|  |  |
| --- | --- |
| **AnALYSIS: TEN KEY TAKEAWAYS FROM THE U.S. SeNATE BANKING COMMITTEE’s March 27, 2025, HEARING ON The NOMINATION OF PAUL ATKINS TO BE CHAIRMAN OF THE U.S. SECURITIES AND EXCHANGE COMMISSION**April 2, 2025 | AbstractQuestions related to the separation of powers, independent financial regulatory agencies, and the legitimacy of bipartisan commissions, have come roaring back.in the early months of the second Trump Administration. Such questions will be at the center of every decision Atkins makes as SEC Chair. Atkins return to the SEC, as Chairman, will also galvanize Congressional Democrats on the Banking Committee around new Ranking Member Elizabeth Warren ID-MA). Michael J Canning, PrincipalMichael.Canning@lxrdc.com |

On March 27, 2025, the U.S. Senate Committee on Banking on Banking, Housing & Urban Affairs held a [hearing](https://www.banking.senate.gov/hearings/03/20/2025/nomination-hearing) on the nomination of [Mr. Paul Atkins](https://www.banking.senate.gov/imo/media/doc/atkins_testimony_3-27-25.pdf) to be the next SEC Chair. The Committee also considered the nominations of [Mr. Jonathan Gould](https://www.banking.senate.gov/imo/media/doc/gould_testimony_3-27-25.pdf), to be Comptroller of the Currency; [Mr. Luke Pettit](https://www.banking.senate.gov/imo/media/doc/pettit_testimony_3-27-25.pdf), to be Assistant Secretary of the Treasury, Department of the Treasury for Financial Institutions; and [Marcus Molinaro](https://www.banking.senate.gov/imo/media/doc/molinaro_testimony_3-27-25.pdf), to be FTA Administrator.

We attended the hearing, and we want to share our observations. We are also pleased to share our [**proprietary transcript**](https://lxrdc.com/wp-content/uploads/2025/04/senate-banking-hearing-nomination-of-paul-atkins-to-be-chair-of-the-sec-march-27-2025-annotated-transcript-w-hyperlinks-and-commentary-lxr-group-pdf.pdf) of the hearing, which includes additional commentary, along with hyperlinks to various legislative and regulatory proposals discussed during the hearing.

We put considerable work into this [project](https://lxrdc.com/wp-content/uploads/2025/04/lxr-groip-ten-takeaways-from-the-senate-banking-committee-hearing-on-aking-april-2-2025-pdf-ff.pdf).  We hope you appreciate the analysis and find the resources helpful.

1. **Ranking Member Elizabeth Warren (D-MA) is a Commanding New Presence Steering the Ship for Senate Banking Democrats. Not Only is She Up to the Task, but She is Settling in and Preparing to Flex.**

Following the Banking Committee’s [March 13 markup](https://www.banking.senate.gov/newsroom/majority/scott-advances-stablecoin-debanking-legislation-out-of-banking-committee) of the [GENIUS Act](https://www.banking.senate.gov/imo/media/doc/genius_markup_final.pdf) and the [FIRM Act](https://www.banking.senate.gov/imo/media/doc/firm_markup_final.pdf), there were doubts about the degree to which the Committee’s new Ranking Democrat, Senator Elizabeth Warren (D-MA) would be able to marshal and unite Senate Banking Democrats in opposition to newly installed Chairman Tim Scott (R-SC), who plans to work the new SEC Chair and Banking Committee Republicans to “[regain the high ground of digital supremacy](https://d.docs.live.net/d2512a898cee55f4/Desktop/ATKINS/Blog%20Post/to%20regain%20the%20high%20ground%20of%20digital%20supremacy.),” [provide overdue clarity for digital assets](https://www.youtube.com/watch?v=tp0Bv56WrOY), also [Unleash a Golden Age of Prosperity.](https://www.banking.senate.gov/imo/media/doc/scott_statement_3-27-25.pdf)

We have all the respect in the world for the Senior Senator from Massachusetts.

However, looking at the Banking Committee’s bipartisan [18-6 vote](https://www.banking.senate.gov/newsroom/majority/scott-advances-stablecoin-debanking-legislation-out-of-banking-committee) to advance the stable coin bill that Senator Warren had [passionately but futilely argued against](https://www.banking.senate.gov/newsroom/minority/warren-current-stablecoin-bill-risks-americans-money-our-economy-and-our-national-security), it was possible to wonder whether she might be too far left, and/or out of sync with the mainstream of the Senate Democratic Caucus, to speak for that Caucus from her new perch at 534 Dirksen.

Such questions were only enhanced two of the six Democrats who voted against the bill in Committee – Warnock (D-GA) and Van Hollen (D-MD) - appeared to go out of their way, through (unusual) closing statements, to say they hoped to vote *for* it on the Senate Floor.

Last week’s hearing on Atkins’ nomination answered those questions and erased any doubts.

