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## United States Senate

COMMITTEE ON BANKING, HOUSING, AND  
URBAN AFFAIRS

WASHINGTON, DC 20510-6075

March 23, 2025

Paul Atkins  
Chair-Designate, Securities and Exchange Commission  
Patomak Global Partners  
750 17th Street NW Suite 1000  
Washington, DC 20006

Dear Mr. Atkins:

Congratulations on your nomination to be Chair of the Securities and Exchange Commission (SEC, or Commission). The Commission is responsible for “protecting investors, maintaining fair, orderly, and efficient markets, and facilitating capital formation.”<sup>1</sup> If confirmed, you will oversee a capital market system that trades over \$120 trillion annually and represents 40 percent of the world’s capital markets.<sup>2</sup> You will also lead an agency with over 4,800 dedicated public servants.<sup>3</sup> The decisions you make as Chair will have significant implications for the long-term health of American commerce and economic growth. Your decisions will also have significant impacts on the lives of hardworking Americans, as they increasingly rely on the securities markets to save for retirement and achieve their financial goals.

While you have extensive experience in financial services and capital markets, I have concerns about your record. You have been involved as a regulator or key adviser in historic failures of the financial system, including as an SEC Commissioner in the years before and during the 2008 financial crisis and as an adviser to the cryptocurrency platform FTX before and during its sudden collapse in 2022.<sup>4</sup> You have also advocated for weaker SEC rules, including for Chinese accounting companies in the United States, at your corporate advisory firm.<sup>5</sup> You were an architect of Project 2025 and received “special mention” for your extensive contributions.<sup>6</sup>

<sup>1</sup> Securities and Exchange Commission, “Mission,” <https://www.sec.gov/about/mission>.

<sup>2</sup> Securities and Exchange Commission, Remarks by Chair Gary Gensler at the American Bar Association’s Federal Regulation of Securities Winter Meeting, December 5, 2024, <https://www.sec.gov/newsroom/speeches-statements/gensler-remarks-american-bar-association-120524>.

<sup>3</sup> Securities and Exchange Commission, “Agency Financial Report,” November 12, 2024, p. ii, <https://www.sec.gov/files/sec-2024-agency-financial-report.pdf>.

<sup>4</sup> Wall Street Journal, “Trump Picks Paul Atkins to Run SEC,” Dave Michaels, December 4, 2024, <https://www.wsj.com/finance/regulation/trump-picks-paul-atkins-to-run-sec-bd290d3c>.

<sup>5</sup> Wall Street Journal, “How Trump’s Regulation Skeptic Helps Wall Street Navigate the Rules,” Dave Michaels and Andrew Ackerman, December 31, 2016, <https://www.wsj.com/articles/how-trumps-regulation-skeptic-helps-wall-street-navigate-the-rules-1483192801>.

You also have significant potential conflicts of interest through your work on behalf of corporate interests—and a long record of advocating for weaker protections for investors and weaker rules to prevent wrongdoing by giant corporations.<sup>7</sup> This record raises questions about your judgement and your ability to serve as an effective SEC Chair if you are confirmed.

This letter contains a series of questions about your views in advance of a hearing on your nomination. Your responses to the questions in this letter and your testimony before the Senate Banking, Housing, and Urban Affairs Committee will be critical to assessing how you plan to lead the SEC. I ask that you appear at your nomination hearing prepared to answer these questions and that you provide complete written answers prior to any Banking Committee vote on your nomination.

### **Agency Independence and Accountability**

1. On February 18, 2025, President Trump signed an executive order that seeks greater authority over regulatory agencies that Congress established as independent from direct White House control.<sup>8</sup> The EO requires, among other things, independent agencies like the SEC to submit significant regulatory actions to the White House for review and declares that they must accept the president’s and the Justice Department’s interpretation of the law as binding.
  - a. If confirmed, do you intend to submit all significant SEC rulemakings to the White House Office of Management and Budget (OMB) for review?
  - b. You served on the SEC staff from 1990 to 1994 under two different chairmen, Arthur Levitt and Richard Breedeem. During that time, was it the SEC’s practice to submit all significant rulemakings for OMB review? If so, is President Trump incorrect in his assertion in the February 18, 2025 Executive Order that “these regulatory agencies” (including the SEC) have been “permitted to promulgate significant regulations without review by the President”?<sup>9</sup>
  - c. You served as a SEC commissioner from 2002 to 2008. During that time, was it the SEC’s practice to submit all significant rulemakings for OMB review? If so, is President Trump incorrect in his assertion in the February 18, 2025 Executive Order that “these regulatory agencies” (including the SEC) have been “permitted to promulgate significant regulations without review by the President”?<sup>10</sup>
  - d. Do you believe that the President has the executive power to direct individual SEC enforcement actions, including for political or personal reasons? If the President directs you to open or close an investigation, will you comply?

<sup>6</sup> Project 2025, “Mandate for Leadership: The Conservative Promise,” p. 837,

[https://static.project2025.org/2025\\_MandateForLeadership\\_FULLL.pdf](https://static.project2025.org/2025_MandateForLeadership_FULLL.pdf).

<sup>7</sup> Wall Street Journal, “Trump Picks Paul Atkins to Run SEC,” Dave Michaels, December 4, 2024,

<https://www.wsj.com/finance/regulation/trump-picks-paul-atkins-to-run-sec-bd290d3c>.

<sup>8</sup> Federal Register Notice, “Ensuring Accountability for All Agencies,” February 24, 2024,

<https://www.federalregister.gov/documents/2025/02/24/2025-03063/ensuring-accountability-for-all-agencies>.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

- e. If there is evidence that any of the President’s companies are suspected of violating the federal securities laws, how will you ensure an independent investigation is conducted?
  - f. Do you believe that the President may require the SEC, including the SEC’s chief legal officer, to adhere to legal positions of the President and the Attorney General? Under what circumstances?
2. Minority party commissioners on independent regulatory commissions like the SEC play a key role in shaping public policy, helping to ensure a “a broader array of opinions will be introduced into the consensus-building process.”<sup>11</sup> They also serve as a critical source of accountability and enhance agency independence.<sup>12</sup> Do you believe that the partisan balance requirements for the Commission, as established in the Securities Exchange Act of 1934,<sup>13</sup> strengthen the SEC’s independence and accountability?
- a. Do you believe the SEC should have a full complement of Commissioners (i.e., three Republican commissioners and two Democratic commissioners)?
  - a. You have been nominated to fill the remainder of previous SEC Chairman Gary Gensler’s term that expires in June 2026, and for a reappointment to another five-year term that begins in June 2026.<sup>14</sup> Do you believe it is appropriate that you have been nominated for a five-year term that does not begin for over a year while no Democratic commissioner has been nominated to the SEC?
  - b. Do you support the nomination of a Democratic commissioner?

## **SEC Rulemaking**

### **A. Economic Analysis**

The SEC has elected to perform cost-benefit analyses in its rulemakings as one means of ensuring that the agency’s rulemakings are in the public interest.<sup>15</sup> However, the financial services industry has latched onto quantitative cost-benefit analyses as a means to slow important rulemakings.<sup>16</sup> Studies show that quantitative cost-benefit analyses may favor industry because

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<sup>11</sup> Congressional Research Service, “Independence of Federal Financial Regulators: Structure, Funding, and Other Issues,” August 3, 2023, p. 12, <https://sgp.fas.org/crs/misc/R43391.pdf>.

<sup>12</sup> *Id.*

<sup>13</sup> 15 U.S.C. § 78d.

<sup>14</sup> Congress.gov, “PN12-18 — Paul Atkins — Securities and Exchange Commission,” January 20, 2025, <https://www.congress.gov/nomination/119th-congress/12/18>;

Congress.gov, “PN18 — Paul Atkins — Securities and Exchange Commission,” January 28, 2025, <https://www.congress.gov/nomination/119th-congress/18>.

<sup>15</sup> 15 U.S.C. 77b(b).

<sup>16</sup> Better Markets, “The Ongoing Use and Abuse of Cost-Benefit Analysis in Financial Regulation,” Stephen Hall, March 23, 2023, [https://bettermarkets.org/wp-content/uploads/2023/03/BetterMarkets\\_Report\\_Cost\\_Benefit\\_Analysis\\_03-2023.pdf](https://bettermarkets.org/wp-content/uploads/2023/03/BetterMarkets_Report_Cost_Benefit_Analysis_03-2023.pdf).

compliance costs are easy to calculate, but quantifying the benefits of investor protection, market integrity, and financial stability is more difficult.<sup>17</sup> Additionally, attempting to quantify the totality of a rulemaking is an imperfect science; many assumptions have to be made about human behavior, responses to rules, and future benefits and costs. Those assumptions can have a profound impact on the estimates.

You have continually advocated for agency rulemakings to be predicated on the findings of quantitative cost-benefit analyses. In a 2011 hearing, you said that “economists have been second-class citizens too long at the SEC ... only near the end of the process are economists brought in to justify the actions on a cost-benefit basis.”<sup>18</sup> In a 2009 hearing you said, “the weighing of costs and benefits is vital, because investors ultimately pay for regulation.”<sup>19</sup>

1. How do you plan to quantify the benefits of the SEC’s regulations? And how would you quantify the risks of inaction?
2. How do you plan to use SEC’s economists differently than previous Chairs?
3. How do you plan to ensure that, during the rulemaking process, the SEC appropriately values the benefits of the following:
  - a. investor protection,
  - b. financial stability,
  - c. the avoidance of systemic financial crises, and
  - d. the deterrence of fraud?
4. How do you plan to properly weigh the costs to investors of intangible harms and harms to the market functioning, such as:
  - a. increased market manipulation and self-dealing,
  - b. greater conflicts of interest,
  - c. increased fraud and lack of transparency, and

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<sup>17</sup> Columbia Law School, “The Empty Call for Benefit-Cost Analysis in Financial Regulation,” Jeffrey N. Gordon, 2014, [https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=3915&context=faculty\\_scholarship](https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=3915&context=faculty_scholarship); The Yale Law Journal, “Cost-Benefit Analysis of Financial Regulation: Case Studies and Implications,” John C. Coates IV, January 2015, <https://www.yalelawjournal.org/article/cost-benefit-analysis-of-financial-regulation>.

<sup>18</sup> Written testimony of Paul Atkins to the U.S. House of Representatives Committee on Financial Services, September 15, 2011, pp. 5-6, <https://financialservices.house.gov/uploadedfiles/091511atkins.pdf>.

<sup>19</sup> Senate Committee on Banking, Housing, and Urban Affairs, “Further Examining What Went Wrong in the Securities Markets, How We can Prevent the Practices that Led to Our Financial System Problems, and How to Protect Investors,” March 26, 2009, <https://www.govinfo.gov/content/pkg/CHRG-111shrg53176/html/CHRG-111shrg53176.htm>.

d. the deterrence of fraud?

## **B. Final Rules**

Under former Chair Gary Gensler, the SEC finalized a number of significant rules, including the following rules. Will you commit to keeping these rules in place? For each rule, please provide a “yes” or “no” response.

1. “Cybersecurity Risk Management, Strategy, Governance, and Incident Disclosure”<sup>20</sup>
2. “Money Market Fund Reforms”<sup>21</sup>
3. “Special Purpose Acquisition Companies, Shell Companies, and Projections”<sup>22</sup>
4. “Standards for Covered Clearing Agencies for U.S. Treasury Securities and Application of the Broker-Dealer Customer Protection Rule With Respect to U.S. Treasury Securities”<sup>23</sup>
5. “Reporting of Securities Loans”<sup>24</sup> and “Short Position and Short Activity Reporting by Institutional Investment Managers”<sup>25</sup>
6. “Form PF; Reporting Requirements for All Filers and Large Hedge Fund Advisers”<sup>26</sup> and “Form PF; Event Reporting for Large Hedge Fund Advisers and Private Equity Fund Advisers; Requirements for Large Private Equity Fund Adviser Reporting”<sup>27</sup>

## **C. Climate Risk Disclosure Rule**

In 2017, you appeared on Bloomberg and stated, “we have to get back to, what is the basis of our disclosure regime and that’s giving investors meaningful, material information so that they can

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<sup>20</sup> Securities and Exchange Commission, Federal Register Notice, “Cybersecurity Risk Management, Strategy, Governance, and Incident Disclosure,” August 4, 2023, <https://www.federalregister.gov/d/2023-16194>.

