
Paul Atkins is Politicizing the SEC

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Introduction

Securities and Exchange Commission (SEC) Chair Paul Atkins is fond of saying that it is [a new day](#) at the SEC. His agenda [demonstrates](#) that what he means is that the SEC now intends to enact policies that favor the financial industry over investors. Although the SEC has been [the investor's advocate](#) since its inception, it appears that it will not play its traditional role under Chair Atkins.

This is not the only SEC tradition Chair Atkins seems intent on undoing. The SEC has long operated as an independent agency. As an “independent agency, the SEC is supposed to be independent of the Executive Branch.”¹ Organizations such as the Chamber of Commerce have [recognized](#) the importance of SEC independence. Congress’s goal was for agencies like the SEC to be guided “by information and not politics.”² Unfortunately, another aspect to Chair Atkins’s [new day at the SEC](#) appears to be to make the SEC an arm of the Trump administration.

The SEC’s own rules prohibit this. Its [Canon of Ethics](#) says that “under the law” the SEC “is an independent Agency, and in performing their duties, members should exhibit a spirit of firm independence and reject any effort by representatives of the executive or legislative branches of the government to affect their independent determination of any matter being considered by this Commission.” The Canon continues that Commissioners “should not be swayed by partisan demands.” For these reasons, “[i]ndependence has always been a hallmark of the SEC’s structure and governance.”³ Chair Atkins himself [recognizes](#) that the SEC is supposed to “keep politics out of how our securities laws and regulations are applied.”

Yet Atkins has done the opposite. Just a few weeks ago, after President Trump granted clemency to three men who committed fraud, the SEC dropped cases against them seeking to recover money for their victims. As the New York Times [reported](#), the clemency grants

seemed to make the cases less desirable for the commission, which is technically independent but is headed by a Trump appointee [Atkins] and has reflected the president’s priorities in its enforcement actions and agenda.

¹ Roberta S. Karmel, *Little Power Struggles Everywhere: Attacks on the Administrative State at the Securities and Exchange Commission*, 72 Admin. L. Rev. 207, 242 (2020).

² Rachel E. Barkow, *Insulating Agencies: Avoiding Capture Through Institutional Design*, 89 Tex. L. Rev. 15, 20 (2010).

³ Karmel, 72 Admin. L. Rev. at 242.

Chair Atkins did not comment about these cases, but in several other areas he has not hidden the fact that he sees his job as furthering the administration's priorities. Indeed, he has boasted about the extent to which he aims to carry out the president's agenda. So these cases are just the tip of the iceberg in revealing that the SEC is indeed only "technically independent."

Crypto

Chair Atkins's fidelity to President Trump is most apparent in his approach to crypto. He has [described](#) the SEC's "Project Crypto" as the "north star in aiding President Trump in his historic efforts to make America the 'crypto capital of the world.'" In that same speech, Chair Atkins said that the SEC needed to adopt policies that give market participants "maximum choice when deciding where to custody and trade crypto assets" in order "to achieve the President's goals."


Chair Atkins's support of President Trump's crypto agenda extends beyond SEC actions. He [characterized](#) the report released by the President's Working Group on Digital Asset Markets as "*the blueprint* to make America first in blockchain and crypto technology" and said he "stand[s] ready to help" the president achieve his goal of having the "entire world running on the backbone of American technology." Chair Atkins [also](#) "applaud[ed] President Trump on his leadership."

With respect to the president's legislative agenda, Chair Atkins [said](#) he was "eager to coordinate with colleagues in President Trump's Administration and Congress to make the United States the best place in the world to participate in crypto asset markets." He [declared](#) himself "pleased that President Trump endorsed Congressional efforts to pass crypto market structure legislation by the end of the year." And he [called](#) President Trump's signing of the GENIUS Act to legitimize stablecoins a "monumental step forward for crypto assets, financial markets, and our country." Chair Atkins [said](#) that "President Trump and the entire administration are sending a powerful message that America is ready to embrace crypto asset innovation." Again invoking President Trump's goal of making the United States the crypto capital of the world, he [said](#) that the "Trump Administration and Congress have thus far made terrific progress, and there is more work to do."

Quarterly Reporting

Although it would be hard for Chair Atkins to appear more subservient to the administration in any other area, he is trying with respect to the issue of public company reporting. On September 15, President Trump suggested on social media that public companies should be able to [report their earnings](#) every six months instead of on a quarterly basis. Less than two weeks earlier, the SEC had released its first rulemaking agenda under Chair Atkins [with no mention of this issue](#).

Nonetheless, on September 16, the day after the president's post, the SEC [said](#) that, at "President Trump's request, Chairman Atkins and the SEC are prioritizing this proposal." The next day, at an SEC public meeting about a different issue entirely, Chair Atkins [went out of his way](#) to "thank President Trump for his idea of semiannual reporting by public companies." One week later, he said that the president had made a "[timely call](#)" for the SEC to investigate the issue.



Apparently Chair Atkins thought that prioritizing a proposal that had previously been absent from the SEC's agenda was not sufficient. Just last Monday, Chair Atkins said he would “[fast track](#)” the president's proposal to shift from quarterly reports to semi-annual reports. Chair Atkins now [says](#) that the SEC could even release a proposal to implement the idea by the end of the year.

Private Markets

Chair Atkins has been similarly effusive in his praise for the administration's efforts to [expose retail investors to the private markets](#). He said he was “[delighted](#) by President Trump's Executive Order to democratize access to alternative assets.” Both Chair Atkins and his staff have [made it clear](#) that they favor the administration's push toward allowing private funds to sell to retail investors. Chair Atkins is reportedly considering a [roundtable](#) on the president's executive order. Earlier this week, Chair Atkins said explicitly that the “[administration's view](#)”—of which he clearly seems himself as a part—is that private markets do not represent a systemic risk to the economy.

Chair Atkins's fealty to the administration's priorities should not be surprising. At his confirmation hearing, Chair Atkins [trumpeted](#) the “new excitement for investment and economic opportunity that President Trump's leadership and pro-growth policies have inspired.” He stated his [view](#) that companies were “eager to invest in America now that President Trump is at the helm.”

Chair Atkins has even gone so far as to mimic the president's language. President Trump's campaign slogan has long been to “Make America Great Again.” In discussing the dwindling market for initial public offerings (IPOs), Chair Atkins said his goal is to “[make IPOs great again](#).”

Conclusion

Chair Atkins's allegiance to the Trump administration represents [a dramatic departure](#) from prior SECs. Indeed, Jay Clayton, President Trump's first SEC Chair, was [criticized](#) for “not being aggressive enough in pursuing President Trump's business-friendly agenda.” Prior chairs [recognized](#) that the SEC “does not report or answer to the White House or any part of his administration.” Despite the SEC's own Canon of Ethics codifying this view, Chair Atkins [says](#) the SEC is “part of the executive branch” and that the president can fire him at will. This is consistent with the Office of Management and Budget now referring to agencies such as the SEC as “[Historically Independent](#).” It might be more apt to call them “formerly independent.” Chair Atkins certainly views his agency not as an independent policymaking body but as a partisan, political tool. Investors, the general public, and the economy as a whole are likely to suffer as a result.



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