Ranking Member Warren’s [34-page letter](https://www.banking.senate.gov/imo/media/doc/Warren%20Letter%20to%20Atkins%20on%20SEC%20Nomination.pdf) to Atkins – which dropped on March 23rd, just four days before the hearing, raising tough questions about [his record as an SEC Commissioner from 2000-2008](https://www.investmentnews.com/regulation-and-legislation/sen-elizabeth-warren-presses-trump-sec-chair-nominee-atkins-ahead-of-confirmation-hearing/259844) and his subsequent work as a private consultant at [Potomak Global Partners](https://patomak.com/) serving, among others, [FTX’s Sam Bankman-Fried](https://www.theblock.co/post/347827/sen-warren-presses-sec-nominee-paul-atkins-on-ftx-ties-trumps-crypto-conflicts) – reminded us why she is the *perfect* person to lead the opposition to someone who we think may be the most deregulatory SEC Chairman in history.

In articulating the Democratic opposition to Atkins, Warren was at her best.

In her opening statement, Warren attacked Atkins’ record as an SEC Commissioner (“you got pretty much everything wrong in the run up to the biggest financial crash since the Great Depression,”) turned consultant (“helping billionaire CEOs like Sam Bankman-Fried.”)

**Ranking Member Warren:**

*Mr. Atkins has spent almost his entire career helping billionaire CEOs like* [*Sam Bankman-Fried*](https://www.thestreet.com/crypto/policy/trumps-sec-chair-nominee-questioned-over-ftx-ties) *, who committed on the biggest financial frauds in US history as the CEO of the failed crypto platform FTX, he's been working with those folks to help them get even richer.” Mr. Atkins has an almost perfect track record. He* *got pretty much everything wrong in the run up to the biggest financial crash since the Great Depression. That is not a record that deserves a promotion.”*

*Co-presidents Trump and Musk are in the midst of a dangerous purge of the federal government. They've shut down CFPB, they've laid off or bought out thousands of other financial regulators, and just last week, they tried to handcuff the Federal Trade Commission (FTC) by attempting to fire the two Democratic commissioners. This is plainly illegal, and if it's allowed to stand, it will do grave damage to millions of families that will get scam all for the benefit of Donald Trump's campaign donors. Why are they trying to dismantle the federal government? Elon Musk gave us one really good example. He said that he intends for his Company X money, to, quote* [*,"become half of the global financial system."*](https://www.reddit.com/r/wallstreetbet/comments/1jhb6is/elon_musk_says_if_done_right_x_would_become_half/?rdt=41453)

During the Q&A portion of the hearing, Warren was equally on point. She outlined the perils facing the Commission and other independent regulators from the Trump Administration, and hammered Atkins for his work in the private sector, accusing him of leveraging his government service “to bill clients $1,200 an hour for advice on how to influence regulators like the SEC.”

 **Ranking Member Warren:**

*“You served as an SEC commissioner from 2000 to 2008, the lead up to the 2008 financial crash that crashed the markets, cost 10 million families their homes, and cost millions more their jobs. Your job was to spot and head off risks that were building up in financial markets. But you showed staggeringly bad judgment.”*

*Now, one of my other top concerns about your nomination, Mr. Atkins, is that your judgment will be influenced by more than an objective assessment of the data in front of you. After your step as an SEC Commissioner, you founded a consulting firm called Potomac Global Partners. Potomac counts every time a kind is financial firm subject to the SEC rules among its clients, banks, asset managers, brokers, exchanges, fintechs and crypto companies, your clients pay more than $**1,200 an hour for advice on how to influence regulators like the SEC and if you're confirmed, you will be in a prime spot to deliver for all those clients who've been paying you millions of dollars for years. So Mr. Atkins, given how breathtaking your financial conflicts of interest,* [*I sent you a letter requesting that you commit to a higher standard of Government Ethics*](https://www.banking.senate.gov/newsroom/minority/ranking-member-warren-presses-sec-chair-nominee-paul-atkins-on-conflicts-of-interest-record-of-regulatory-failures-ahead-of-nomination-hearing)*. Slow down the revolving door here,*

Whatever differences exist between Warren’s views and those of moderate Democrats on the Committee – be they veterans like Mark Warner (D-VA) or new members like Rueben Gallego (D-AZ) – recede to a point of insignificance in the presence of someone like Atkins.

We expect that Atkins return to the SEC, as Chair, will galvanize and unify Congressional Democrats in opposition to his ideas and values. This will not only enhance Elizabeth Warren’s ability to speak for her Caucus on stable coins, crypto legislation, and other capital markets policy issues, but give her an opportunity to shift the ballast of the Committee more toward her progressive way of thinking on legislation.

1. **Congress’s Upcoming Debate on Stable Coin Legislation and Crypto Market Structure Legislation Will be in Significant Part a Referendum on the Legacy of Gary Gensler as SEC Chairman.**

It has been 42 days since Gary Gensler’s resignation as SEC Chair took effect.  It did not take the agency long to begin working to undo key elements of his legacy.

Nowhere is the SEC’s about-face more evident than on its policy toward digital assets.

