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FACT SHEET

The SEC Is Demolishing Investor Protection, Threatening Capital Formation & the U.S. Economy

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Like Trump's demolition of the East Wing of the White House, Trump's Securities and Exchange Commission (SEC)—led by his Chair, Paul Atkins—is demolishing investor protection, which has been the SEC's primary mission since it was created in 1934. The demolition of the SEC is obviously much less visible than the demolition of the East Wing but make no mistake about it: it is no less real, serious, and much more consequential. This goes far beyond investor protection because the capital formation process is under threat as well, which will undermine economic growth, wealth creation, and rising living standards.

This demolition can be seen in the dramatic, dangerous, and largely unnoticed shift in priorities and focus at the SEC. **It is moving decidedly away from its core historic mission of protecting investors and markets to protecting the financial industry and management.** This isn't just going to disadvantage investors concerned with so-called new, niche, or novel topics or issues like ESG, DEI or other arguably political topics and it doesn't just relate to the widespread mindless deregulation of crypto (which Chair Atkins said "is job No. 1 right now" at the SEC). This shift will impact all investors, including those focused solely on fundamental financial drivers and longstanding, traditional market information. This does not just relate to rules and enforcement, but also to the very rights and remedies of investors, including a widespread attempt to slam the courthouse door closed to ripped off investors by limiting private rights of action and participation in class actions for securities law violations.

The impact of this shift at the SEC is much broader than just investors. These changes are going to have serious implications for price discovery, capital formation and allocation, market function, and the entire economy. While it's true that the U.S. has the deepest, most liquid financial markets in the world and they are trusted by investors worldwide, that is not preordained or destined to always be the case. Indeed, that preeminent position is due to investor confidence in the markets which, in turn, is in large part based on the belief that those markets are well-regulated and well-policed. However, those pillars of the U.S. capital markets are exactly what is currently under threat by the SEC's shift away from investor protection and to promoting the interests of the financial industry and management.

Thus, while the demolition happening at the SEC is a major concern for investors and investor advocates, it also should be of grave concern to everyone because of the inevitable impact on the economy, economic growth, living standards, and wealth creation.

Summary

The SEC, an independent agency that Trump's OMB now refers to as a "Historically Independent" agency, was created in the wake of the Great Crash of 1929 to protect investors, maintain fair, orderly and efficient markets, and facilitate capital formation. Since then, the U.S. financial markets have been, for the most part, well-regulated and well-policed, and that has engendered the faith and trust of investors worldwide. As a result, the U.S. has benefited from the deepest, most liquid, most efficient markets in the world, which have provided the fuel for the U.S. economy and standard of living.

However, the SEC's recent actions are shifting the agency from those historic and critically important roles. An early and clear indication of this was when, shortly after the inauguration, then-Acting Chair Uyeda explicitly—and incorrectly—said that "the Commission has begun the process of returning to its narrow mission to facilitate capital formation." Of course, the SEC has never had a "narrow mission" as is obvious from the laws creating and enabling it, which explicitly state "capital formation" as the last of three very broad objectives.

Nevertheless, Atkins, in his testimony for his confirmation hearing, said that he would "reset priorities" at the SEC because "burdensome regulations are stifling capital formation." Chair Atkins, while paying lip service to investor protection, continued on this theme in one of his first speeches as SEC Chair, saying in May that the SEC needed to "get back to our roots of promoting . . . innovation." Of course, that is no more accurate than Uyeda's comments. It is important to note that Chair Atkins uses phrases like "burdensome regulation" as little more than synonyms for investor, market, and financial stability protections—that is what he wants to eliminate in the name of capital formation, innovation, and the other industry talking points that he uses.

The SEC, in just nine months, has quickly and forcefully taken numerous key actions consistent with these misguided views, such as

1. reducing disclosures,
2. restricting shareholder proposals,

3. limiting shareholder engagement,
4. weakening oversight and enforcement tools like the Consolidated Audit Trail (CAT),
5. halting vital regulations, and
6. limiting investors' rights and remedies, including the right to go to court when they suffer losses due to illegal conduct.