<sup>21</sup> Securities and Exchange Commission, Federal Register Notice, “Money Market Fund Reforms; Form PF Reporting Requirements for Large Liquidity Fund Advisers; Technical Amendments to Form N-CSR and Form N-1A,” August 3, 2023, <https://www.federalregister.gov/d/2023-15124>.

<sup>22</sup> Securities and Exchange Commission, Federal Register Notice, “Special Purpose Acquisition Companies, Shell Companies, and Projections,” February 26, 2024, <https://www.federalregister.gov/d/2024-01853>.

<sup>23</sup> Securities and Exchange Commission, Federal Register Notice, “Standards for Covered Clearing Agencies for U.S. Treasury Securities and Application of the Broker-Dealer Customer Protection Rule With Respect to U.S. Treasury Securities,” January 16, 2024, <https://www.federalregister.gov/d/2023-27860>.

<sup>24</sup> Securities and Exchange Commission, Federal Register Notice, “Reporting of Securities Loans,” November 3, 2023, <https://www.federalregister.gov/d/2023-23052>.

<sup>25</sup> Securities and Exchange Commission, Federal Register Notice, “Short Position and Short Activity Reporting by Institutional Investment Managers,” November 1, 2023, <https://www.federalregister.gov/d/2023-23050>.

<sup>26</sup> Securities and Exchange Commission, Federal Register Notice, “Form PF; Reporting Requirements for All Filers and Large Hedge Fund Advisers,” March 12, 2024, <https://www.federalregister.gov/d/2024-03473>.

<sup>27</sup> Securities and Exchange Commission, Federal Register Notice, “Form PF; Event Reporting for Large Hedge Fund Advisers and Private Equity Fund Advisers; Requirements for Large Private Equity Fund Adviser Reporting,” June 12, 2023, <https://www.federalregister.gov/d/2023-09775>.

make a decision to buy, hold, or sell their securities.”<sup>28</sup> However, disclosure is important not just for an investor’s decision to “buy, hold, or sell” but to engage with the company on its management practices. Large institutional investors like BlackRock have said that “tak[ing] a forward-looking position with respect to climate risk ... will generate better long-term financial outcomes,”<sup>29</sup> and regulators in the U.S. and across the world have warned that “climate-related financial risk may threaten the safety and soundness of individual financial institutions and the stability of the overall financial system.”<sup>30</sup> The SEC finalized a climate-risk disclosure rule last year that scaled back numerous provisions in its proposed regulation in ways that your comment letter requested.<sup>31</sup> You were a vocal opponent of the SEC’s climate disclosure rule.<sup>32</sup>

1. Do you believe climate-related risk and its associated impacts can pose a significant threat to the financial system and our economy? Please respond with a “yes” or “no.”
2. Do you believe climate-related risk may materially affect the financial performance of companies, including companies that rely on supply chains and physical infrastructure which can be disrupted and damaged by the effects of climate change?<sup>33</sup> Please respond with a “yes” or “no.”
  - a. Can climate change-related natural disasters affect business operations that ultimately materially affect a company’s financial performance?
  - b. Commercial property insurance costs are projected to nearly double in the next five years, in part due to the effects of climate change.<sup>34</sup> Do you believe this phenomenon may materially affect a company’s financial performance?
  - c. The International Chamber of Shipping recently warned, “the resilience of global supply chains and the future of international commerce now hinge on how effectively the world navigates these uncharted waters of a changing climate...

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<sup>28</sup> Bloomberg, “Ex-SEC Commissioner Atkins on IPOs and Regulations,” February 24, 2017,

<https://www.bloomberg.com/news/videos/2017-02-24/ex-sec-commissioner-atkins-on-ipo-and-regulations>.

<sup>29</sup> CNBC, “BlackRock and Mike Bloomberg agree that measuring climate risk and investing in clean energy is smart capitalism,” Catherine Clifford, September 9, 2022, <https://www.cnbc.com/2022/09/09/blackrock-bloomberg-measuring-climate-investment-risk-is-capitalism.html>.

<sup>30</sup> Federal Reserve Bank of San Francisco, “Climate Change Is a Source of Financial Risk,” Glenn D. Rudebusch, February 8, 2021, <https://www.frbsf.org/research-and-insights/publications/economic-letter/2021/02/climate-change-is-source-of-financial-risk/>.

<sup>31</sup> Letter from Paul Atkins et al to Securities and Exchange Commission, June 17, 2022,

<https://www.sec.gov/comments/s7-10-22/s71022-20132519-303005.pdf>; Securities and Exchange Commission, Federal Register Notice, “The Enhancement and Standardization of Climate-Related Disclosures for Investors,” March 28, 2024, <https://www.federalregister.gov/d/2024-05137>.

<sup>32</sup> Harvard Law School Forum on Corporate Governance, “The Proposed SEC Climate Disclosure Rule: A Comment from Former SEC Chairmen and Commissioners,” Harvey L. Pitt, Kalorama Partners, LCC, July 1, 2022, <https://corpgov.law.harvard.edu/2022/07/01/the-proposed-sec-climate-disclosure-rule-a-comment-from-former-sec-chairmen-and-commissioners/>.

<sup>33</sup> Deloitte, “Climate change impacts elevate US commercial real estate insurance costs,” Renea Burns, Tim Coy, and Niall Williams, May 29, 2024, <https://www2.deloitte.com/us/en/insights/industry/financial-services/financial-services-industry-predictions/2024/impact-of-climate-change-on-commercial-real-estate-insurance-costs.html>.

<sup>34</sup> *Id.*

[M]edium and long-term planning must consider the business impacts of climate change.”<sup>35</sup> Do you agree that businesses that rely on global supply chains and international commerce must consider the impacts of climate change?

- d. Are there any other climate-related concerns that could materially affect the financial performance of SEC-regulated entities?
3. Do you believe that reasonable investors may require information about the potential material risk of climate change in order to make investing decisions? Please respond with “yes” or “no.”
  4. Several legal challenges were brought against the rule, and litigation was consolidated in the Eighth Circuit Court of Appeals. On February 11, 2025, Acting Chair Mark Uyeda, who opposes the rule, announced that he directed Commission staff to ask the court not to schedule the case for argument “to provide time for the Commission to deliberate and determine the appropriate next steps.”<sup>36</sup> The Acting Chair did not put this question to a vote of his fellow Commissioners, but unilaterally took this step to undermine the defense of a final SEC rule.<sup>37</sup>
    - a. Did you consult with Acting Chair Uyeda on the climate disclosure rule prior to his announcement? If so, please explain.
    - b. Do you support the decision to ask the court to delay scheduling arguments and further prolong this litigation?

#### **D. Equity Market Structure: Regulation Best Execution and Order Competition Rules**

On the heels of the GameStop and meme stock frenzy,<sup>38</sup> the SEC proposed several rules to address market structure issues. To date, two of the four proposals have been finalized: updates to the pricing of stocks to allow traders to quote stocks at variable price increments<sup>39</sup> and amendments that create more transparency in the stock order execution process.<sup>40</sup>

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<sup>35</sup> International Chamber of Shipping, “Trade flows adapting to climate change impacts,” March 18, 2024, <https://www.ics-shipping.org/news-item/trade-flows-adapting-to-climate-change-impacts/>.

<sup>36</sup> Securities and Exchange Commission, “Acting Chairman Statement on Climate-Related Disclosure Rules,” press release, February 11, 2025, <https://www.sec.gov/newsroom/speeches-statements/uyeda-statement-climate-change-021025>.

<sup>37</sup> Securities and Exchange Commission, “Statement on Pause in Litigation Concerning the Climate-Related Disclosure Rule,” press release, February 11, 2025, <https://www.sec.gov/newsroom/speeches-statements/crenshaw-statement-climate-related-disclosure-rule-021125>.

<sup>38</sup> Securities and Exchange Commission, “SEC Staff Releases Report on Equity and Options Market Structure Conditions in Early 2021,” press release, October 18, 2021, <https://www.sec.gov/newsroom/press-releases/2021-212>.

<sup>39</sup> Securities and Exchange Commission, “SEC Adopts Rules to Amend Minimum Pricing Increments and Access Fee Caps and to Enhance the Transparency of Better Priced Orders,” press release, September 18, 2024, <https://www.sec.gov/newsroom/press-releases/2024-137>.

<sup>40</sup> Securities and Exchange Commission, “SEC Adopts Amendments to Enhance Disclosure of Order Execution Information,” press release, March 6, 2024, <https://www.sec.gov/newsroom/press-releases/2024-32>.

1. Do you support the SEC's two finalized rules? What is your view of the remaining two proposals, which would require broker dealers to execute orders at the best price for their customers<sup>41</sup> and route individual investor trade orders through fair and open auctions before execution?<sup>42</sup>
2. Do you believe retail investors should be able to rely on the SEC to ensure their broker or dealer obtains the best available price and terms for their investment transactions?
3. What do you think would be part of a holistic review of equity market structure?

### **Your Actions Prior to and During the 2008 Financial Crisis**

You were a Commissioner at the SEC before and during the 2008 financial crisis. The SEC was caught drastically underprepared for the crisis.<sup>43</sup> Troublingly, you voted in support of several deregulatory measures that contributed to the near collapse of the banking and financial system in 2007 and 2008.

#### **A. Alternative Net Capital and Consolidated Supervised Entities for Investment Banks**

In order to maintain access to the European markets after European regulators required they be subject to some form of consolidated supervision, Goldman Sachs, Morgan Stanley, Merrill Lynch, Bear Stearns, and Lehman Brothers asked the SEC in 2004 to set up a voluntary Consolidated Supervised Entity (CSE) Program.<sup>44</sup> You voted to establish this program whereby the investment banks would be subject to supervision-lite and "alternative" lower capital requirements.<sup>45</sup>

Under the SEC's CSE program, all five banks took extremely leveraged investment positions in mortgage-backed securities that ultimately failed and bankrupted or threatened the stability of their firms. This risky leverage, according to the SEC Office of the Inspector General, was known to SEC staff but was not acted upon.<sup>46</sup> The SEC Inspector General concluded that the CSE program could have contributed to the financial crisis.<sup>47</sup> The Financial Crisis Inquiry

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<sup>41</sup> Securities and Exchange Commission, "SEC Proposes Regulation Best Execution," press release, December 14, 2022, <https://www.sec.gov/newsroom/press-releases/2022-226>.

<sup>42</sup> Securities and Exchange Commission, "SEC Proposes Rule to Enhance Competition for Individual Investor Order Execution," press release, December 14, 2022, <https://www.sec.gov/newsroom/press-releases/2022-225>.

<sup>43</sup> Letter from Senator Elizabeth Warren to President-elect Trump, November 15, 2016, [https://www.warren.senate.gov/files/documents/2016-11-15-Trump\\_Letter.pdf](https://www.warren.senate.gov/files/documents/2016-11-15-Trump_Letter.pdf).

<sup>44</sup> Securities and Exchange Commission Office of Inspector General, "SEC's Oversight of Bear Stearns and Related Entities: The Consolidated Supervised Entity Program," September 25, 2008, p. 4, <https://www.sec.gov/files/446-a.pdf>.

<sup>45</sup> Securities and Exchange Commission, "SEC Proposes Thrift Exception from Advisers Act, Comprehensive Disclosure Requirements for Asset Backed Securities; Adopts Supervision Programs for Broker-Dealers and Affiliates," press release, April 28, 2004, <https://www.sec.gov/news/press/2004-58.htm>.