On January 23, 2025, the SEC published [Staff Accounting Bulletin (SAB) No. 122](https://www.sec.gov/rules-regulations/staff-guidance/staff-accounting-bulletins/staff-accounting-bulletin-122), [acceding to the wishes of Congressional Republicans](https://financialservices.house.gov/uploadedfiles/2024-09-23_bicameral_letter_to_chair_gensler_sab121_sigs.pdf) and the crypto industry and rescinding [SAB 121](https://www.sec.gov/oca/staff-accounting-bulletin-121%22%20%5Ct%20%22_blank). The same week, SEC Acting Chairman Mark Uyeda launched a crypto task force led by SEC Commissioner Hester Peirce. In its [press release](https://www.sec.gov/newsroom/press-releases/2025-30?utm_medium=email&utm_source=govdelivery) on the development, the SEC stated that the Task Force’s focus is to “draw clear regulatory lines, provide realistic paths to registration, craft sensible disclosure frameworks, and deploy enforcement resources judiciously.” The SEC has also [abandoned a host of regulatory enforcement actions](https://www.corporatesecuritieslawblog.com/2025/02/sec-withdraws-from-prominent-crypto-enforcement-amid-regulatory-shift/).

At last week’s hearing, newly minted [Crypto-Senator](https://www.standwithcrypto.org/politicians/person/bernie--moreno) and Banking Committee member Bernie Moreno (R-OH) went out of his way to disparage Gensler.

 **Sen. Bernie Moreno (R-OH):**

*Thank you all of you for stepping up and willing to serve the country. It's very, very appreciated. I'll tell you, Mr. Atkins. Man, just have to be able to breathe and not be a complete raging lunatic and you are going to be greatest SEC Commissioner compared to the last guy. I mean, congratulations on coming after Gary Gensler, who, objectively, probably was one of the stupidest people in government.*

Senator Moreno benefited more than any other Congressional candidate from crypto spending in the 2024 election - while Gensler, even more than former Chair Sherrod Brown, was arguably crypto’s primary antagonist in Washington during the Biden era.

Moreno’s casually rude comments were intentionally overdone; they were the Fin Reg equivalent of Roman general Lucius Cornelius Sulla (six times consul) [exhuming the bones of his rival](https://www.dancarlin.com/product/hardcore-history-death-throes-of-the-republic-series/) Gaius Marius (five times consul) *so he could throw them into the ocean.*

Disagreements about policy on crypto are stark and the parties not only deep but entrenched.

The Biden Administration’s SEC Chair may have vacated his office suites at 100 F Street, but his many of top advisors at the Commission have already found new platforms with influential [policy](https://bettermarkets.org/newsroom/former-sec-chief-of-staff-amanda-fischer-a-veteran-house-and-senate-staffer-joins-better-markets-as-policy-director-and-coo/) and [advocacy](https://consumerfed.org/press_release/corey-frayer-joins-cfa-as-new-director-of-investor-protection/) organizations. They strongly believe the SEC under Gensler did what was necessary to protect investors and markets from dangerous and untested products, and their worst fears about both [crypto](https://www.nytimes.com/2022/11/10/technology/ftx-binance-crypto-explained.html) and [stable coins](https://corpgov.law.harvard.edu/2023/05/22/anatomy-of-a-run-the-terra-luna-crash/) were repeatedly shown to be valid.

They will remain engaged in the debate.

Gensler’s legacy – namely, his [lack of enthusiasm for blockchain and crypto](https://www.youtube.com/watch?v=ouS2TFRU9xc), and his unwillingness to accommodate the entry of these products into mainstream U.S. capital markets while at the Commission – whether by [rendering novel interpretations of existing securities laws](https://emmer.house.gov/_cache/files/5/0/50176829-99c6-40ec-87dd-96421f659fd0/58E2521AD98881EC6DB7696DEC1C2A6C.congressionalletter.sec.9.17.24.pdf), or by working with Congress to fashion new laws - will be a point of fierce contention as Congress moves forward with legislation in this area.

We don’t yet know whether most Congressional Democrats will continue to stick with Gensler’s basic position, modify that position, or embrace [a fundamentally new regulatory framework for crypto](https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=409277). They are in the process of weighing their options right now, and their thinking will become clearer as the House and Senate proceed to consider stable coin legislation this month.

We saw our first glimpse of where things are moving during the Senate markup of the GENIUS Act on March 13, and during a marathon House Financial Services Committee’s [hearing](https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=409489) on the STABLE Act and “Digital Payments Ecosystem” held that same week.

We will get our next look when the [HFSC convenes to mark up the STABLE Act later today.](https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=409555)

We will be watching closely.

1. **Get Ready to Hear a Whole Lot More From Democrats on the Congressional Banking Panels About “Co-President Musk” and His Potential Violations of the Federal Securities Laws.**

While having dinner with my 12-year-old yesterday, I asked for her views on Elon Musk. She responded that she admired his brains and innovation, but that he should stay out of politics.

She also responded that someone in her class had lost their job due to Musk’s DOGE.

Recent polling seems to show that many Americans share my daughter’s view. With Americans taking [an increasingly dim view of Musk](https://www.newsweek.com/elon-musk-favorability-plummets-new-poll-2053241) – especially as it relates to his role heading up DOGE - the political character of as an unelected “Co-President” is a rapidly emerging Democratic vector of attack. The emergence of Musk as a political issue annoys Republicans to no end, and it’s not hard to imagine it annoying President Trump, too.

Despite recognizing danger, Republicans in Congress are struggling to respond effectively.