The SEC has also dramatically reduced enforcement, including an unprecedented pattern of dropping key enforcement actions and court cases against potential fraudsters as well as the crypto industry broadly. While Atkins, Trump and others refer to the SEC's crypto enforcement actions as an aggressive and unwarranted "war" on crypto, that is objectively disproved by the fact that the SEC won almost 100% of its cases against the crypto industry before independent Article III judges or independent juries. The SEC was applying longstanding, uncontroversial, black letter law that applies—and has applied—to everyone else in the financial industry without question for many decades.

All these many changes—and not just the headline grabbing changes related to crypto—threaten the transparency, integrity and vitality of the financial markets, which will undermine investor confidence and make it more difficult for investors to make informed, data-driven decisions. The inevitable result will be mispriced securities, less efficient markets, and distorted capital formation and allocation.

This is all going to get much worse as Chair Atkins fully implements his agenda. First, Atkins' prior abysmal record as an SEC Commissioner from 2002-2008, which contributed to the 2008 crash, reveals a longstanding pattern of prioritizing the interests of the financial industry and management, not investor or markets protection. Second, Atkins is shamelessly if not obsequiously politicizing the SEC in ways that no prior Chair—Republican or Democrat—would have ever even considered. At the same time, Trump is taking virtually direct control over the independent agencies, as decreed in an executive order and by OMB actions and statements. While the elimination of the SEC's status as an independent agency is likely to happen as a matter of law due to cases pending before the Supreme Court, it will happen regardless because it's clear that Atkins and his fellow Republican Commissioners will fully align with Trump's agenda.

Finally, the anti-investor, anti-disclosure, pro-management, and pro-industry actions taken thus far are going to get worse because there can be little doubt that Atkins will implement the provisions of Project 2025, to which he was a contributor and was expressly singled out for public praise. Project 2025 clearly indicates that the Administration will further deprive investors of the key information they need to allocate capital. For example, Project 2025 recommends that the Commission retrench not just from its previous climate data reporting rule, but also ***any* disclosure rules** related to topics within the broad remit of ESG, human capital, corporate responsibility, business ethics and related topics which are likely to be of interest to capital allocators. Project 2025 also calls for repealing key reforms adopted in the Dodd-Frank Act, including disclosing the ratio of CEO pay to median worker pay, abolishing the CAT, and eliminating various restrictions on offering and reselling private securities to the public without adequate disclosure or accountability.

That Atkins intends to do this, and much more was confirmed by the SEC's recent reversal of longstanding policy that the right to sue in court is a crucial shareholder protection and declared that it is **permissible for public companies to force shareholders to arbitrate claims**. As if that wasn't enough to signal his agenda to demolish investor protection, including limiting private rights of action, Atkins recently gave a must-read speech that was as pointed as it was extreme. Purportedly addressing one of his top priorities—"make being a public company an attractive proposition for more firms"—Atkins used the speech to broadly attack the proxy process, all but endorse Texas law limiting access to the proxy, attacked Delaware for not doing the same, endorsed mandatory arbitration, denigrated investors' private rights of action and, especially, class actions, and de facto endorsed DExit (i.e., companies leaving Delaware for more pro-corporate, anti-investor states). To ensure no one missed his point, he also all but said he intends to eliminate Rule 14a-8, which is the mechanism for a shareholder to include a proposal in a company's proxy statement. While there certainly are some legitimate complaints about the proxy process and lawsuits, these anti-investor views are radical for an SEC Chair.