<sup>46</sup> Securities and Exchange Commission Office of Inspector General, "SEC's Oversight of Bear Stearns and Related Entities: The Consolidated Supervised Entity Program," September 25, 2008, pp. 17-18, <https://www.sec.gov/files/446-a.pdf>.

<sup>47</sup> Securities and Exchange Commission Office of Inspector General, "SEC's Oversight of Bear Stearns and Related Entities: The Consolidated Supervised Entity Program," September 25, 2008,

Commission report concluded the SEC’s “poor oversight of the five largest investment banks failed to restrict their risky activities and did not require them to hold adequate capital and liquidity for their activities, contributing to the failure or need for government bailouts of all five of the supervised investment banks during the financial crisis.”<sup>48</sup>

When then-Chairman Christopher Cox announced the end of the CSE program in September 2008, he explained its abject failure: “The last six months have made it abundantly clear that voluntary regulation does not work. When Congress passed the Gramm-Leach-Bliley Act, it created a significant regulatory gap by failing to give to the SEC or any agency the authority to regulate large investment bank holding companies, like Goldman Sachs, Morgan Stanley, Merrill Lynch, Lehman Brothers, and Bear Stearns.”<sup>49</sup>

1. Do you agree with Christopher Cox, the former Republican Chair of the SEC, that “the CSE program was fundamentally flawed from the beginning?”<sup>50</sup> If not, why not?
2. Do you agree with Cox that “voluntary regulation does not work?”<sup>51</sup> If not, why not?
3. From 2009 to 2010, you and I served together on the Congressional Oversight Panel for the Troubled Asset Relief Program.<sup>52</sup> Around that time, you said: “the SEC probably became a little bit too focused on the equity markets and ... did not pay enough attention to the debt side.”<sup>53</sup> Looking back at the SEC’s pre-crisis failures during your tenure, what lessons did you learn from the 2008 financial crisis? How would those lessons inform your tenure as chairman of the SEC?
4. In the lead up to the financial crisis, were you made aware that SEC staff knew investment banks were overleveraged?
  - a. Were you provided any documents, analyses, or other information to this effect? If so, when were you presented with this information?
  - b. Did you hide this information from other Commissioners or was it openly discussed at the Commission?

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<https://www.sec.gov/files/446-a.pdf>.

<sup>48</sup> Financial Crisis Inquiry Commission, “The Financial Crisis Inquiry Report,” p. 155,

<https://www.govinfo.gov/content/pkg/GPO-FCIC/pdf/GPO-FCIC.pdf>.

<sup>49</sup> Securities and Exchange Commission, “Statement of Chairman Cox on IG Reports Regard CSE Program,” press release, September 26, 2008, <https://www.sec.gov/news/press/2008/2008-231.htm>.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> Congressional Oversight Panel on the Trouble Asset Relief Program, “Chair Elizabeth Warren Welcomes Paul Atkins to the Congressional Oversight Panel,” press release, August 20, 2009,

<https://fraser.stlouisfed.org/title/united-states-congressional-oversight-panel-5136/chair-elizabeth-warren-welcomes-paul-atkins-congressional-oversight-panel-518805>.

<sup>53</sup> Senate Committee on Banking, Housing, and Urban Affairs, “Further Examining What Went Wrong in the Securities Markets, How We Can Prevent the Practices That Led to Our Financial System Problems, and How to Protect Investors,” March 26, 2009, <https://www.govinfo.gov/content/pkg/CHRG-111shrg53176/html/CHRG-111shrg53176.htm>.

5. Will you produce each vote you took as Commissioner on matters before the Commission, including but not limited to rulemaking and enforcement votes, ahead of your confirmation hearing?

## **B. Regulation Short Selling (Regulation SHO) Rule 10a-1 - Uptick Rule**

In 2007, you voted to repeal the uptick rule (or “tick test”) that prevented short sellers from entering a sale at a price that is lower than the last sale price.<sup>54</sup> The uptick rule was in place for 70 years<sup>55</sup> and prevented short sellers from driving down stock prices.<sup>56</sup> Repealing the rule allowed short sellers to take repeated, heavy positions in failing banks, further driving down the stock price of the banks<sup>57</sup> and exacerbating the financial crisis.<sup>58</sup>

The SEC voted on this rule after conducting a 2005 pilot study which concluded that the uptick rule had limited effect on the market. The study was later found to be incomplete because the report did not price-in sharp movements in stock prices,<sup>59</sup> which happened on a near-daily basis during the financial crisis. In a comment letter submitted during the proposal process, the New York Stock Exchange (NYSE) “noted its concern about unrestricted short selling during periods of unusually rapid and large market declines.”<sup>60</sup> The American Stock Exchange (ASE) expressed related concerns.<sup>61</sup>

1. Were you made aware of the limitations of the rule’s pilot study when you voted to repeal the uptick rule?
  - a. How will you ensure you are properly informed before voting on SEC regulations?
2. Were you made aware of NYSE and ASE’s concerns prior to your vote to repeal the uptick rule?

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<sup>54</sup> New York Times, “S.E.C. Ends Decades-Old Price Limits on Short Selling,” Floyd Norris, June 14, 2007, <https://www.nytimes.com/2007/06/14/business/14sec.html>.

<sup>55</sup> Congressional Research Service, “The Uptick Rule: SEC Limit on Short Selling Reconsidered,” March 24, 2010, p. 1, <https://crsreports.congress.gov/product/pdf/RL/RL34519/6>.

<sup>56</sup> Brooklyn Journal of Corporate, Financial & Commercial Law, “Why the SEC Failed” Regulators Against Regulation,” Norman S. Poser, 2009, p. 301, <https://brooklynworks.brooklaw.edu/cgi/viewcontent.cgi?article=1142&context=bjcfcl>.

<sup>57</sup> Wall Street Journal, “Opinion: Restore the Uptick Rule, Restore Confidence,” Charles R. Schwab, December 9, 2008, <https://www.wsj.com/articles/SB122878208553589809>.

<sup>58</sup> Brooklyn Journal of Corporate, Financial & Commercial Law, “Why the SEC Failed” Regulators Against Regulation,” Norman S. Poser, 2009, p. 301, <https://brooklynworks.brooklaw.edu/cgi/viewcontent.cgi?article=1142&context=bjcfcl>.

<sup>59</sup> Congressional Research Service, “The Uptick Rule: SEC Limit on Short Selling Reconsidered,” March 24, 2010, p. 5, <https://crsreports.congress.gov/product/pdf/RL/RL34519/6>.

<sup>60</sup> Brooklyn Journal of Corporate, Financial & Commercial Law, “Why the SEC Failed” Regulators Against Regulation,” Norman S. Poser, 2009, p. 301, <https://brooklynworks.brooklaw.edu/cgi/viewcontent.cgi?article=1142&context=bjcfcl>.

<sup>61</sup> Congressional Research Service, “The Uptick Rule: SEC Limit on Short Selling Reconsidered,” March 24, 2010, p. 4, <https://crsreports.congress.gov/product/pdf/RL/RL34519/6>.

- a. If yes, how will you ensure you are appropriately addressing comments made on SEC regulations?
  - b. If no, how will you ensure that you are properly informed about the comment file for SEC regulations?
3. Would existing SEC rules limiting short selling, which you supported,<sup>62</sup> be fairly applied to the securities of all issuers, including the Trump Media Group?

### **C. Your Regulatory Posture Before and During the Financial Crisis**

During the financial crisis, you continually downplayed the extent of the issues in the markets and cautioned against government intervention. In effect, you deeply misread the looming threat of the greatest financial upheaval in generations. In November 2007, as housing prices continued to plummet and cracks in the financial market grew,<sup>63</sup> you said it was “unfortunate[]” that “difficult events in the economy often result in renewed calls for more regulation.”<sup>64</sup> In February 2008, days before Bear Stearns’ collapse, you said “these kinds of market situations ... have happened before, and our current experience is mild in comparison.”<sup>65</sup> Days after Bear Stearns’ collapse in March 2008, you said that “our economy has much strength and depth.”<sup>66</sup> One month later you said “investors ... and other market participants have learned some valuable lessons” and “we, as regulators, must not stand in the way of investors’ and market participants’ sorting this situation out.”<sup>67</sup>

In July 2008, you finally admitted that “we had a major bank failure under what some charge are lax regulatory standards” but said “we must not immediately jump to the conclusion that failures of firms ... is caused by market failure, or indeed regulatory failure.”<sup>68</sup>

1. Please describe how the Commission was addressing systemic risk in the lead-up to the financial crisis.
2. In each of the following areas, how should the SEC prepare for and prevent the next financial crisis?

<sup>62</sup> Securities and Exchange Commission, “SEC Votes on Regulation SHO Amendments and Proposals; Also Votes to Eliminate “Tick” Test,” press release, June 13, 2007, <https://www.sec.gov/news/press/2007/2007-114.htm>.

<sup>63</sup> CNNMoney, “Home prices drop for fourth straight quarter,” Les Christie, August 15, 2007, [https://money.cnn.com/2007/08/15/real\\_estate/NAR\\_home\\_prices\\_lower/index.htm](https://money.cnn.com/2007/08/15/real_estate/NAR_home_prices_lower/index.htm); Wall Street Journal, “Two Big Funds At Bear Stearns Face Shutdown,” Kate Kelly, Serena Ng, and David Reilly, June 20, 2007, <https://www.wsj.com/articles/SB118230204193441422>.

<sup>64</sup> Securities and Exchange Commission, “Remarks by Commissioner Paul Atkins to the EDHEC Alternative Investment Days,” November 20, 2007, <https://www.sec.gov/news/speech/2007/spch112007psa.htm>.

<sup>65</sup> Securities and Exchange Commission, “Remarks by Commissioner Paul Atkins at the Northwest Securities Institute,” February 22, 2008, <https://www.sec.gov/news/speech/2008/spch022208psa.htm>.

<sup>66</sup> Securities and Exchange Commission, “Remarks by Commissioner Paul Atkins at the Investment Management Conference,” March 17, 2008, <https://www.sec.gov/news/speech/2008/spch031708psa.htm>.

<sup>67</sup> Securities and Exchange Commission, Remarks by Commissioner Paul Atkins at the Vanderbilt University Financial Markets Research Center, April 17, 2008, <https://www.sec.gov/news/speech/2008/spch041708psa.htm>.

<sup>68</sup> Securities and Exchange Commission, Remarks by Commissioner Paul Atkins at Exchequer Club of Washington, D.C., July 16, 2008, <https://www.sec.gov/news/speech/2008/spch071608psa.htm>.

- a. Excessive leverage in investment banks
  - b. Investment bank, broker dealer, and increasingly retail investor exposure to hedge funds (including via prime brokerage)
  - c. Investment bank and broker dealer exposure to shadow banking and private credit
  - d. Bank runs on stablecoins
  - e. Cybercriminals attacking the crucial infrastructure of the financial system including:
    - i. Clearing and settlement
    - ii. Repos, securities lending, and other sources of short term credit for the financial system
3. In the lead up to the financial crisis, then-Chair Christopher Cox “engineered a series of procedural and tactical changes, effectively reducing the S.E.C. enforcement division’s power.”<sup>69</sup> Do you stand by the procedural changes in the SEC’s approach to enforcement that were engineered by then-Chairman Cox?