**Sen. Bernie Moreno (R-OH):**

*You’ve met President Trump, right? You’ve had a chance to interact with him?*

**Mr. Paul Atkins**

*Yes*

**Sen. Bernie Moreno (R-OH)**

*Is he the President? Yes. Is he in charge? Is there a co-president, or does President Trump make the decision*

**Mr. Paul Atkins**

*He is the President – he has an executive Branch.*

**Sen. Bernie Moreno (R-OH)**

*Right. So there's no ambiguity in the White House as to who's in charge. It's Donald J Trump, right? I just find it ironic that my Democrat colleagues like to say this whole talking point of Elon Musk. I thought you guys loved Elon? 70% of EVs are sold by Tesla. What a terrible breakup between the left and Elon Musk. I mean, I'm convinced Taylor Swift is gonna write song about this someday.”*

Regardless of how Senator Moreno feels, Democrats will continue to exploit the vulnerability they have identified surrounding Musk. This is particularly true with respect to Democrats serving on the Congressional committees with oversight of the SEC, given Musk’s history with the agency and apparent violations of the federal securities laws.

Acting Chair Mark Uyeda reportingly attempted to deal with the political hand grenade that is Musk by [voting against suing the trillionaire](https://gizmodo.com/acting-head-of-sec-was-only-commissioner-who-didnt-vote-to-sue-elon-musk-2000579825) for alleged violations of securities laws in his purchase of Twitter and securing [a pledge from SEC enforcement staff that they were not motivated by political considerations](https://www.bloomberg.com/news/articles/2025-02-25/sec-official-sought-staff-s-no-politics-pledge-on-musk-lawsuit), That political hand grenade is about to be passed to Atkins. It will be interesting to see how he deals with this totally unprecedented challenge.

1. **Chairman Scott Discussed “Capital Formation” and Acknowledged His Recent Legislative Proposals in This Area. What He Will Do Next Remains to Be Seen. Pressure Will Mount When the House Approves a Package of 30-40 Securities Bills Now Pending in the HFSC.**

Ever since Senate Banking Chairman Tim Scott released the [*Empowering Main Street in America Act*](https://www.banking.senate.gov/imo/media/doc/emsaa_bill_text.pdf) on September 24, 2024, we have been wondering what exactly he plans to do with those proposals and how committed his is to moving legislation related to securities policy.

As noted in a [press release](https://www.banking.senate.gov/newsroom/minority/scott-leads-banking-republicans-in-introducing-capital-markets-reform-legislation) that accompanied the introduction of the bill last Fall, the legislation incorporates feedback the Chairman received on the [capital markets framework](https://www.banking.senate.gov/newsroom/minority/scott-announces-capital-markets-reform-framework) and a [roundtable](https://www.banking.senate.gov/newsroom/minority/scott-supporting-the-american-dream-for-black-americans-starts-with-expanding-opportunity) with Black investors and business founders discussing ways to improve minority communities’ access to capital, as well as feedback from his Republican colleagues on the Senate Banking Committee.

We still have some questions about Chairman Scott’s commitment to capital formation legislation – and about his interest in capital markets policy generally.

We have been told that the Chairman’s near-term priority aims relate to housing legislation, and it would appear that many of the ideas reflected in the Empowering Main Street Act can be effectuated by the SEC under Atkins, with only a minority appearing to require legislation.

That being said, we anticipate that pressure on him will mount as the House begins to advance a [long list](https://docs.house.gov/meetings/BA/BA00/20250325/118039/HHRG-119-BA00-20250325-SD002.pdf) of securities bills that it has crafted and will begin marking up in the House Financial Services Committee, likely beginning in late April.

Regardless, we found it notable that the Chairman did discuss the bill at some length during the hearing. We look forward to seeing where he goes from here.

1. **Atkins Has Zero Interest in Using the SEC’s Authority to Regulate Capital Markets to Effectuate Other Policy Goals. While Political Parties Undertake That Debate (With Growing Fervor) in Congress, the SEC and Bank Regulators Will Return to More Familiar Roles.**

Several of the sharpest clashes at the hearing involved so-called “green banking” and “ESG.”

On the one hand, this was not surprising, given that the hearing was held amidst a wave of much publicized “[ESG backlash](https://www.bloomberg.com/news/articles/2025-03-03/why-esg-faces-backlash-under-trump-2-0)” and in the immediate aftermath of the [Federal Reserve’s decision to withdraw from the Network of Central Banks and Supervisors for Greening the Financial System](https://www.federalreserve.gov/newsevents/pressreleases/bcreg20250117a.htm) (NGFS), and given how prominently these issues have featured in the first several months of the second Trump Administration.

At the same time, the exchanges at the hearing underscored the depth of feeling around such issues on both sides.

This was a fight that Gould in particular seemed absolutely primed to have, and during his exchanges with GOP Senators during the Q&A portion of the hearing, Gould made clear that, FIRM Act or no FIRM ACT, the OCC is finished with green banking, [reputational risk](https://www.steptoe.com/en/news-publications/blockchain-blog/occ-eliminates-reputational-risk-from-banking-examinations.html#_ftn2), and anything that smells of using financial regulatory policy authorities to pursue politically desirable social and environmental policy aims.