In an extreme departure from the role of an SEC Chair, he directly attacked Delaware and basically directed the state to change its laws or else:

> "Unfortunately, recent actions by the Delaware legislature suggest that the state is not only uninterested in reform, but instead, seems to embrace the litigation costs that abusive lawsuits impose on companies franchised in Delaware."
>
> "I hope that the Delaware legislature will revisit the prohibition of both mandatory arbitration and fee shifting with respect to federal securities law claims. Doing so can help Delaware be a leader in the reform of securities litigation."

Of course, Atkins repeatedly claims his plans for the "reform of securities litigation" is in investors' best interests, including in a recent fireside chat at a conference sponsored by one of the industry's largest, most powerful trade groups. But no one should be fooled by these passing references. The substance of what Atkins has done and plans to do are all directed at enacting management's agenda *against* investors.

Atkins' words and the SEC's actions thus far prove beyond doubt that the SEC will continue to limit the quantity, quality, availability and comparability of disclosures sought by investors, limit investors' ability to demand such disclosures from management through the proxy process, limit participate in the oversight of their investments via the proxy process, and expand the ability of companies to offer private securities to the public without appropriate disclosures or protections. In addition, Atkins is prioritizing taking away the rights and remedies of investors, including private rights of action and class action participation. Taken together, these measures will substantially reduce investor information, distort capital formation, impede the effectiveness of shareholder capitalism, and harm the economy.

The SEC's Actions Demolishing Investor Protection, Promoting Industry and Management, and Endangering the Economy

The SEC's recent actions illustrate an alarming shift that favors corporate management and powerful industry interests over the interests of investors and the public. Rescinding Staff Legal Bulletin 14L is a striking example because it makes it easier for companies to exclude shareholder proposals, especially those relating to ESG concerns. Under the new guidelines, such proposals can be excluded unless they demonstrate a direct, significant link to a company's business, effectively silencing shareholders who wish to influence corporate governance on matters of societal importance. The new guidance is already having an effect. The number of shareholder proposals making it into proxy statements is down this year to 55% in 2025 from 63% in 2024 and the percentage of proposals excluded through a no-action request increased to 25% in 2025 from 15% in 2024. The impact is most pronounced in the realm of ESG proposals, as shareholders have withdrawn 95% of requests related to environmental issues and 62% related to social issues.

Recent SEC guidance has also made it more difficult for institutional investors, such as BlackRock and Vanguard, to engage with companies on critical issues like executive compensation and ESG practices without triggering restrictive disclosure requirements. These changes have caused some institutional investors to halt their shareholder engagement meetings, further restricting avenues for investors to advocate for better practices and increased transparency. In other words, these changes are already having their intended effect and it is reasonable to assume more anti-shareholder changes are coming.

Note that both actions—rescinding a staff legal bulletin and guidance—are not formal actions of the SEC pursuant to notice, rulemaking and public input. As detailed by Better Markets here, this has been a hallmark of the Atkins reign as Chair: a troubling consistent lack of transparency, collective Commission deliberation, or public input. Notwithstanding Atkins' specific prior objections to the SEC acting this way (as well as objections by the two other Republican Commissioners), the SEC has withdrawn or delayed the implementation of various or proposed rules 22 separate times and issued at least eight separate staff statements all without soliciting any public input. So much for Atkins' recent claim of taking the APA seriously, calling it "the backbone of due process of the SEC."

In addition to those actions, the SEC has retreated from key investor protections in other areas, such as disclosures. The SEC voted to no longer defend the climate risk disclosure rule from industry challenge before the Eighth Circuit, leaving no doubt that the rule will be entirely killed. Given the rule would have provided disclosures about climate-related risks that many investors wanted to inform their investment decisions, this is a weakening of the bedrock disclosure foundation of securities regulation.