### **Self-Regulatory Organization Oversight**

Regulatory organizations overseen by the SEC, such as the Financial Industry Regulatory Authority (FINRA) and Public Company Accounting Oversight Board (PCAOB), have been top targets for you dating back to your days as a Commissioner at the SEC. However, you initially praised the establishment of the PCAOB. In December 2002, you said, “[n]othing can substitute for a strong, effective cop on the beat with a big billy club who is not afraid to wield it. Accordingly, I strongly support and fully endorse the new Oversight Board.”<sup>70</sup>

Created in the aftermath of Enron, WorldCom, and related accounting scandals, the PCAOB promotes trust and transparency in the market by overseeing the audits of U.S.-listed public companies while monitoring audit firms to address self-dealing.<sup>71</sup> In 2020, President Trump signed the  *Holding Foreign Companies Accountable Act*  (HFCAA), which gave the PCAOB unique regulatory authority to oversee the inspection of foreign audit firms that conduct business in the U.S.,<sup>72</sup> particularly those based in China. Because of HFCAA, in 2022, the PCAOB began

<sup>69</sup> ProPublica, “The Gutting of the SEC,” Eric Umansky, October 15, 2008, <https://www.propublica.org/article/the-gutting-of-the-sec-1015>.

<sup>70</sup> Securities and Exchange Commission, “Remarks by Commissioner Paul Atkins at the Securities Law Developments Conference,” December 9, 2002, <https://www.sec.gov/news/speech/spch120902psa.htm>.

<sup>71</sup> Public Company Accounting Oversight Board, “Background on the PCAOB,” Board Member Steven B. Harris, May 16, 2013, <https://pcaobus.org/news-events/speeches/speech-detail/background-on-the-pcaob> 465.

<sup>72</sup> Public Company Accounting Oversight Board, “FACT SHEET: PCAOB Secures Complete Access to Inspect, Investigate Chinese Firms for the First Time in History,” press release, December 15, 2022, <https://pcaobus.org/news-events/news-releases/news-release-detail/fact-sheet-pcaob-secures-complete-access-to->

auditing Chinese firms<sup>73</sup> and in 2023, sanctioned three China-based auditing firms and four associated individuals \$7.9 million.<sup>74</sup> Weakening or abolishing the PCAOB would cripple efforts to supervise conflicts and weak audit standards involving China-based companies. In 2013, you testified as an expert witness on behalf of four Chinese audit firms who “refused to cooperate with a series of SEC accounting-fraud probes.”<sup>75</sup> The judge said your testimony arguing that these firms provided higher quality audits and therefore, deserved access to U.S. markets was “unpersuasive” and “entirely irrelevant.”<sup>76</sup> Those firms are now subject to PCAOB and SEC oversight.<sup>77</sup>

1. Project 2025 advocates for the abolition of Self Regulatory Organizations (SROs) like FINRA as well as the PCAOB.<sup>78</sup> How would abolishing these organizations ensure that there is a “strong, effective cop on the beat with a big billy club”<sup>79</sup> for the protection of investors?
2. Do you intend to fight for the repeal of the authority President Trump gave the PCAOB under the  *Holding Foreign Companies Accountable Act*?
3. FINRA<sup>80</sup> and the PCAOB<sup>81</sup> are funded by industry and issuer fees. Do you support changing the funding mechanism for these organizations?
  - a. Would your plan impose additional financial burdens on the SEC or raise fees on public companies to continue this radical restructuring of the regulatory system for our securities markets?
4. Do you commit to continuing President Trump’s and Congress’s efforts to ensure the PCAOB conducts overseas inspections of Chinese audit firms registered in the U.S.?

[inspect-investigate-chinese-firms-for-first-time-in-history](#).

<sup>73</sup> Public Company Accounting Oversight Board, “PCAOB Secures Complete Access to Inspect, Investigate Chinese Firms for First Time in History,” press release, December 15, 2022, <https://pcaobus.org/news-events/news-releases/news-release-detail/pcaob-secures-complete-access-to-inspect-investigate-chinese-firms-for-first-time-in-history>.

<sup>74</sup> Public Company Accounting Oversight Board, “FACT SHET: PCAOB Imposes Historic Sanctions on China-Based Audit Firms,” press release, November 20, 2023, <https://pcaobus.org/news-events/news-releases/news-release-detail/fact-sheet-pcaob-imposes-historic-sanctions-on-china-based-audit-firms>.

<sup>75</sup> The Wall Street Journal, “How Trump’s Regulation Skeptic Helps Wall Street Navigate the Rules,” Dave Michaels and Andrew Ackerman, December 31, 2016, <https://www.wsj.com/articles/how-trumps-regulation-skeptic-helps-wall-street-navigate-the-rules-1483192801>.

<sup>76</sup> Securities and Exchange Commission, Administrative Proceeding, File Nos. 3-14872, 3-15116, January 22, 2014, p. 107, <https://www.sec.gov/files/alj/aljdec/2014/id553ce.pdf>.

<sup>77</sup> Francine McKenna, “The SEC vs. The PCAOB and Jim Doty: Impasse or Detente?,” January 18, 2016, <https://francinemckenna.com/2016/01/18/the-sec-vs-the-pcaob-and-jim-doty-impasse-or-detente/>.

<sup>78</sup> Project 2025, “Mandate for Leadership The Conservative Promise,” p. 830, [https://static.project2025.org/2025\\_MandateForLeadership\\_FULLL.pdf](https://static.project2025.org/2025_MandateForLeadership_FULLL.pdf).

<sup>79</sup> Securities and Exchange Commission, “Remarks by Commissioner Paul Atkins at the Securities Law Developments Conference,” December 9, 2022, <https://www.sec.gov/news/speech/spch120902psa.htm>.

<sup>80</sup> Financial Industry Regulatory Authority, “Regulatory Fees and Payment Options,” <https://www.finra.org/registration-exams-ce/regulatory-fees-and-payment-options>.

<sup>81</sup> Public Company Accounting Oversight Board, “Accounting Support Fee,” <https://pcaobus.org/about/accounting-support-fee>.

5. How much were you and your firm paid by the defendants in the 2013-2014 proceeding for which you served as an expert witness?
6. Were you required to report your appearance as an expert witness under the *Foreign Agents Registration Act*?
7. Have you advised or testified on behalf of other non-U.S. firms or their subsidiaries? Please list all firms, the timeline of your relationship to the firm, the compensation received by you and your firm, and relevant court cases involving said firms.

### **Private Capital Raising**

Public capital markets and private capital markets are distinct avenues for companies to raise capital from investors. Private markets do not require the same investor and SEC disclosures as public offerings. Some experts have said that public markets subsidize private capital markets because private companies can free ride off the disclosures of public companies and disadvantage Initial Public Offering (IPO) launches.<sup>82</sup> In addition, fund managers in private markets charge higher fees than their public market counterparts,<sup>83</sup> lie about their performance, and have questionable and inconsistent valuation policies.<sup>84</sup> Investment experts have highlighted that the private market is rife with abuses and that the lack of private market regulations leaves private market investors with “higher fees, greater risk, more conflicts of interest and less disclosure.”<sup>85</sup>

Investing in this loosely-regulated, opaque, high-risk marketplace is limited to “accredited investors”—those who “have access to the kind of information which registration would disclose” and thus are well positioned to “fend for themselves” and bear the risk of investment losses.<sup>86</sup> Republicans have advocated for dissolving the accredited investor definition as a means of democratizing financial markets.<sup>87</sup> However, that would have the effect of exposing many more investors to the heightened risks that come with private offerings and undermining critical disclosure requirements and investor protections that have enabled the strength of America’s capital markets.<sup>88</sup>

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<sup>82</sup> Elisabeth De Fontenay, “The Regulation of Private Capital and the Decline of the Public Company,” *Hastings Law Journal*, Forthcoming, Duke Law School Public Law & Legal Theory Series No. 2017-33, April 11, 2017, pp. 493-499, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2951158](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2951158).

<sup>83</sup> The Wall Street Journal, “You’re Invited to Wall Street’s Private Party. Say You’re Busy.,” Jason Zweig, December 20, 2024, <https://www.wsj.com/finance/investing/private-alternative-assets-etfs-cf987342>.

<sup>84</sup> Securities and Exchange Commission, “Observations from Examinations of Private Fund Advisers,” January 27, 2022, pp. 1-5, <https://www.sec.gov/files/private-fund-risk-alert-pt-2.pdf>.

<sup>85</sup> The Wall Street Journal, “You’re Invited to Wall Street’s Private Party. Say You’re Busy.,” Jason Zweig, December 20, 2024, <https://www.wsj.com/finance/investing/private-alternative-assets-etfs-cf987342>.

<sup>86</sup> Securities and Exchange Commission, “Review of the “Accredited Investor” Definition under the Dodd-Frank Act,” December 14, 2023, p. 7, <https://www.sec.gov/files/review-definition-accredited-investor-2023.pdf>.

<sup>87</sup> Investment News, “GOP seeks to open private markets; Democrats might be willing to talk,” Mark Schoeff Jr., February 8, 2023, <https://www.investmentnews.com/alternatives/gop-seeks-to-open-private-markets-democrats-might-be-willing-to-talk/233755>.

<sup>88</sup> The Wall Street Journal, “You’re Invited to Wall Street’s Private Party. Say You’re Busy.,” Jason Zweig, December 20, 2024, <https://www.wsj.com/finance/investing/private-alternative-assets-etfs-cf987342>.

When you were a Commissioner, in a 2007 speech, you said “low net-worth, retail investors are not the target audience of advisors to unregistered funds ... the Commission should do what it can to pave the way for access to alternative investments through products with appropriate safeguards.”<sup>89</sup>

1. Project 2025 advocates for the abolition of accredited investor restrictions.<sup>90</sup> In 2007, you said that “appropriate safeguards” were needed for investors in private funds.<sup>91</sup> What do you believe are “appropriate safeguards” for retail investors who may not have access to data and analysis that would help them evaluate these opaque investment vehicles?
  - a. Would the removal of accredited investor restrictions eliminate the “appropriate safeguards” currently in place for investors?
  - b. What “appropriate safeguards” would you support as a condition of expanding the definition of accredited investor?
2. How would the elimination of the accredited investor definition, which would allow big companies to raise unlimited money in private markets, or other, similar restrictions on private market investors, incentivize public market offerings?
3. Do you have concerns about the impact of the growth of private markets on public markets?
4. Many institutional investors have expressed concern about the lack of disclosures about both fees and performance in private funds.<sup>92</sup> Do you believe fund managers are sufficiently transparent about their funds’ fees and performance?
  - a. If not, do you believe additional reforms are necessary to ensure Americans’ pension funds, charitable endowments, and other institutional investors are not misled about fees and performance in private markets?<sup>93</sup>

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<sup>89</sup> Securities and Exchange Commission, “Remarks by Commissioner Paul Atkins at the Seventh Annual Private Equity Conference,” August 2, 2007, <https://www.sec.gov/news/speech/2007/spch080207psa.htm>.

<sup>90</sup> Project 2025, “Mandate for Leadership The Conservative Promise,” p. 831, [https://static.project2025.org/2025\\_MandateForLeadership\\_FULL.pdf](https://static.project2025.org/2025_MandateForLeadership_FULL.pdf).

<sup>91</sup> Securities and Exchange Commission, “Remarks by Commissioner Paul Atkins at the Seventh Annual Private Equity Conference,” August 2, 2007, <https://www.sec.gov/news/speech/2007/spch080207psa.htm>.

<sup>92</sup> Wall Street Journal, “Pension Funds Want Private Equity to Open Up About Fees and Returns,” Matt Wirz, January 22, 2025, <https://www.wsj.com/finance/investing/pension-funds-want-private-equity-to-open-up-about-fees-and-returns-569d66d2>.

<sup>93</sup> Financial Times, “Private equity to lobby Donald Trump for access to savers’ retirements funds,” Antoine Gara, January 6, 2025, <https://www.ft.com/content/dddd1752-789a-40b6-9aa8-d7cf6f408c81>.