**Sen. Tim Scott (R-SC, Chair)**

*A few weeks ago, I introduced* [*the FIRM Act*](https://www.banking.senate.gov/imo/media/doc/firm_act_bill_text.pdf)*, which would eliminate reputational risk as a consideration during bank examination. And two weeks ago, that bill passed out of this committee. Then just last week,* [*the OCC Acting Comptroller Hood took the step to proactively remove reputational risk from the Comptroller's handbook,*](https://occ.gov/news-issuances/news-releases/2025/nr-occ-2025-21.html) *booklets and other OCC guidance, and instructed OCC examiners that they should no longer examine for reputational risk.*

*Do you support the acting comptroller's decision to remove references to reputational risk?*

**Mr. Jonathan Gould**

*Senator, I think it is unacceptable for banks or regulators to discriminate on customers on the basis of a customer's politics or religion or the mere fact that they are engaged in a lawful activity that is, for whatever reason, politically disfavored. So I applaud the committee's efforts to shine a spotlight on what has been going on for a while.*

*I commit, senator to you and to the committee, to continue to support your oversight efforts, as well as to use the OCC’s full powers, consistent with the statutory mission with law, to do whatever I can do, if confirmed, to shine a spotlight on these activities and to ensure that they are not allowed within the banking system.*

Republican Senators used the remainder of the hearing to drive home their message that bank regulators must abandon the concept of reputational risk because of its potential for political mischief - knowing that the industry and other federal financial regulators would take note.

**Sen. Thom Tillis (R-NC)**

*I want to talk briefly in my time remaining having to do with that reputational risk.*

*I was pleased to see that Acting Comptroller Hood removed all references to reputational risk from the OCC’s handbook on bank supervision and large bank supervision.*

*Will you commit that no future guidance directive, whether formal or informal, exists at the OCC related to reputational risk from SR 20 or 9551?*

**Mr. Jonathan Gould**

*Yes, sir. I think too often reputation risk is used as a pretext for other motives. And I think the regulators have at their disposal other forms, of more easily quantifiable, and just better understood, more precise, more objective terms, including litigation risk, BSA and AML compliance risk.*

**Sen. Thom Tillis (R-NC)**

*I think it is rich to think that some government examiner or supervisor could go into a publicly traded banking institution and judge what they think their activities are appropriate or not appropriate based on reputational risk. Reputational risk is foundational to an organization's reputation and longevity, and to think that somebody from the outside should be guessing that is just absurd to me. It really strikes me as somebody's probably never worked a day in business. So I appreciate your answer.*

The concept of reputational risk has been around for decades – it involves the idea of risk to a financial condition arising from negative public opinion.  The shots fired in the Committee last week over this arcane matter [from a bank examiner’s handbook](https://www.occ.gov/publications-and-resources/publications/comptrollers-handbook/files/corporate-risk-governance/pub-ch-corporate-risk-previous.pdf) were in fact the Lexington and Concord of a much broader and more important debate that is begging to play out in earnest, on the Committee and elsewhere, over the appropriate use of financial regulation to influence other aspects of policy.

Many conservative Republicans have been girding for this debate - having [for years](https://www.congress.gov/113/chrg/CHRG-113hhrg91154/CHRG-113hhrg91154.pdf) [seethed](https://www.congress.gov/113/chrg/CHRG-113hhrg91154/CHRG-113hhrg91154.pdf) at what they view as federal financial regulators’ “intimidating [of] financial institutions [and] legitimate businesses” on the basis of “ideological opposition.”

What is changing, quickly, is that whereas during and prior to the Biden Administration America’s largest banks and global financial institutions shrugged off those concerns [as a cost of doing business in a highly regulated space](https://www.forbes.com/sites/digital-assets/2025/02/05/operation-chokepoint-20-fdic-documents-confirm-crypto-bias/) – they are no longer prepared to do so.

Indeed, with elected officials like Tim Scott and French Hill taking up the gavels of relevant Congressional committees, and Trump appointees like Atkins and Gould headed toward Senate confirmation for perches atop key federal financial regulatory agencies, the SEC and OCC, the institutions and market participants these agencies oversee are rethinking things.

There is of course [a crypto angle to every policy shift and political argument in Spring 2025](https://docs.house.gov/meetings/BA/BA09/20250206/117858/HHRG-119-BA09-Wstate-ThielF-20250206.pdf) – and this is no exception. The industry that left such an indelible mark on the 2024 election that it is hardly seeking to hide its hand.

However, far more significant, over the long term, is that traditional players referenced earlier– major global financial institutions that feel [burned by the crossfire between the parties](https://www.forbes.com/sites/lbsbusinessstrategyreview/2025/03/25/what-the-esg-backlash-reveals-and-what-comes-next/) on issues such as “green banking” and “ESG – companies such as [BlackRock](https://www.forbes.com/sites/jonmcgowan/2025/03/31/in-annual-letter-blackrocks-larry-fink-omits-climate-change-dei-and-esg/), [Morgan Stanley and Capitol One](https://www.bankingdive.com/news/morgan-stanley-diversity-inclusion-dei-meritocracy-capital-one-pay-equity/740728/) - seem certain to resist future attempts to draw them toward politically fraught issues.

This will have major and enduring implications beyond financial services policy, impacting major political issues like climate change, racial and gender equity, and corporate accountability.

1. **“Mom and Pop” Are Not Central to the Way Atkins Thinks About Capital Markets. He Appears to Have a Traditional View of Private Markets, the Accredited Investor Definition, and Related Issues.**

There was an exchange at the hearing between Senator Tina Smith (D-MN) and Atkins that seemed to reveal something important regarding the way Atkins views private markets. In essence, Atkins embraces the SEC’s traditional “hands off” approach with respect to policy related to private markets and private funds. This is another sharp contrast with Gensler. Such an approach is consistent with his views as a commissioner and align perfectly with his stated aversion to using the Commission’s authority to pursue policy aims that exceed the agency’s explicit statutory mandate (such as ESG and governance – as discussed above).