Similarly, the SEC **withdrew its appeal** of a district court ruling against its dealer rule, which would have required those acting as dealers like high-frequency traders to register as dealers, increasing disclosure, promoting a level playing field, and mitigating financial system risk. Unfortunately, the

SEC's failure to ensure that its rules keep pace with changes in the marketplace has not stopped there. The SEC has also **dismissed six enforcement actions** that it had previously brought against firms allegedly acting as unregistered dealers. These cases all involved firms who adopted a new business model—purchasing debt from small issuers, converting that debt into stock, and then selling the stock on the open market at high volumes and frequencies. Despite the law stating that firms in the business of buying and selling securities are securities dealers, the SEC recently dismissed these enforcement actions, which means investors in those securities will not receive the protections of the securities laws that attach to firms that must register with the SEC as a dealer.

In addition to dropping litigation against its rules, the SEC also **delayed the implementation of rules** designed to improve disclosure and transparency in areas such as

1. U.S. Treasury securities,
2. short selling,
3. funds' portfolio holdings,
4. private funds,
5. misleading fund names,
6. tick sizes and access fees, and
7. broker reserve requirements to protect customer assets.

All of these rules would have enhanced investor protection and market stability. And in extending the compliance date for its rule requiring more disclosures about private funds, Chair Atkins said he had directed the staff to review the rule in light of his "serious concerns whether the government's use of this data justifies the massive burdens it imposes." Commissioner Crenshaw noted that this appeared to be the precursor to abandoning the rule.

Similarly, the SEC has already abandoned proposed rules that were designed to increase the disclosures made available to investors but that had not been finalized prior to the inauguration. For example, the SEC proposed a rule that would have required advisers and funds to provide additional information about their ESG investment practices. The SEC withdrew the rule in June.

At the same time, **the SEC withdrew 13 other rules** that would have enhanced investor protection. 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 how modern trading works and updated the requirements that govern how investment advisers must safeguard client assets.

Apparently not content to fail to defend, delay, or abandon new rules, the SEC is also taking aim at longstanding rules. The SEC recently held a roundtable on executive compensation disclosures, at which Chair Atkins suggested that there is currently **too much disclosure about executive compensation**. It is not surprising that corporations would want less disclosure about executive compensation given 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. But it is surprising that the SEC would want investors to receive less information about the compensation of the executives who manage the companies that they own.

Perhaps even more troubling than the actions the SEC has taken (or has signaled will take) with respect to its rules is its apparent **intention to dismantle the CAT, the crime-fighting Consolidated Audit Trail**. The CAT is the world's largest data repository for securities transactions. It enables the SEC to not only reduce, manage, and better understand market risks, disruptions and crashes but also to identify, deter, and punish illegal manipulations and other trading abuses to better protect investors. It is the SEC's most powerful and effective tool to monitor markets and catch lawbreakers, which is why the industry has fought to kill it from the start.

The industry's wishes began to come true as soon as last February when, under then-Acting Chair Uyeda, the SEC issued an order providing that the CAT will no longer be required to collect the names, addresses, and years of birth for most natural persons. Then, under Chair Atkins, in September the SEC issued an exemptive order relieving market participants from the need to create certain records and maintain some data in the CAT. These orders will make it harder for the SEC to detect, investigate, deter, and punish illegal conduct in the securities industry. This occurred just as the SEC began to use the CAT data in enforcement actions, including in cases of insider trading and other investor protection and market integrity matters.

These orders are undoubtedly just the beginning of a multi-front attack on the CAT. FINRA, for example, has filed a proposal to delete even more data from the CAT, and that proposal is pending SEC approval. Even more consequential, the SEC is indicating that it will not likely ensure that there is adequate funding of the CAT, which would severely reduce the SEC's ability to police the markets, catch lawbreakers, and deter bad actors. Chair Atkins has even directed the staff to "undertake a comprehensive review of the CAT." This review foreshadows an attempt to dismantle the CAT altogether. That couldn't happen at a worse time. For example, the SEC's recent approval of extended trading hours for the NYSE—despite the risks associated with after-hours trading—exposes retail investors to the dangers of speculative and addictive trading behaviors and the possibility of greater market manipulations, which means that the SEC will need every possible available tool to police the markets around the clock. In addition, as more trading goes mobile so goes predatory gamification which will almost certainly be supercharged by strategically targeted AI, leaving investors at the mercy of financial predators. For those reasons and many more, the SEC should not kill the CAT.