## Crypto Regulation and Enforcement

The SEC has initiated hundreds of cases relating to fraudulent or noncompliant misconduct in the crypto market. This process largely started under President Trump’s former SEC Chairman Jay Clayton,<sup>94</sup> who investigated and halted over a dozen initial coin offerings.<sup>95</sup> However, the SEC has in the last two months dropped numerous ongoing lawsuits and investigations against crypto companies, “following through on campaign promises that [President] Trump made last year, as he courted donations from deep-pocketed crypto investors and marketed his own digital currency to the public.”<sup>96</sup> Most recently, the SEC has reportedly dropped its case—initiated under former Chair Clayton—against Ripple Labs for selling unregistered securities in violation of federal securities laws.<sup>97</sup> The SEC’s reported withdrawal “prevents Ripple from potentially facing a \$125 million fine -- and comes less than two weeks after [Ripple CEO Brad] Garlinghouse was at the White House for President Donald Trump’s crypto summit” and after the company donated \$5 million to the President’s inaugural committee.<sup>98</sup>

On March 21, two days after Ripple’s CEO announced that the SEC would drop its case,<sup>99</sup> the SEC’s newly-constituted “Crypto Task Force” hosted its first roundtable to “explore the complex legal issues involved in classifying crypto assets under the federal securities laws.”<sup>100</sup> At the roundtable, Acting SEC Chair Mark Uyeda signaled that the SEC intended to provide guidance to the courts on when crypto assets constitute securities that can be regulated by the SEC.<sup>101</sup>

In addition to advising a number of crypto companies and boards,<sup>102</sup> you have served as an advisor to the Chamber of Digital Commerce since 2020<sup>103</sup> and to FTX for the 10 months leading up to its collapse in November 2022.<sup>104</sup> Your deep involvement with FTX and other high-paying crypto clients raises questions about your approach to crypto regulation—and concerns about the extent of your knowledge of FTX’s illegal activities.

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<sup>94</sup> New York Times, “Subpoenas Signal S.E.C. Crackdown on Initial Coin Offerings,” Nathaniel Popper, February 28, 2018, <https://www.nytimes.com/2018/02/28/technology/initial-coin-offerings-sec.html>.

<sup>95</sup> Securities and Exchange Commission, “Crypto Assets,” <https://www.sec.gov/securities-topics/crypto-assets>.

<sup>96</sup> New York Times, “Under Trump, U.S. Increasingly Pulls Back From Crypto Crackdown,” David Yaffe-Bellany, February 28, 2025, <https://www.nytimes.com/2025/02/28/technology/crypto-sec-trump.html>.

<sup>97</sup> ABC News, “SEC drops case against crypto firm with ties to Trump, CEO says,” Olivia Rubin and Peter Charalambous, March 19, 2025, <https://abcnews.go.com/US/sec-drops-case-crypto-firm-ties-trump-ceo/story?id=119963257>.

<sup>98</sup> *Id.*

<sup>99</sup> Fortune Crypto, “XRP soars 10% after Ripple CEO says SEC will drop appeal,” Ben Weiss, March 19, 2025, <https://fortune.com/crypto/2025/03/19/xrp-soars-brad-garlinghouse-ripple-sec-appeal-dropped/>.

<sup>100</sup> Securities and Exchange Commission, “Remarks at the Crypto Task Force’s Inaugural Roundtable,” March 21, 2025, <https://www.sec.gov/newsroom/speeches-statements/uyeda-remarks-crypto-roundtable-032125>.

<sup>101</sup> *Id.*

<sup>102</sup> Bitcoin.comNews, “Atkins and Sacks: Pioneers of Crypto Regulation?,” December 14, 2024, Alex Forehand and Michael Handelsman, <https://news.bitcoin.com/atkins-and-sacks-pioneers-of-crypto-regulation/>; Law360, “Aktins-Tied Crypto Group Lays Out Its Priorities For New SEC,” Aislinn Keely, December 19, 2024, <https://www.law360.com/articles/2276355/atkins-tied-crypto-group-lays-out-its-priorities-for-new-sec>.

<sup>103</sup> The Digital Chamber, “Chamber of Digital Commerce Welcomes Paul Atkins and Colleen Sullivan to Board of Advisors,” press release, March 12, 2020, <https://digitalchamber.org/board-advisors-sullivan-atkins/>.

<sup>104</sup> The Wall Street Journal, “Trump Picks Paul Atkins to Run SEC,” Dave Michaels, December 4, 2024, <https://www.wsj.com/finance/regulation/trump-picks-paul-atkins-to-run-sec-bd290d3c>.

## A. Crypto Regulatory Framework

1. In your view, should the SEC play a role in regulating the crypto spot market?
2. Securities issuers must regularly disclose certain information about the company and its financial products. These disclosures inform the investing public so they can make sound investing decisions.<sup>105</sup> What aspect of the SEC’s securities disclosure regime should crypto investors have? What aspects of the SEC’s securities disclosure regime should crypto investors not have?
3. The SEC has won a number of legal victories relating to the Howey test. In March 2024, the Southern District of New York denied Coinbase’s motion to dismiss and allowed the SEC’s lawsuit against Coinbase to proceed. In its ruling, the court said “challenged transactions fall comfortably within the framework that courts have used to identify securities for nearly [80] years.”<sup>106</sup> Additionally, in August 2024, a court found that the SEC “plausibly alleged that at least some of the cryptocurrency transactions that Kraken facilitates on its network constitute investment contracts, and therefore securities, and are accordingly subject to securities laws.”<sup>107</sup>
  - a. Do you believe that *SEC v. W.J. Howey Co.* (Howey), the 1946 Supreme Court case that established a test for determining whether certain transactions qualify as investment contracts,<sup>108</sup> was rightly decided?
  - b. How does Howey apply to tokens?
    - i. How does Howey apply to tokenized versions of traditional company securities?
    - i. Do you agree that some crypto assets are securities under the Howey test, as numerous courts have concluded?<sup>109</sup>

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<sup>105</sup> Congressional Research Service, “SEC Securities Disclosure: Background and Policy Issues,” Eva Su, August 20, 2024, <https://sgp.fas.org/crs/misc/IF11256.pdf>.

<sup>106</sup> Akin Gump Strauss Hauer & Feld LLP, “Coinbase Court Embraces ‘Ecosystem’ Approach to Identifying Crypto-Asset Securities,” Lance Jasper et al., April 3, 2024, <https://www.akingump.com/en/insights/alerts/coinbase-court-embraces-ecosystem-approach-to-identifying-crypto-asset-securities>.

<sup>107</sup> Morrison Foerster, “Top 5 SEC Enforcement Developments for August 2024,” September 24, 2024, <https://www.mofo.com/resources/insights/240924-top-5-sec-enforcement-developments-for-august-2024#>; Law360, “Kraken Must Face SEC’s Crypto Case Over Platform Sales,” Bonnie Eslinger, August 23, 2024, <https://www.law360.com/articles/1873144/kraken-must-face-sec-s-crypto-case-over-platform-sales>.

<sup>108</sup> *SEC v. W.J. Howey Co.*, 328 U.S. 293 (1946)

<sup>109</sup> Thomson Reuters Practical Law, “Federal Courts Weigh in on Crypto-Asset Securities Under Howey Test in Coinbase and Kraken Cases,” October 23, 2024, [https://uk.practicallaw.thomsonreuters.com/w-044-7787?transitionType=Default&contextData=\(sc.Default\)&firstPage=true](https://uk.practicallaw.thomsonreuters.com/w-044-7787?transitionType=Default&contextData=(sc.Default)&firstPage=true); Norton Rose Fulbright, “Crypto tokens held to be ‘securities’ as a matter of law, in big win for SEC,” Robert A. Schwinger, January 2024, <https://www.nortonrosefulbright.com/en/knowledge/publications/16178e2d/crypto-tokens-held-to-be-securities-as-a-matter-of-law-in-big-win-for-sec>.

## B. Crypto Enforcement

1. Do you agree with the SEC’s decisions under Acting Chair Uyeda to drop the SEC’s lawsuits against Coinbase, Kraken, Ripple, Robinhood, Gemini, Yuga Labs, Consensus, Justin Sun and his companies (including TRON), OpenSea, and Uniswap?<sup>110</sup> In the case of Coinbase, the SEC dropped the case with prejudice—barring the Commission from refiling it at a later date.<sup>111</sup> Should you be confirmed, will you provide the Committee with immediate access to information, including all records and communications, regarding the rationale to drop these cases?
  
2. The SEC has been pursuing a civil case against Binance, a digital assets platform, and its founder Changpeng Zhao.<sup>112</sup> Binance and Mr. Zhao previously pleaded guilty to criminal charges with the U.S. Department of Justice and face \$4 billion in fines.<sup>113</sup> Last month, the SEC and Binance asked the court for a 60 day stay of proceedings<sup>114</sup> in light of Acting Chair Uyeda’s establishment of the SEC’s Crypto Task Force.<sup>115</sup> The court filing indicated that the Commission approached Binance about requesting a stay.<sup>116</sup> On March 13, it was reported that representatives of President Trump’s family were in talks to acquire a financial stake in Binance, “a move that would put Trump in business with the firm that pleaded guilty in 2023 to violating anti-money-laundering requirements” and whose founder spent four months in prison after pleading guilty to a related charge.<sup>117</sup>
  - a. Were you consulted by Acting Chair Uyeda or any other SEC staff member about the Commission's request for a stay in the case against Binance and Mr. Zhao?

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<sup>110</sup> CCN, “SEC Crypto Reversals: Every Case It Dropped in 2025 and the Legal Battles Still Ahead,” Prashant Jha, March 4, 2025, <https://www.ccn.com/news/crypto/sec-crypto-reversals-2025-lawsuits/>.

<sup>111</sup> New York Times, “Coinbase Says S.E.C. Will Drop Crypto Lawsuit,” David Yaffe-Bellany and Matthew Goldstein, February 21, 2025, <https://www.nytimes.com/2025/02/21/technology/coinbase-sec-lawsuit.html>.

<sup>112</sup> Securities and Exchange Commission, “SEC Files 13 Charges Against Binance Entities and Founder Changpeng Zhao,” press release, June 5, 2023, <https://www.sec.gov/newsroom/press-releases/2023-101>.

<sup>113</sup> U.S. Attorney's Office, Western District of Washington, “Binance and CEO Plead Guilty to Federal Charges in \$4B Resolution,” press release, November 21, 2023, <https://www.justice.gov/usao-wdwa/pr/binance-and-ceo-plead-guilty-federal-charges-4b-resolution>.

<sup>114</sup> Bloomberg, “SEC, Binance Request 60-Day Pause of Lawsuit Against Exchange,” Emily Nicolle, February 11, 2025, <https://www.bloomberg.com/news/articles/2025-02-11/sec-binance-request-60-day-pause-of-lawsuit-against-exchange>.

<sup>115</sup> *Id.*, Securities and Exchange Commission, “Crypto Task Force,” <https://www.sec.gov/about/crypto-task-force>; Securities and Exchange Commission, “SEC Crypto 2.0: Acting Chairman Uyeda Announces Formation of New Crypto Task Force,” press release, January 21, 2025, <https://www.sec.gov/newsroom/press-releases/2025-30>.

<sup>116</sup> Bloomberg, “SEC, Binance Request 60-Day Pause of Lawsuit Against Exchange,” Emily Nicolle, February 11, 2025, <https://www.bloomberg.com/news/articles/2025-02-11/sec-binance-request-60-day-pause-of-lawsuit-against-exchange>.

<sup>117</sup> Wall Street Journal, “Trump Family Has Held Deal Talks With Binance Following Crypto Exchange’s Guilty Plea,” Rebecca Ballhaus, Patricia Kowsmann, Angus Berwick, Josh Dawsey, Caitlin Ostroff, March 13, 2025, <https://www.wsj.com/finance/currencies/trump-family-has-held-deal-talks-with-binance-following-crypto-exchanges-guilty-plea-05b029fa>.