**Sen. Tina Smith (D-MN):**

*Mr. Atkins, I want to talk to you about private funds.*

*There's growing evidence that private fund managers are taking advantage of their unregulated, unregistered status. Pardon me, unregistered status.*

*In 2022, the SEC warned that managers are not disclosing the full fees and expenses that their investors are paying and are using cherry picked track records to artificially inflate their funds performance. And in December, The Wall Street Journal reported that private markets as a quote, come at the cost of higher fees, greater risk, more conflicts of interest and less disclosure. And that matters because it means your work pension plans or retirement accounts get saddled with those on higher fees. So Mr. Atkins, do you agree* *that private fund managers are charging IR fees and expenses to their investors and their public market counterparts?*

**Mr. Paul Atkins:**

*Well, Senator, I think there's a whole range of fees for them, but I would - to your point there - as far as you know, the not being truthful in disclosure can be applies whether or not, whether it's public or private security. So that, I think, is one, one way to protect investors. If there be, you know, any disclosure.*

**Sen. Tina Smith (D-MN)**

*So you're saying that investors shouldn’t be protected by making sure that they know what those fees are going to be in advance?*

**Mr. Paul Atkins**

*Well, these are, these are accredited investors, and people who are not, not retail investors, and so they have the means to do investigation. But if they are, if the disclosures are incorrect, then that's materially Correct. That's an action*.

1. **Don’t Ask Paul Atkins to Defend the PCAOB, SEC Regional Offices, or Project 2025. Also, Don’t Ask Him to Defend the SEC’s Consolidated Audit Trail (CAT). He Won’t Do Any of Those Things.**

During the hearing last week there were a couple of lines that Atkins delivered with a casual effect, but which were in fact lawyerly dodges, obviously rehearsed and prepared responses.

One frequently repeated line related to Atkins role in [Project 2025](https://www.project2025.org/).

Atkins was grilled by several Democratic Senators about his role in the document, which among other things calls for the abolishment of FINRA and the PCAOAB. In every instance, Atkins fell back on a line about “participating in a few phone calls.” He offered nothing more and Democrats and the Committee largely let him get away with it.

The first to press Atkins on the notorious political manifesto was Sen. Chris Van Hollen (D-MD).

Van Hollen is the [author of a law](https://www.sec.gov/rules-regulations/holding-foreign-companies-accountable-act) that requires foreign companies that list their shares on US exchanges to play by the same accounting standards as US companies that list their shares on those exchanges, and he was seeking assurances that Atkins didn’t agree with the document’s call that PCAOB be abolished, and have its functions rolled up into the SEC.

Van Hollen didn’t get clarity on either point.

**Sen. Chris Van Hollen, (D-MD)**

*So my question to you is, would you commit that if you're confirmed, you will preserve the PCAOB’s important role in that mission?*

**Mr. Paul Atkins**

*Well, thank you, Senator. The role is crucial - accounting and auditing is really crucial, obviously, to the investor protection into the capital market. So yes, that function is, by law, delegated to the PCAOB. And so I'm going to ensure that it is not politicized anymore, and that it really focuses on its mission to protect investors and follow these rules.*

**Sen. Chris Van Hollen, (D-MD)**

*I appreciate that, because the reason I ask is I've been looking at “*[*Project 2025*](https://static.project2025.org/2025_MandateForLeadership_CHAPTER-27.pdf)*,” and I see that you have a special mention in Project 2025 on a chapter that mentions the PCAOB. Is that right?*

**Mr. Paul Atkins**

*I participated in a couple phone calls.*

**Sen. Chris Van Hollen, (D-MD)**

*Well they listed you as with a special mention in a chapter that recommends that the PCAOB be abolished. Are you in favor of abolishing the PCAOB?*

**Mr. Paul Atkins**

*Well, that's up to you all. It's part of the statute, and actually it's not even part of the securities...*

**Sen. Chris Van Hollen, (D-MD)**

*But - are you in favor of abolishing the PCAOB?*

**Mr. Paul Atkins**

*The function needs to be done – whether by the PCAOB, or whether it's folded back into the SEC, that function is vital, and how best and most efficient it is achieved.*

**Sen. Chris Van Hollen, (D-MD)**

*So do you, or do you not subscribe to the recommendation* [*in this chapter*](file:///C%3A%5CUsers%5CBob%27s%20Surface%20Laptop%5CDownloads%5Cin%20this%20chapter) *of Project 2025, that the PCAOB be abolished?*

**Mr. Paul Atkins**

*So, I mean, I would support whatever Congress decides.*

**Sen. Chris Van Hollen, (D-MD)**

*So you do agree that you, neither you nor the President has the ability to unilaterally abolish the PCAOB? I'm assuming from your answer that you agree that the president cannot unilaterally get rid of the PCAOB? Do you agree with that?*

**Mr. Paul Atkins**

*Well, I’m not a Constitutional lawyer.*

Later in the hearing, Senator Andy Kim (D-NJ), took his turn. In addition to pinning down Atkins role in Project 2025, Sen. Kim was attempted to secure commitments from Atkins to resists efforts to undermine the SEC’s [Consolidated Audit Trail (CAT)](https://www2.deloitte.com/us/en/pages/financial-services/articles/sec-rule-613-consolidated-audit-trail-national-market-system-nms-plan-banking-securities.html). ([Incidentally, Senator Hagerty has been at the forefront of such efforts.](https://financialregnews.com/congress-members-seek-review-of-consolidated-audit-trail/)) Kim had even less successful than Van Hollen.