The move to around-the-clock trading is troubling for another reason—it signals an intention to make the traditional securities markets more like the crypto markets, where trading takes place 24/7 in a largely unregulated environment. Instead of making the crypto markets better regulated, the SEC is making the traditional securities markets less well regulated, while abandoning any attempts to regulate the crypto market entirely. In sending the exact wrong signal, the SEC dismantled the crypto unit in its Division of Enforcement. It then dropped enforcement actions and investigations into substantial firms and individuals in the crypto industry, including exchanges

like Coinbase, Binance, and Kraken, firms such as Ripple, and crypto entrepreneurs alleged to have engaged in wash trading. The SEC has also issued numerous staff statements declaring that the securities laws do not apply to a wide range of crypto products, such as meme coins, stablecoins, and staking. All this signals a hands-off approach to an industry known for its serious risks to investors and a propensity for lawbreaking and engaging in criminal activities.

Finally, the SEC has signaled its intention to expose retail investors to the private markets, which lack the disclosure requirements and investor protections of the public markets. Chair Atkins has upended longstanding SEC practice that places strict limits on private funds selling to retail investors. Commissioner Peirce recently said that the SEC should amend the accredited investor definition "so that more people are eligible to invest in the private markets" and the SEC has already stated via a no action letter that individuals that invest more than $200,000 in a private offering can be deemed accredited investors, regardless of issuer verification. And the SEC has already allowed trading of an exchange-traded fund (ETF) that intends to invest in private credit. Private credit will generally range between 10-35% of the fund's portfolio, despite the very real concerns about the liquidity and valuation of such assets raised by the SEC staff. Leaving aside the SEC's indefensible actions of expanding private markets beyond the law's clear intent (and its role in killing IPOs as a result), these actions are inevitably going to expose investors to very serious risks, many of which will not materialize until severe market stress when investors will likely face significant losses and few if any remedies. That's why there's really no such thing as private market assets in the hands of the general public—letting the public into so-called private markets just exposes those investors to less protections with little if any likely upside.

Actions to Kill Investors' Remedies When Securities Laws are Broken, Including Limiting Private Rights of Action and Access to Class Actions

In addition to the actions above limiting transparency, disclosure, and numerous investor protections, the SEC and others are engaged in a widespread campaign to limit shareholders' rights and remedies to get compensated when they are ripped off or harmed by lawbreakers and illegal conduct. These actions are compounded by the actions of the Supreme Court and the administration to limit the ability to hold lawbreakers and criminals accountable.

The most recent egregious example of this was when the SEC reversed longstanding policy that the right to sue in court is a crucial shareholder protection and declared that it is **permissible for public companies to force shareholders to arbitrate claims**. Corporations want arbitration because it almost always favors them: they very rarely lose. The reasons mandatory arbitration is unfair to investors and consumers are numerous. Frankly, arbitration is an industry-biased star chamber without adequate protections, rules, or transparency. While it seems needless to say, **that's why arbitration has to be *forced* on investors**—they would never willingly choose a forum where their so-called remedy for securities law violations was more fiction than fact, one that greatly advantages financial firms and their management and disadvantages investors.

Even Jay Clayton, SEC Chair during President Trump's first term, refused to reverse the SEC's position and give the industry what it wanted on this issue. That may well be due to the recognition that Congress itself has already decided that investors' access to class actions was a vital part of maintaining the integrity of the securities markets and capital formation. Congress's actions in enacting the Private Securities Litigation Reform Act of 1995 (PSLRA) and afterwards confirms that it didn't want to limit class actions in the way that Chair Atkins is clearly committed to doing.