- b. Have you had any conversations with President Trump, any member of his family, or any representative of the President about Mr. Zhao or Binance?
    - c. Regardless of the ultimate recommendations of the Crypto Task Force, is it appropriate to proactively seek to pause civil enforcement against a company and founder who have already pleaded guilty to numerous criminal charges?
  3. The SEC has also been pursuing a fraud lawsuit against Justin Sun, a cryptocurrency executive. Since November 2024, Sun has reportedly invested \$75 million in World Liberty Financial, a crypto venture launched by President Trump’s family, and serves as an official adviser to the project.<sup>118</sup> Sun’s purchase of \$75 million-worth of World Liberty Financial tokens “could set the Trump family up to eventually collect tens of millions of dollars, as the family is entitled to 75% of the tokens’ revenues.”<sup>119</sup> On February 26, 2025, the SEC asked the court to pause the lawsuit, “underscoring the agency’s dismantling of crypto enforcement under the Trump administration.”<sup>120</sup>
    - a. Were you consulted by Acting Chair Uyeda or any other SEC staff member about the Commission's request for a stay in the case against Mr. Sun and his companies?
    - b. Have you had any conversations with President Trump, any member of his family, or any representative of the President about Mr. Sun or his companies, since the President named you as his nominee?
  4. How will you apply market manipulation and insider trading rules to administration officials who are involved with digital asset ventures, including the President and his family and other outside advisors?
  5. State securities regulators often partner and coordinate with the SEC to take action to protect investors and markets. In 2023, state securities regulators in both Republican and Democratic gubernatorial administrations pursued more 679 crypto investigations and enforcement actions.<sup>121</sup>
    - a. Will you continue to support collaboration with state regulators to address risks in crypto?

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<sup>118</sup> Wall Street Journal, “SEC Weighing End to Lawsuit Against Justin Sun,” Vicky Ge Huang and Dave Michaels, February 26, 2025, <https://www.wsj.com/livecoverage/nvidia-earnings-stock-market-today-02-26-2025/card/sec-weighing-end-to-lawsuit-against-justin-sun-GiFFKcKO6mwjE6bRwWbG>.

<sup>119</sup> CNN, “A crypto mogul who invested millions into Trump coins is getting a reprieve on civil fraud charges,” Allison Morrow, February 28, 2025, <https://www.cnn.com/2025/02/28/business/crypto-mogul-trump-coins-civil-fraud-charges/index.html>.

<sup>120</sup> Wall Street Journal, “SEC Weighing End to Lawsuit Against Justin Sun,” Vicky Ge Huang and Dave Michaels, February 26, 2025, <https://www.wsj.com/livecoverage/nvidia-earnings-stock-market-today-02-26-2025/card/sec-weighing-end-to-lawsuit-against-justin-sun-GiFFKcKO6mwjE6bRwWbG>.

<sup>121</sup> North American Securities Administrators Association, “Enforcement Report,” 2024, p. 4, [https://www.nasaa.org/wp-content/uploads/2024/10/FINAL\\_2024-Enforcement-Report.pdf](https://www.nasaa.org/wp-content/uploads/2024/10/FINAL_2024-Enforcement-Report.pdf).

- b. Will you support legislative proposals for crypto regulation that would preempt state securities regulation?

### **C. Your Knowledge of Sam Bankman-Fried's Criminal Actions**

You were hired as an advisor for FTX for the 10 months leading up to its collapse in November 2022<sup>122</sup>—but failed to acknowledge its collapse. The executive who took over FTX after the collapse concluded that he had never seen “such a complete failure of corporate control ... From compromised systems integrity and faulty regulatory oversight abroad, to the concentration of control in the hands of a very small group of inexperienced, unsophisticated and potentially compromised individuals, this situation is unprecedented.”<sup>123</sup>

But after FTX collapsed, you shifted the blame and claimed that FTX failed because “the US didn’t make our rules accommodating to this new technology.”<sup>124</sup> In March 2024, Mr. Bankman-Fried was sentenced to 25 years in prison for “defrauding customers and investors” and “misappropriat[ing] billions of dollars of customer funds,” among other charges.<sup>125</sup>

1. Please describe how you were advising Mr. Bankman-Fried in the lead up to FTX’s collapse.
2. How much, in total, were you and Patomak compensated for services provided to FTX, Mr. Bankman-Fried, or other FTX executives?
3. Were any of your earnings clawed back by the FTX bankruptcy trustee to give to wronged investors?
6. If FTX had complied with U.S. securities broker-dealer rules, such as the Customer Protection Rule, which requires firms to safeguard customer cash and segregate firm assets from customer assets, would that have protected customers from losing their funds?
7. Prior to FTX’s collapse, did you know or have reason to believe the company misappropriated client funds? If so, when did you first become aware? Did you provide any information to the CFTC, DOJ, or SEC?
8. To what extent were you aware of FTX’s risk management policies and procedures? Did

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<sup>122</sup> The Wall Street Journal, “Trump Picks Paul Atkins to Run SEC,” Dave Michaels, December 4, 2024, <https://www.wsj.com/finance/regulation/trump-picks-paul-atkins-to-run-sec-bd290d3c>.

<sup>123</sup> The New York Times, “New Chief Calls FTX’s Corporate Control a ‘Complete Failure,’” David Yaffe-Bellany, November 17, 2022, <https://www.nytimes.com/2022/11/17/business/ftx-bankruptcy.html>.

<sup>124</sup> BNN Bloomberg, “Trump’s Pick for SEC Chair Blamed the US for FTX Crypto Disaster,” Monique Mulima, December 10, 2024, <https://www.bnnbloomberg.ca/business/company-news/2024/12/10/trumps-pick-for-sec-chair-blamed-the-us-for-ftx-crypto-disaster/>.

<sup>125</sup> United States Attorney’s Office Southern District of New York, “Samuel Bankman-Fried Sentenced to 25 Years In Prison,” press release, March 28, 2024, <https://www.justice.gov/usao-sdny/pr/samuel-bankman-fried-sentenced-25-years-prison>.

you conduct due diligence to understand them, before taking them on as a client? If not, why not?

9. Did you have any understanding of the relationship between FTX and Alameda, a trading firm that invested heavily in FTX's crypto token, FTT?<sup>126</sup> If not, why not?
10. FTX raised its capital through a private offering.<sup>127</sup> You have advocated for expanding access to private markets, "cit[ing] factors creating an unfriendly environment for discouraging companies from going public."<sup>128</sup> If you, a securities expert and former SEC Commissioner, were unable to uncover that FTX was a scam, how would average investors be able to distinguish as much without proper disclosures?
11. When did you first become aware of Mr. Bankman-Fried's impending indictment? At any time, did Mr. Bankman-Fried or anyone associated with FTX request that you or anyone at your firm communicate with government agencies relating to any potential charges? If so, please describe any outreach by yourself or any employee of your firm on behalf of Mr. Bankman-Fried or FTX in relation to potential charges.
12. During your time advising FTX, the Commodities Futures Trading Commission (CFTC) was reviewing an application for FTX to consolidate and perform all of the functions of broker-dealers, exchanges, and clearing agencies: business entities that are historically kept apart in traditional securities markets due to unavoidable conflicts of interest.<sup>129</sup> Do you think crypto firms should be allowed to consolidate functions like broker-dealers, exchanges, and clearing agencies?
  - a. If so, how would you sufficiently mitigate conflicts of interest and prevent self-dealing, market manipulation, and unauthorized comingling of customer assets?
  - b. Do you believe that a consolidated market structure like the one contemplated by FTX's application to the CFTC could create conflicts of interest that could not be mitigated?
  - c. Traditional financial intermediaries are subject to a number of conflict of interest and fiduciary standards. What aspect of traditional regulatory obligations do

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<sup>126</sup> The New York Times, "How FTX's Sister Firm Brought the Crypto Exchange Down," Matthew Goldstein et al., November 18, 2022, <https://www.nytimes.com/2022/11/18/business/ftx-alameda-ties.html>.

<sup>127</sup> Wall Street Journal, "SEC Commissioner Calls for More Private-Company Disclosures, Citing FTX," Paul Kiernan, January 31, 2023, <https://www.wsj.com/livecoverage/stock-market-news-today-01-31-2023/card/sec-commissioner-calls-for-more-private-company-disclosures-citing-ftx-L1Pk1EHK30cdBAa42g4X>.

<sup>128</sup> Wall Street Journal, "The U.S. IPO Market Needs Saving. Could Paul Atkins Be the Answer?," Corrie Driebusch, February 9, 2025, <https://www.wsj.com/finance/regulation/ipo-market-sec-nominee-paul-atkins-76ebc8ce>.

<sup>129</sup> Thomson Reuters Practical Law, "FTX Affiliate Withdraws CFTC Application to Offer Disintermediated Retail Crypto Derivatives," November 15, 2022, [https://content.next.westlaw.com/practical-law/document/14a35ee12650611ed8636e1a02dc72ff6/FTX-Affiliate-Withdraws-CFTC-Application-to-Offer-Disintermediated-Retail-Crypto-Derivatives?viewType=FullText&originationContext=document&transitionType=DocumentItem&ppcid=f2161b0b803545e0a690221ed71bd938&contextData=\(sc.RelatedInfo\)](https://content.next.westlaw.com/practical-law/document/14a35ee12650611ed8636e1a02dc72ff6/FTX-Affiliate-Withdraws-CFTC-Application-to-Offer-Disintermediated-Retail-Crypto-Derivatives?viewType=FullText&originationContext=document&transitionType=DocumentItem&ppcid=f2161b0b803545e0a690221ed71bd938&contextData=(sc.RelatedInfo)).

crypto companies not need? Why do crypto investors not deserve the same protections as traditional financial investors?

#### D. The Growth of Meme Coins

In January 2024, President Trump announced the launch of a cryptocurrency, \$TRUMP.<sup>130</sup> \$TRUMP is a meme coin, a “type of cryptocurrency that is inspired by a meme or another internet trend.”<sup>131</sup> The meme coin was launched by CIC Digital, an affiliate of the Trump Organization, which owns 80 percent of \$TRUMP coins.<sup>132</sup> The Trump Organization is owned and run by the Trump family and “family loyalists.”<sup>133</sup> In the three days after its launch on January 17, \$TRUMP reportedly increased President Trump’s wealth by over \$56 billion.<sup>134</sup> It also generated an estimated \$58 million in trading fees in a single day.<sup>135</sup> Reports note that President Trump’s launch “blur[s] the line between [President Trump’s] government role and the continued effort by his family to profit from his power and global fame.”<sup>136</sup> Richard Painter, the top ethics lawyer in the George W. Bush administration, said it was very “dangerous to have the people who are supposed to oversee regulating financial instruments investing in them at the same time.”<sup>137</sup>

Additionally, the SEC has recently received a registration statement for an exchange traded fund (ETF) that would invest in \$TRUMP.<sup>138</sup> President Trump “would appear to have a vested interest in the memecoin ETFs being approved, given that it might help usher money into his own token” and generate trading fees that would benefit entities related to the President.<sup>139</sup> The number \$TRUMP coins is expected to grow to over 1 billion over the next three years.<sup>140</sup>

<sup>130</sup> The New York Times, “Trump Begins Selling New Crypto Token, Raising Ethical Concerns,” Eric Lipton, January 18, 2025, <https://www.nytimes.com/2025/01/18/us/politics/trump-meme-coin-crypto.html>.

<sup>131</sup> NPR, “What to know about Trump cryptocurrency meme coin,” Chandelis Duster, January 20, 2025, <https://www.npr.org/2025/01/20/nx-s1-5268759/donald-trump-melania-cryptocurrency-meme-coins>.

<sup>132</sup> GetTrumpMemes.com, “Allocation,” <https://gettrumpmemes.com/#how-to>.

<sup>133</sup> Business Insider, “The Trump Organization: Everything to know about the Trump family business,” Alice Tecotzky, December 13, 2024, <https://www.businessinsider.com/trump-organization>.