**Mr. Sen. Andy Kim, (D-NJ)**

*I know you were listed as a special contributor to that portion of the party. 2025, portion of the project 2025 project 2025 compilation there, which explicitly calls for the termination of the consolidated audit trail program. So I guess I just wanted to respond - do you then disagree with what you saw in Project 2025 talking about this.?*

**Mr. Paul Atkins**

*Well, actually, I participated in the call or two on that, so I wasn't involved with drafting.*

*I commit to looking at the situation, the way it is now, what the plans are, how efficient it is, what the costs are going to be. They've ballooned a lot from what it started out, and even the mission of it has kind of veered off from the way it was stated from the folks who voted on it back originally. So I think we collect with anything else, things change over time. I think we need to look to see if it's going to be focused on the mission that it's trying to solve.*

If Atkins seemed evasive in addressing Senator Kim’s concerns about the CAT, if not the importance of the SEC’s surveillance function, he was more direct in responding to concerns voiced by Sen. Britt (R-AL) about CAT’s collection of personally identifiable information.

**Sen. Katie Britt (R-AL)**

*Shifting to the SEC, I want to touch on the Consolidated Audit Trail, or CAT. This massive data collection poses serious security privacy risk for consumers. I'm pleased that the agency has recently halted the collection of personal identifiable information. However, I still have concerns that data that's already been collected and creates a target for bad actors.*

*Mr. Atkins, will you commit to reevaluating both the necessity of CAT, and whether adequate protections are in place to safeguard that data that has already been collected?*

**Mr. Paul Atkins**

*Absolutely.*

1. **Don’t Expect Paul Atkins to Stand Up to DOGE – Not When it Comes to SEC Regional Offices and Perhaps Not When it Comes to Musk.**

We cringed when we saw Atkins field questions related to the Administration’s ongoing attack on many federal agencies through the DOGE.

Atkins made crystal clear in an exchange with Sen. Jack Reed (D-RI) that the SEC and its Staff should not expect him to go to bat for them, or the agency, in the face of a cost-cutting push by DOGE “to make sure that taxpayer funds are being used properly.”

**Sen. Jack Reed (D-RI)**

*Currently, the SEC has been a case against Elon Musk for concealing his intentions while acquiring Twitter stock and one outside commenter said a very serious securities violation. It seems to have saved Musk about $143 million.*

*Mr. Musk has also has a DOGE, as we know, which has been burrowing into agencies and disrupting agencies. Given that SEC is currently using resources, what would you do if the DOGE team showed up and Mr. Musk knocked on your door?*

**Mr. Paul Atkins**

*Well, I don't know anything about the case other than what I've read in the paper, so I can't speak to that.*

*As far as [DOGE], you know, if there are people who are who can help out with creating efficiencies and agency or otherwise, you know, I would definitely work with them, and we'll be looking at things going on at the Commission right now to make sure that taxpayer funds are being used properly, that the work of the Commission is being done effectively and efficiently.*

**Sen. Jack Reed, (D-RI)**

*Would it be a surprise if the case against Mr. Musk was suddenly dropped?*

**Mr. Paul Atkins**

*I have no way to judge what the merits are.*

**Sen. Jack Reed, (D-RI)**

*Thank you. My time is expired.*

Atkins was offered – and pointedly declined – defend the SEC Regional offices, which are already being closed due to DOGE cost-cutting measures.

**Sen. Lisa Blunt Rochester, D-MD**

*Right now, the administration isn't really waiting to deregulate. It's kind of dismantling day by day operations. It's my understanding that the SEC has shuttered regional offices, including the Philadelphia offices that serves Delaware and offered buyouts, maybe $50,000, for people to resign or retire. Do you agree with shuttering these regional offices?*

**Mr. Paul Atkins**

*Well Senator, it’s been 15 years since I was at the agency. So I don't know what the management is like, or what deficiency is, or how best to make sure that we're using taxpayer money.*

**Sen. Lisa Blunt Rochester, D-MD**

*Did you think they were overstaffed when you were there?*

**Mr. Paul Atkins**

*Well, I don't really remember, and I wasn't again, commissioners don't have influence, really, over the HR part of the agency, so as German coming in, that will be on my desk.*

1. **Senator Haggerty and Paul Atkins were Law School Roommates. Their Personal Friendship has Implications for Capital Markets Policy in the Second Trump Administration. Keep A Close Eye on This Partnership.**

Senator Bill Haggerty (R-TN) and Paul Atkins not only attended the same law school (Vanderbilt), but they were roommates. They graduated in the class of 1983. The two men remain good friends and Hagerty recommended Atkins’ nomination to President Trump.