This denial of access to justice stands in sharp contrast with other efforts by the financial industry, management, and Corporate America and their allies to insist that they always have a right to the courthouse, often claiming it is a constitutional right for them. For example, the Supreme Court in the *Jarkesy* case just last year found that defendants in SEC lawsuits had a right to be heard by a federal judge in a federal court and that the SEC's use of the Administrative Law Judge process was unconstitutional. In other words, management gets a jury trial in any SEC enforcement, but investors are not entitled to the same access to justice when they've been ripped off or harmed by that same financial industry, management, or Corporate America.

There are many other examples of how the SEC and policymakers in DC are working to greatly limit investors' remedies for securities laws violations by killing private rights of action and class action participation. However, the crypto arena is where it is really pervasive and most likely to be enacted into law via Congress or rulemaking relatively soon.

The administration and Congress are not only gutting the federal securities laws to favor the crypto industry, but they are also considering enacting gaping loopholes in the Securities Act of 1933 and Exchange Act of 1934 in the name of "innovation." Many of the proposals being considered by the administration and Congress will not be limited to crypto once unleashed. As has happened repeatedly in the past, market participants will creatively use any safe harbors or exemptions to shoehorn traditional market activity onto a blockchain and thereby escape 90 years of time-tested protections for investors and markets. Those include:

- **Wholesale exempting of offerings and activities from the securities laws via staff statements:** The SEC has released staff statements saying a range of activities pursued by the last administration as unregistered securities offerings now suddenly fall outside of the securities laws. This includes "meme coin" offerings, stablecoin activities, staking and liquid staking services and mining activities. In addition to the SEC abandoning enforcing the securities laws to these financial products, numerous state and private lawsuits are threatened because they have alleged that various offerings potentially encompassed by these no action statements are securities offerings. The staff statements are also written broadly to try and limit future enforcement against a wide range of fact patterns. The SEC's activity in this regard, while not dispositive, creates a negative inference that the activities encompassed by these broad statements are likewise immune from private securities enforcement.

- **Declaring securities to be commodities via ETF listings:** In addition to capitulating on ongoing litigation and issuing broad staff no-action statements, the SEC is letting a host of

crypto-based ETFs begin trading as *commodity* ETFs notwithstanding that the underlying crypto assets are likely unregistered investment contracts. Many of the underlying assets now deemed to be commodities were previously listed in SEC litigation against crypto trading platforms (including, for example, that Coinbase permitting trading in Solana was unregistered securities exchange activity). By allowing these ETFs to be made available for trading on securities exchanges as commodity ETFs, the SEC is affirming the crypto industry's view that the underlying assets are **not** securities and therefore creating an inference that any action against the underlying assets is exempt from securities law.

- **"Innovation Sandbox:"** Chair Atkins has announced his intention to create a host of safe harbors for securities activities that support "innovation." Firms will be permitted to obtain various registrations or launch new products with no or expedited SEC-approval. The SEC is reportedly also planning to wholesale exempt entities and activities that purport to be "decentralized" or "DeFi" from relevant securities laws. The result is that firms will likely declare that no legal person sits at the center of a business enterprise and therefore cannot be held liable for the activities that they engage in or happen on their platform. The harm of these designations could go far beyond crypto, capturing request-for-proposals (RFQs) trading protocols that purport to only intermediate "messaging" between buyers and sellers of securities.

- **Congressional legislation:** Congressional legislation seeks to create a new private offering framework for investment contract securities that trade on blockchains. The exempt offering framework would dwarf all current exempt offering frameworks, including those under Reg A, Reg D, and crowdfunding, and would mandate even ***fewer*** disclosures than the meager disclosures provided under current exempt offerings. Further, once the issuer of these exempt offerings self-certifies that the crypto tokens resulting from those offerings are "sufficiently decentralized" the underlying assets of the crypto offering are deemed no longer the product of a securities offering and can migrate to a CFTC commodities regime.