<sup>134</sup> Financial Express, “Donald Trump net worth: From \$2.6 billion to \$50 billion - Meme coin skyrockets US President elect’s wealth,” January 20, 2025, <https://www.financialexpress.com/world-news/president-elect-donald-trumps-memecoin-now-accounts-for-nearly-90-of-his-net-worth-heres-how/3720378/>.

<sup>135</sup> CNNBusiness, “Trump’s meme coin is a reminder of crypto's dumbest use case,” Allison Morrow, January 21, 2025, <https://www.cnn.com/2025/01/21/investing/meme-coin-trump-crypto-nightcap/index.html>.

<sup>136</sup> The New York Times, “Trump Begins Selling New Crypto Token, Raising Ethical Concerns,” Eric Lipton, January 18, 2025, <https://www.nytimes.com/2025/01/18/us/politics/trump-meme-coin-crypto.html>.

<sup>137</sup> CNNBusiness, “Donald and Melania Trump launch a pair of meme coins ahead of inauguration, raising serious ethics concerns,” Lex Harvey, Auziena Bacon, and Matt Egan, January 20, 2025, <https://www.cnn.com/2025/01/20/tech/meme-coins-donald-melania-trump-intl-hnk/index.html>.

<sup>138</sup> Securities and Exchange Commission, “Securities Act Registration No. 333-234544,” January 21, 2025, [https://www.sec.gov/Archives/edgar/data/1771146/000199937125000494/rexosprey-485apos\\_012125.htm](https://www.sec.gov/Archives/edgar/data/1771146/000199937125000494/rexosprey-485apos_012125.htm).

<sup>139</sup> Financial Times, “Memecoin ETF filings spark concerns over ‘casino-type’ speculation,” Steve Johnson, January 28, 2025, <https://www.ft.com/content/f857ee8c-c2ba-441f-b392-57adec640e15?shareType=nongift>; GetTrumpMemes.com, “Allocation,” <https://gettrumpmemes.com/#how-to>.

<sup>140</sup> CNBC, “Trump meme coin gives greenlight for crypto industry to return to days of new tokens and NFT bubble,” Tanaya Macheel, January 21, 2025, <https://www.cnbc.com/2025/01/21/trump-meme-coin-gives-crypto-greenlight-to-return-to-days-of-nft-bubble.html#:~:text=There%20are%20200%20million%20coins,affiliate%20of%20The%20Trump%20Organization>.

On February 27, 2025, the SEC staff released a “Staff Statement on Meme Coins,” which states that “a meme coin is not itself a security” and that “transactions in the types of meme coins described in this statement, do not involve the offer and sale of securities under the federal securities laws.”<sup>141</sup> The Staff Statement appears to have the effect of entirely exempting President Trump’s meme coin from the SEC’s scrutiny.

1. Do you agree that any securities analysis is fact specific and cannot be simplified into a blanket statement exempting “memes” entirely from securities laws?
2. Does the Staff Statement create a presumption that any coin claiming it is based on a “meme” falls outside of federal securities law?
3. The following disclaimer is viewable on the \$TRUMP coin’s website: “Trump Memes are intended to function as an expression of support for, and engagement with, the ideals and beliefs embodied by the symbol ‘\$TRUMP’ and the associated artwork, and are not intended to be, or to be the subject of, an investment opportunity, investment contract, or security of any type.”<sup>142</sup> Can a market participant disclaim away being an offer or sale of a security? Does saying “not intended to be, or to be the subject of, an investment opportunity, investment contract, or security of any type” make it so? If so, please cite relevant law, regulation or opinion.
4. Do you agree that President Trump has a financial incentive to support the approval of the \$TRUMP ETF? If not, why not?
  - a. Has President Trump discussed this matter with you?
5. Do you think it would present a conflict of interest for you to approve the filing of the \$TRUMP ETF? If so, how would you mitigate the conflict? If not, why not?

### **Backdating Executive Stock Options**

Beginning in 2006, the SEC engaged in an effort to crack down on a form of insider trading called backdating.<sup>143</sup> Companies forged official documents to “backdate” the stock awards given to executives by retroactively awarding stock on days preceding sharp stock price increases, allowing executives to circumvent tax laws and company reporting requirements.<sup>144</sup>

Then-Chairman of the Senate Committee on Banking, Housing, and Urban Affairs Richard Shelby said that options backdating “appears to be a black-and-white example of securities

<sup>141</sup> Securities and Exchange Commission, “Staff Statement on Meme Coins,” statement, February 27, 2025, [https://www.sec.gov/newsroom/speeches-statements/staff-statement-meme-coins?utm\\_medium=email&utm\\_source=govdelivery](https://www.sec.gov/newsroom/speeches-statements/staff-statement-meme-coins?utm_medium=email&utm_source=govdelivery).

<sup>142</sup> GetTrumpMemes.com, “Allocation,” <https://gettrumpmemes.com/#how-to>.

<sup>143</sup> NBC News, “SEC to clarify rules on backdating of options,” Kathleen Day, June 14, 2006, <https://www.nbcnews.com/id/wbna13306323>.

<sup>144</sup> CLS Blue Sky Blog, “How Auditors Helped Spread Stock-Option Backdating,” Ahraon Mohliver, August 17, 2022, <https://clsbluesky.law.columbia.edu/2022/08/17/how-auditors-helped-spread-stock-option-backdating/>.

fraud.”<sup>145</sup> In a 2006 speech, you defended backdating and questioned “whether there is a legitimate legal rationale for pursuing any theory of insider trading in connection with options grants” because boards of directors “should use all the information that they have at hand to make option grant decisions” and do so “in a way that gets the biggest bang for the buck.”<sup>146</sup> <sup>147</sup>

1. Do you still believe that options backdating should be legal?
2. How do you distinguish what you perceive as legal options backdating from other forms of corporate fraud and theft?
3. How does what you perceive as legal options backdating benefit investors and capital formation?
4. Are there other examples of manipulating financial statements retroactively that should be legalized?
5. In December 2022, SEC commissioners voted unanimously to amend Rule 10b5-1, which provides corporate executives with a safe harbor to trade their companies’ stock.<sup>148</sup> They did so because of concerns that insiders were gaming the rule, trying to take advantage of its protections while trading on the basis of material nonpublic information.<sup>149</sup> Do you agree with the five SEC commissioners who approved these amendments that they were a good idea to promote basic fairness in our capital markets?

### **Emerging Market Risks**

There are a number of emerging risks in the financial markets that I would like you to address.

#### **A. Gamification of Trading**

*The Wall Street Journal* recently reported that a growing number of men are suffering from gambling addiction caused by the gamification of investing.<sup>150</sup> Gamification of investing is the “strategic integration of game-like elements, such as rewards, competition, and interactive

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<sup>145</sup> Senate Committee on Banking, Housing, and Urban Affairs, “The Practice of Retroactively Changing Grant Dates in Order for Executives to Benefit from a Lower Exercise Price,” September 6, 2006, <https://www.govinfo.gov/content/pkg/CHRG-109shrg50300/html/CHRG-109shrg50300.htm>.

<sup>146</sup> Securities and Exchange Commission, “Speech by SEC Commissioner: Remarks Before the International Corporate Governance Network 11th Annual Conference,” July 6, 2006, <https://www.sec.gov/news/speech/2006/spch070606psa.htm>.

<sup>147</sup> *Id.*

<sup>148</sup> Securities and Exchange Commission, “SEC Adopts Amendments to Modernize Rule 10b5-1 Insider Trading Plans and Related Disclosures,” press release, December 14, 2022, <https://www.sec.gov/newsroom/press-releases/2022-222>.

<sup>149</sup> *Id.*

<sup>150</sup> Wall Street Journal, “More Men are Addicted to the ‘Crack Cocaine’ of the Stock Market,” Gunjan Banerji, December 20, 2024, <https://www.wsj.com/finance/stocks/stock-market-trading-apps-addiction-afecb07a>.

features...to engage and motivate users in their investment activities.”<sup>151</sup> These features are often similar to those in video games.<sup>152</sup>

1. Do you believe that allowing the gamification of the stock market is consistent with the SEC’s mission of “protecting investors, maintaining fair, orderly, and efficient markets, and facilitating capital formation?”<sup>153</sup>
2. Would you pursue rules to protect investors from churn-promoting gamification strategies and other conflicted transactions by brokers that can damage long-term returns?
3. Do you believe that there is a conflict of interest when an app that says it earns zero commission is in fact earning revenue on people’s trading?

## **B. Short-Dated Options**

Short-dated options are a type of option trade that allows traders to leverage their stock positions within a short time frame. Trading in short-dated (even zero-days-to-expiration, or “0DTE”) options has increased substantially, with trading in short-dated S&P 500 index options more than doubling in volume since 2022.<sup>154</sup> Some market observers have raised concerns that 0DTEs may contribute to market volatility, particularly in times of stress.<sup>155</sup> This is because options allow traders to leverage their positions, which allows small moves in the stocks to result in “huge moves” for 0DTE options.<sup>156</sup> President Trump’s previous SEC Chairman, Jay Clayton, has said that he believes 0DTE options constitute “gambling” and should not be allowed.<sup>157</sup>

1. Do you share these concerns?
2. There are reports that some industry participants will ask the SEC to approve trading in short-dated single-stock options.<sup>158</sup> Unlike existing index-based 0DTE options, which settle in cash, these single-stock options would be settled in company shares, putting individual investors at risk of being stuck with large numbers of shares of a company that may report share-price-destroying news before they have an opportunity to sell their shares. Do you believe that the approval of single-stock 0DTEs would be consistent with

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<sup>151</sup> Nasdaq, “How Powerful In Gamification In Investing?,” Anthony Clarke, October 30, 2023, <https://www.nasdaq.com/articles/how-powerful-is-gamification-in-investing>.

<sup>152</sup> *Id.*

<sup>153</sup> Securities and Exchange Commission, “Mission,” <https://www.sec.gov/about/mission>.

<sup>154</sup> Bloomberg, “Zero-Day Options Boom Will Only Grow Even As Some Investors Fear Disaster,” Sam Potter and Lu Wang, May 6, 2024, <https://www.bloomberg.com/news/articles/2024-05-06/zero-day-options-booms-to-grow-some-investors-concerned-it-will-end-in-disaster>.

<sup>155</sup> *Id.*

<sup>156</sup> Nasdaq, “Short-Term Dated Options Could Exacerbate Market Volatility,” April 3, 2023, <https://www.nasdaq.com/articles/short-term-dated-options-could-exacerbate-market-volatility>.

<sup>157</sup> Wall Street Journal, “Is One-Day Options Trading Gambling? Ex-SEC Chairman Says Yes,” Gunjan Banerji, March 7, 2024, <https://www.wsj.com/livecoverage/stock-market-today-dow-jones-03-07-2024/card/is-one-day-options-trading-gambling-ex-sec-chairman-says-yes-oRYrKHoS1SKXxyGhRsrJ>.

<sup>158</sup> Wall Street Journal, “The Boom in Zero-Day Options is Coming for Tesla and Nvidia,” Alexander Osipovich, September 9, 2024, <https://www.wsj.com/finance/stocks/the-boom-in-zero-day-options-is-coming-for-tesla-and-nvidia-89a62e59>.

the SEC's mission to protect investors?

### **C. Artificial Intelligence**

Former SEC Chair Gary Gensler cautioned last year that while Artificial Intelligence (AI) “opens up tremendous opportunities for ... great efficiencies across the economy,” AI “may play a central role in the after-action reports of a future financial crisis” because of the “dependencies and interconnectedness of potentially 8,316 [] financial institutions to [one] AI model or data aggregator.”<sup>159</sup>

1. Do you see any potential concerns with the integration of AI into our financial system? Please explain if there is risk associated with financial stability, fraud, conflicts of interest, bias, and deception.
2. In your view, are there opportunities for the SEC to improve its efficiency and regulatory effectiveness by deploying AI? What barriers stand in the way of further deployment?

