public markets. So these investors are [not crying out](#) for private market exposure or [clamoring](#) for more investment options in their 401(k)s, and certainly not “less liquid, hard-to-value assets.” Instead, the private funds industry is pushing for access to retail investors because it is finding it [harder](#) to raise money from its traditional sources of funding—institutional investors. In other words, the [push](#) “is almost entirely coming from asset managers, who see an untapped \$12.5 trillion defined-contribution market on one side and decreasing funding rates on the institutional side.” It’s not surprising that the private funds industry [covets](#) access to the over \$12 trillion in Americans’ 401(k)s. It should be surprising that the chair of the SEC is more concerned with giving the industry what it wants than what is good for retail investors. Chair Atkins’s willingness to prioritize the interests of the industry should alarm retail investors everywhere.

Perhaps most problematic is that Chair Atkins seems to recognize the perils of capitulating to the private funds industry. He has [acknowledged](#) that private market assets have “issues regarding valuation, issues regarding liquidity, [and] issues regarding fees.” But that hasn’t stopped Atkins from trying to expose retail investors to such assets. In a [speech](#) in which he also acknowledged those problems, he said he was directing the SEC’s staff to reconsider its position that certain funds investing 15% or more of their assets in private assets should restrict sales to accredited investors. He said this was necessary because the restriction meant retail investors had “missed out” on opportunities to invest in the private markets. Chair Atkins did not explain why he considered it unfortunate that retail investors had missed out on products that he himself characterized as having problematic “conflicts of interest, illiquidity, and fees.”

Chair Atkins did say that because the private markets had [grown so much](#) over the past two decades retail investors needed to be able to access them to diversify their portfolios. Although Chair Atkins is correct about the growth of the private markets, he neglected to mention that the reason is that the SEC has continually [expanded](#) the exemptions that allow companies to raise money without conducting a public registered offering. That is also the reason for the decline over the last few decades of both initial public offerings and public companies. Companies have no need to access the public markets if they can raise all the money they need privately—especially since by raising money privately they can avoid [the disclosure requirements](#) that are the bedrock of the public markets. This means that instead of trying to induce investors to invest in the private markets, which would expand those markets even further, the SEC should focus on curtailing the public offering exemptions and revitalizing the public markets.

The fact that Chair Atkins recognizes the decline of the public markets and says he wants to do something about it should be a good thing, except that his plan seems to be to make the public



markets more like the private markets. Instead of acknowledging that the reason the public markets have contracted is that the SEC has allowed the private markets to proliferate, he attributes the decline in the public markets to the "[costs and headaches](#)" of being a public company. As a result, his solution is to have the SEC curb what he characterizes as "[excessive disclosure](#)." It's astounding that the chair of the SEC would bemoan the "costs and headaches" for public issuers of keeping investors informed about the companies they, as the shareholders, own. It's even more astounding that the chair of the SEC would think investors have too much information about public companies. That is not the view one would think "the investor's advocate" would express, but it is the exact view [expressed](#) by the business community.

Deregulation

Chair Atkins's plan to eliminate disclosure requirements for public companies is consistent with the third part of his agenda that follows the industry's agenda: deregulation. On March 11, about a month before Chair Atkins's confirmation, the Managed Funds Association, a trade association for hedge funds and private credit funds, sent a [letter](#) to the SEC proposing that it revisit the rules it had adopted during Chair Gensler's tenure and withdraw all proposed rules that remained pending. Chair Atkins has wasted little time in embracing these priorities as his own.

Revisiting Recent Rules

The SEC adopted its climate risk disclosure rule in March 2024, after an extensive public comment process that led the SEC to [find](#) that there was "broad support from investors for more reliable, consistent, and comparable information on how climate-related risks can impact companies' operations and financial condition." That support did not extend to the Chamber of Commerce, which [sued the SEC](#) on the grounds that the rule "makes substantively harmful changes to 50 years of corporate governance precedent." Interestingly, in July 2024, before he became chair, Atkins said [similarly](#) that the rule "would completely upend corporate disclosure."

In this respect, it should not be surprising that Chair Atkins has given the Chamber what it wants. After the election but before he became chair, the SEC informed the court overseeing the lawsuit that it would [no longer defend the rule](#). Last month, Chair Atkins's SEC asked the court [to rule on the case](#), essentially asking the court to rule in favor of the industry and overturn the regulation.

The Chamber's lawsuit provided Chair Atkins with an easy way of nullifying the climate risk disclosure rule, but he has indicated that he will also revisit rules that Chair Gensler's SEC adopted that were opposed by the industry but not subject to litigation. For example, in February 2024, the SEC [adopted rule amendments](#) to require private funds to provide more information about their investment strategies to the SEC. The amendments were [designed](#) to enhance the SEC's oversight of the private funds industry, allow the SEC to guard against the systemic risks posed by the industry, and further the SEC's investor protection efforts.

At the time, the Managed Funds Association called the rule amendments "[misguided](#)." After becoming chair, Chair Atkins has prevented the rules from going into effect by [extending](#) the date by which firms would have to comply with the rule. In doing so, he [announced](#) that he had directed

the staff to “undertake a comprehensive review” of the rule considering his concerns whether “the government’s use of this data justifies the massive burdens it imposes.”