- **Expansive exempt offerings:** The Senate bill's new crypto offering framework allows issuers to offer up to $75 million a year or 10% of the total crypto tokens outstanding in an exempt offering to all investors (no limitations for accredited investor sales) using general solicitation. In other words, the issuer could mint $10 billion worth of tokens out of thin air, keep $9 billion for themselves, and do a $1 billion exempt offering to retail investors using all manner of advertising. Issuers are not required to provide even unaudited financial statements to investors.

Additionally, there are a number of provisions that **eliminate private liability**. Section 18 of the Exchange Act provides a private right of action imposing liability for false or misleading statements. In the Senate crypto bill, disclosures from issuers offering crypto tokens via a new crypto exempt offering need only be "furnished" to the SEC, which unlike materials "filed" with the SEC, are not subject to Section 18 liability under the Exchange Act. In other exempt offering

frameworks—such as Reg A, Reg D, or Regulation Crowdfunding—documents are filed with the SEC and therefore subject to Section 18 liability.

- Section 12(a)(2) of the Securities Act provides a private right of action imposing liability for material misstatements or omissions in the offer or sale of securities by a prospectus or related oral communication. The Senate legislation severely narrows the concept of a "statutory seller" under Section 12(a)(2), limiting the liability for misstatements and omissions in the offering only to the *originator*, letting third-party promotors off-the-hook. Certain courts across the country have found that third parties used social media mass communications to promote crypto investments and solicit customers into purchases, which would no longer be covered.

- The Senate bill also adds a new requirement mandating that investors show reliance on the misstatement or omission when making their decision to buy the crypto token. Unlike the case with other exempt offerings, this adds a new burden upon investors under Section 12(a)(2) to demonstrate directly that they were aware of and read an originator's statement and engaged in the purchase of the crypto token based on that specific misrepresentation.

- The Senate bill's wide definition of exempt investment contract offerings combined with the permissive self-certification regime and the impossibility of the SEC to contest such certifications also means that issuers will inevitably use this new path to offer all manner of investments to retail investors outside the four corners of existing securities law. This crypto "exemption" will swallow the entire market if enacted.

While there is unfortunately more that could be discussed regarding the attacks on investors' rights and remedies, particularly the attempts to limit private rights of action and class actions, one more merits mention. That's the 2023 Supreme Court decision that now requires tracing when restricted shares are sold to the market in an IPO. The *Pirani v. Slack* decision held investors must "trace" their shares to the registration statement for a Section 11 claim to proceed. Thus, investors must prove that they purchased their shares from the pool issued from the IPO and not insider sales via a contemporaneous direct listing of previously issued shares. This is all but impossible logistically to prove given that insiders tend to sell their shares at the same time as the IPO and shares are fungible and indistinguishable from one another on the secondary market. This will likely gravely undermine the express statutory protections created in Section 11. The SEC could and should address this by placing conditions on insider direct listings contemporaneous with the IPO or requiring some sort of legend to be applied to various types of offerings explaining the attendant liability protections. Unfortunately, this SEC is simply not going to do that or anything else to protect investors' rights and remedies when they are ripped off or the securities laws are broken.

Conclusion

The SEC's recent shift away from protecting investors and to prioritizing management and industry interests poses a serious threat not just to investors, but also to the integrity, transparency, and

efficiency of the financial markets. These actions threaten to undermine the foundation of disclosure and information that have historically enabled investors to make informed decisions and have confidence in markets serving their price discovery and capital allocation functions. Additionally, the widespread efforts to deprive investors of access to the courts to obtain unbiased, meaningful remedies when they have been harmed by securities laws violations will not only result in significant financial losses, but even greater losses in terms of the trust and confidence that should be placed in the markets. That in turn threatens the economy, wealth creation, and Americans' standard of living.

As a result of this multifront attack on investors and investor protection, the trust and confidence in and the preeminent position of the U.S. capital markets, historically based on being well-regulated and well-policed, are in grave danger. All Americans will suffer as a result.

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