**Senator Haggerty**:

*“I have a particular pleasure today, though, to introduce a long-time friend -* [*we were roommates in law school*](https://en.wikipedia.org/wiki/Vanderbilt_University_Law_School)*. When I talked to President Trump about Paul, when he was considering his nomination, I begged him not to hold that against Paul, and he certainly didn’t.”*

Senator Haggerty is also a client of Atkins and Atkins has advised Hagerty on his investment decisions.

**Senator Haggerty**:

*“I've known him for a very long time, and since before I met Paul, I knew about him. Paul has an unmatched understanding of financial markets and their regulatory challenges. And I've known Paul, not only as a friend, but as a client, because I've called Paul and his team in to help the companies that I've invested in, navigate some of the great challenges of the financial services regulatory environment.”.*

Senator Hagerty is arguably the most prolific legislator on the Banking Committee on capital markets issues.

The apparently close personal relationship between him and the incoming SEC Chair seems all but certain to have real implications for capital markets policy in the coming years.

The fact that Hagerty is a client of Arkins also presents an interesting twist – and potential conflicts?

1. **Concluding Thoughts – On Independent Agencies, The Hagerty-Atkins Relationship, The Gipper, The Big Questions that Lie Ahead**

Speaking of Senator Hagerty’s effusive introduction of Paul Atkins at the hearing last week, in our margin comments on the hearing transcript (prepared over the weekend) we struggled to understand why something felt weird about the “two chums and former roomies from Vanderbilt Law, class of 1983…having a moment, at the expense of the Republic, while [DOGE was ripping through independent agencies](https://www.washingtonpost.com/national-security/2025/03/28/trump-doge-federal-local-police-us-attorney-access/).” We promised to come back to it, and we’ll do that now.

We never visited the Hagerty-Atkins suite at Vanderbilt Law School – *in 1983 we were at home listening to* [*Flashdance*](https://www.google.com/search?q=1983+music+hits&client=firefox-b-1-d&sca_esv=b657747ebb3c27f5&ei=mYnsZ5z3Isee5NoP4vO1oQw&ved=0ahUKEwjcp-60kLiMAxVHD1kFHeJ5LcQQ4dUDCBA&uact=5&oq=1983+music+hits&gs_lp=Egxnd3Mtd2l6LXNlcnAaAhgCIg8xOTgzIG11c2ljIGhpdHMyCxAAGIAEGJECGIoFMgUQABiABDIGEAAYFhgeMgYQABgWGB4yBhAAGBYYHjIGEAAYFhgeMgYQABgWGB4yBhAAGBYYHjIGEAAYFhgeMgsQABiABBiGAxiKBUjCHFCeBFi0G3ABeAGQAQCYAVugAa4IqgECMTa4AQPIAQD4AQGYAhGgArgJwgIKEAAYsAMY1gQYR8ICChAAGIAEGEMYigXCAgIQJsICCxAuGIAEGMcBGK8BwgIFEC4YgATCAggQABiABBixA8ICERAAGIAEGJECGPgFGIoFGIsDwgIOEAAYgAQYkQIYigUYiwPCAggQABiABBiLA8ICCBAAGBYYChgemAMAiAYBkAYIkgcEMTYuMaAH8GU&sclient=gws-wiz-serp#fpstate=ive&vld=cid:742a07e1.80f1563e,vid:ILWSp0m9G2U,st:0) *and playing with our cabbage patch dolls.*

Had we visited the budding conservatives and future fin-reg policy thought leaders in Nashville, TN, we bet you two tickets to the [World Premiere of Return of the Jedi](https://www.youtube.com/watch?v=5uOt7pPluLg) that we would have found a sticker, button, or campaign poster expressing support for the re-election bid of [this man](https://upload.wikimedia.org/wikipedia/commons/1/16/Official_Portrait_of_President_Reagan_1981.jpg).

That’s right - 1983 was [*Morning in America*.](https://www.google.com/search?client=firefox-b-1-d&q=Morning+in+America+add#fpstate=ive&vld=cid:f659cf76,vid:pUMqic2IcWA,st:0)

The 1980s were also the period when many of the critical questions surrounding things like the independence of federal regulatory agencies and bipartisan regulatory commissions first began to make their way into executive orders and judicial decisions.

With the help of Ronald Reagan and Tip O’Neil – men who specialized in “[finding ways to put party differences aside](https://www.bc.edu/bc-web/centers/church21/publications/c21-resources/c21-resources-articles/Ronald-Reagan-and-Tip-O-Neill--A-Real-life-Friendship.html),” famously ending work at 6:00pm - America papered over [its differences and punted on some of these questions](https://www.congress.gov/crs-product/R43391). Political accommodation at the highest level allowed regulatory agencies to perform their basic tasks with little drama and political meddling.

Today, in the early months of the second Trump Administration, questions related to the separation of powers, [independent regulatory authority](https://www.whitehouse.gov/fact-sheets/2025/02/fact-sheet-president-donald-j-trump-reins-in-independent-agencies-to-restore-a-government-that-answers-to-the-american-people/), and the legitimacy of bipartisan commissions, have come roaring back. The Ronald Reagans and Tip O’Neils are long gone, and there is a desire among some in both parties to [settle them once and for all](https://www.reuters.com/world/us/trump-fires-both-democratic-commissioners-ftc-sources-say-2025-03-18/).

Such questions will be at the center of every decision Atkins makes as SEC Chair.

###