As another example, in January 2024, the SEC [adopted a rule](#) to enhance disclosures and provide additional investor protections in initial public offerings by special purpose acquisition companies (SPACs). The SEC’s action followed [a wave of SPAC bankruptcies](#) that resulted in billions of dollars of lost investor capital. [Bloomberg’s editorial board](#) said that the rules “should allow investors to continue to access [SPACs] while providing added clarity about their legal protections and prodding the business toward a steadier and less bubble-prone model,” noting that protecting investors in capital markets “is the SEC’s core mission.” Nonetheless, the American Securities Association [said](#) the rules would “chill participation in the SPAC market and reduce the ability of private companies to access public capital markets.” Last month, Chair Atkins said the SPAC rules had been “[rather controversial](#)” and that the SEC would review them.

Withdrawing proposed rules

Chair Gensler’s SEC also proposed numerous other rules to better protect investors that it was unable to adopt before the end of his term. Those rules ranged from regulations that would have ensured investors receive the best prices when trading securities, to measures that would have protected investors from the potential dangers of artificial intelligence, to guidelines that would have required broker-dealers and investment advisers to strengthen their cybersecurity. The rules also would have updated the definition of an exchange to better reflect modern trading and updated the requirements that govern how investment advisers must safeguard client assets.

On June 12, Chair Atkins [withdrew](#) all of the rule proposals that were pending at the end of Chair Gensler’s term. The SEC [explained](#) the withdrawals as allowing the agency to get “back to our roots of promoting, rather than stifling, innovation.” The SEC did not explain why it viewed its mission as promoting innovation rather than protecting investors, why the proposed rules would have stifled innovation, or why investors did not deserve protection from the risks of new and innovative technologies—such as cyberattacks or the [biases embedded in artificial intelligence](#).

The withdrawal of the rules is just more evidence that Chair Atkins takes his marching orders from the industry. The Investment Company Institute [said](#) it had been “pretty explicit in saying these proposals are not well thought through, and you should not follow up on them.” Unsurprisingly, the rules’ withdrawal was “[lauded by the investment industry as good news](#).”

Revising Old Rules

Although Chair Atkins is giving the industry what it wants in terms of reversing Chair Gensler’s agenda, he is apparently not content to stop there. The industry has [opposed](#) SEC rules that require companies to disclose the pay of their top executive officers ever since they were adopted over 30 years ago. Now, their complaints have found a friendly audience in Chair Atkins.

In May, Chair Atkins announced a [roundtable](#) on executive compensation disclosures to be held in June. In connection with the roundtable, the Chamber of Commerce sent the SEC a [letter](#) in which it urged the agency to “fundamentally reassess current requirements” about executive

compensation disclosure. At the roundtable, Chair Atkins suggested that currently there is [too much disclosure](#) about executive compensation, which mirrored the complaints of industry representatives, who [argued](#) that executive compensation disclosures were overly burdensome.

Corporate leaders take this position because they want less disclosure about executive compensation. They don't want workers, policymakers, or the public to [know](#) that, since 1978, CEO pay has risen by 1,085%, compared to 24% for typical workers' pay, which means CEOs now make 290 times as much as the typical worker. The desire of America's CEOs to hide these statistics as much as possible is understandable. It is also understandable that, at the roundtable, investors [advocated for transparency](#). It is less understandable that the chair of the SEC, the agency that should be the investor's advocate, would [side with the corporations](#).

Conclusion

As the above analysis demonstrates, Chair Atkins has made the industry's priorities the SEC's priorities. The crypto industry seeks [legitimacy](#), and Chair Atkins says he wants to make the United States the [crypto capital of the world](#). The private funds industry seeks [access to the savings of ordinary Americans](#), and Chair Atkins says he wants to [open up private markets to retail investors](#). The financial industry seeks [deregulation](#), and Chair Atkins says he wants to eliminate what he calls "[unclear, overly politicized, complicated, and burdensome regulations](#)."

Perhaps most troubling, boosting crypto, expanding private markets, and reversing rules may be only the tip of the iceberg. Given Chair Atkins's servility to the industry, the demise of the CAT, the PCAOB, and Reg NMS seem imminent. The securities industry has for [years](#) and [years](#) opposed the Consolidated Audit Trail (CAT)—a [market surveillance tool](#) to help the SEC police the markets and catch lawbreakers—and Chair Atkins recently announced a comprehensive review of the CAT. The Chamber of Commerce [criticized](#) the leadership of Erica Williams as chair of the Public Company Accounting Oversight Board (PCAOB)—an accounting regulator that exists to prevent companies from [cooking their books](#)—and Chair Atkins recently asked for and received her [resignation](#). And organizations such as The Heritage Foundation have called for the elimination of Reg NMS—a series of rules that govern securities trading—and Chair Atkins recently said it has not served investors well and announced a [roundtable](#) on one of its rules.

Chair Atkins has said repeatedly that it is [a new day](#) at the SEC. The "old day" appears to refer to the attempts of Chair Gensler (and most other prior chairs) to adhere to the SEC's traditional role as "the investor's advocate." If Chair Atkins's priorities thus far are any indication, the "new day" at the SEC will be a great day for the financial industry and a terrible day for investors.



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