### **Public Company Governance and Shareholder Rights**

Investors who hold equity in public companies have certain rights, including submitting shareholder proposals, which are resolutions that shareholders of listed companies can submit for inclusion on the company's proxy statement. These resolutions are put to a vote by shareholders and ask the board and company executives to act on shareholders' wishes. For example, in the 2024 proxy shareholder season, shareholders voted on measures to require an audit of working conditions in Amazon warehouses,<sup>160</sup> to address alleged union-busting at Tesla,<sup>161</sup> and to evaluate the largest banks' fossil fuel financing compared to their clean energy financing.<sup>162</sup> You have disparaged shareholders concerned about the long-term sustainability of their investments who file these types of proposals, saying they are somehow seeking to “co-opt or disenfranchise” companies.<sup>163</sup> You have also called companies that negotiate with investors “weenies.”<sup>164</sup>

On February 12, 2025, the Commission posted Staff Legal Bulletin No. 14M<sup>165</sup>, which rescinded a previous staff bulletin (No. 14L) and indicated the Commission will more strictly evaluate

<sup>159</sup> Securities and Exchange Commission, “Remarks by Chair Gary Gensler at Yale Law School,” February 13, 2024, <https://www.sec.gov/newsroom/speeches-statements/gensler-ai-021324>.

<sup>160</sup> Americans for Financial Reform, “News Release: BlackRock & Vanguard Enable Dangerous Amazon Warehouse Working Conditions,” September 5, 2024, <https://ourfinancialsecurity.org/2024/09/news-release-blackrock-vanguard-enable-dangerous-amazon-warehouse-working-conditions/>.

<sup>161</sup> Shareholders Association for Research and Education, “NOTICE OF EXEMPT SOLICITATION,” May 13, 2024, <https://static1.squarespace.com/static/5d374de8aae9940001c8ed59/t/6642762ed914380528667e77/1715631662332/TSLA+24+exempt+solicitation+Proposal+Final.pdf>.

<sup>162</sup> New York Comptroller, “NYC Comptroller Lander & NYC Pension Funds Launch Shareholder Drive to Hold Banks Accountable for Transition Away from Financing of Fossil Fuels,” press release, January 31, 2024, <https://comptroller.nyc.gov/newsroom/nyc-comptroller-lander-nyc-pension-funds-launch-shareholder-drive-to-hold-banks-accountable-for-transition-away-from-financing-of-fossil-fuels/>.

<sup>163</sup> Politico, “Trump team member slams unions, activists in favor of businesses,” Patrick Temple-West, November 28, 2016, <https://www.politico.com/story/2016/11/trump-team-unions-activists-231875>.

<sup>164</sup> *Id.*

whether a shareholder proposal is “significantly related” to the issuer’s business or has a “sufficient nexus” to the issuer’s business. These changes, adopted in the middle of the annual busy period for discussions on shareholder proposals, increase uncertainty about whether and when the Commission will grant no-action letters allowing issuers to omit shareholder proposals from their proxies. In addition, the bulletin increases procedural hurdles for shareholders to take advantage of their rights under Exchange Act Rule 14a-8 by placing the burden on shareholders to confirm that the issuer has received their proposal via email.

1. What, if any, regulatory action would you support taking related to shareholder proposals and proxy voting?
2. Were you consulted by Acting Chairman Mark Uyeda or any staff of the Commission before the issuance of Staff Legal Bulletin No. 14M? If so, what was the nature of your input into the bulletin?
3. Would you retain the policy approach outlined in Bulletin No. 14M? Why or why not?
4. Do you believe in stripping shareholders of their right to file proposals with the companies they are invested in?
5. Absent shareholder proposals, how can investors hold boards and executives of big corporations accountable for their actions and performance?
6. On February 11, 2025, Exchange Act Section 13 Compliance and Disclosure Interpretation (“CD&I”) question 103.12 was posted to the SEC website.<sup>166</sup> CD&Is are prepared by Commission staff and are not binding on the Commission, but are looked to by industry for guidance on how SEC staff interpret provisions of the securities laws. CD&I 103.12 states that asset managers (such as managers of index funds) may not be treated as passive investors by the SEC if the asset manager “engages with the issuer’s management to specifically call for [...] the election of director nominees other than the issuer’s nominees.” Passive investments now represent a majority of the U.S. stock and bond markets.<sup>167</sup> Restricting or eliminating the potential for those votes to oppose management’s director nominees would remove one of the few checks on poor company leadership, promote the interests of entrenched executives, and ultimately reduce share value for all shareholders.
  - a. Were you consulted by Acting Chair Uyeda or any SEC staff prior to the release of CD&I 103.12 regarding the commission’s interpretation of Exchange Act

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<sup>165</sup> Securities and Exchange Commission, “Shareholder Proposals: Staff Legal Bulletin No. 14M (CF),” February 12, 2025, <https://www.sec.gov/about/shareholder-proposals-staff-legal-bulletin-no-14m-cf?>.

<sup>166</sup> Securities and Exchange Commission, “Exchange Act Sections 13(d) and 13(g) and Regulation 13D-G Beneficial Ownership Reporting,” February 11, 2025, <https://www.sec.gov/rules-regulations/staff-guidance/compliance-disclosure-interpretations/exchange-act-sections-13d-13g-regulation-13d-g-beneficial-ownership-reporting>.

<sup>167</sup> Bloomberg Professional, “Passive’s no bubble as active retains market control,” Athanasios Psarofagis, January 31, 2025, <https://www.bloomberg.com/professional/insights/trading/passives-no-bubble-as-active-retains-market-control/>.

Rules 13d-1(b) or 13d-1(c)? If so, what was the nature of those discussions?

b. Do you support the interpretation of Rule 13d-1 outlined in CD&I 103.12?

### **The Dodd-Frank Act and the Financial Stability Oversight Council**

After reckless practices at behemoth nonbank financial institutions helped tear down our economy in 2008 and bankrupted millions of families, Congress passed the *Dodd-Frank Act* (Dodd-Frank). Among other things, the legislation established the Financial Stability Oversight Council (FSOC). The “the central mission of the Council is to monitor systemic and emerging threats” to financial stability<sup>168</sup> and prevent a crash like what we saw in 2008 from ever happening again. FSOC consists of 10 voting members and five non-voting members. The Chairman of the SEC serves as a voting member of FSOC.

Prior to the creation of FSOC, there was not a single regulatory body agency tasked with monitoring the risks that build up in and across financial institutions and markets.<sup>169</sup> “Risky financial activities and products sprouted in the cracks of the financial regulatory infrastructure,” and FSOC was designed to mitigate those risks by bringing together the heads of the federal financial regulatory agencies.<sup>170</sup>

FSOC’s most powerful tool is the ability to designate nonbanks as “systemically important financial institutions” or “SIFIs” and subject them to the same type of rigorous oversight as the Too Big to Fail banks.<sup>171</sup>

You have made very clear your disdain for not only Dodd-Frank but in particular FSOC. You once mockingly referred to the SIFI designation as “Sci-Fi,” saying it “take[s] us way out there to a world of unreality that exists only in the fertile imaginations of an unaccountable few.”<sup>172</sup> Additionally, at the 2015 Investment Adviser Association Compliance Conference, you stated “[I]et us call the regulatory threat posed by the FSOC and the Federal Reserve for what it is—fundamentally antithetical to free markets and capital markets in general and a terrible idea for investors.”<sup>173</sup>

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<sup>168</sup> U.S. Department of the Treasury, “About FSOC,” <https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/fsoc/about-fsoc>.

<sup>169</sup> Center for American Progress, “The Trump Administration Is Quietly Slashing Financial Stability Funding,” Gregg Gelzinis, December 7, 2017, <https://www.americanprogress.org/article/trump-administration-quietly-slashing-financial-stability-funding/>.

<sup>170</sup> Center for American Progress, “5 Priorities for the Financial Stability Oversight Council,” Gregg Gelzinis, March 31, 2021, <https://www.americanprogress.org/article/5-priorities-financial-stability-oversight-council/>. <sup>171</sup> U.S. Department of the Treasury, “Designations,” <https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/fsoc/designations>.

<sup>172</sup> Written testimony of Paul Atkins to the House Financial Services Committee, May 20, 2014, <https://financialservices.house.gov/uploadedfiles/hhrg-113-ba00-wstate-patkins-20140520.pdf>.

<sup>173</sup> Investment Adviser Association, “Remarks by Paul Atkins at the Investment Adviser Association Compliance Conference,” March 5, 2015, p. 10, <https://www.brookings.edu/wp-content/uploads/2015/04/Paul-Atkins-IAA-Speech.pdf>.

1. Do you believe the SEC has a responsibility to address risks to financial stability within its jurisdiction, in line with its statutory mandate?
2. With regard to FSOC, do you still hold the above views? In providing your answer, please also describe how you plan to approach your role on FSOC should you be confirmed as chair of the SEC.
3. Should Congress abolish FSOC?
4. What factors should FSOC consider before designating an entity as a SIFI?
5. Do you believe that across the financial system, including asset management firms, private equity and hedge funds, insurance companies, nonbank mortgage companies, and other nonbanks, there is not a single nonbank financial firm whose failure or ongoing activities could disrupt financial stability?
6. FSOC, bank executives like JPMorgan CEO Jamie Dimon, and organizations like the International Monetary Fund have warned that private credit is a growing systemic risk.<sup>174</sup> Does the SEC have tools to address the risks posed by private credit? If so, what tools can the SEC deploy to address risks posed by private credit?
7. Are you troubled by the collective failure of the six financial regulators, including the SEC, to comply with the Congressional mandate to promulgate a rule under Dodd-Frank Section 956 designed to disclose and limit executive compensation arrangements that incentivize risky behavior?
  - a. Will you work toward ensuring that the mandate is fulfilled?
8. Section 921 of Dodd-Frank gives the SEC the authority to prohibit the use of forced arbitration by broker-dealers when it is “in the public interest and for the protection of investors.”<sup>175</sup> Will you finalize this rulemaking?
9. Almost fifteen years ago, Section 929X of the Dodd-Frank Act<sup>176</sup> required the SEC to issue rules to make certain data related to short sales publicly available. In 2023, the SEC finally fulfilled this requirement by adopting Exchange Act Rule 13f-2 to require institutional investment managers to report on Form SHO certain short position and short activity data for equity securities, which the SEC would aggregate and publish.<sup>177</sup> The initial compliance date for the rule was January 2, 2025. But on February 7, 2025, the Commission announced it was delaying the compliance date by a full year—six months

<sup>174</sup> New York Times, “Wall St. is Minting Easy Money From Risky Loans. What Could Go Wrong?,” Rob Copeland and Maureen Farrell,” December 27, 2024, <https://www.nytimes.com/2024/12/27/business/wall-st-private-credit-money.html>; Financial Stability Oversight Council, “2024 Annual Report,” 2024, pp. 35-38, <https://home.treasury.gov/system/files/261/FSOC2024AnnualReport.pdf>.

<sup>175</sup> Congressional Research Service, “The Dodd-Frank Wall Street Reform and Consumer Protection Act: Title IX, Investor Protection,” November 24, 2010, p. 3, <https://www.congress.gov/crs-product/R41503>.

<sup>176</sup> Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law, 111–203.

<sup>177</sup> 88 CFR 75100; 17 CFR § 240.13f-2.

longer than industry groups had requested.<sup>178</sup> Will you commit to ensuring that Congress' intent in enacting Section 929X of Dodd-Frank to increase transparency around short sales is fulfilled by allowing Exchange Act Rule 13f-2 to go into effect with no further delays?

10. In a speech critiquing Dodd-Frank, you said the bill "is 2,319 pages long and contains demands for more than 500 new rules and studies, which have produced so far tens of thousands of pages of regulations."<sup>179</sup> I share your concerns about the law's regulatory complexity. Do you support simpler, more structural rules and laws in the financial regulatory system, such as the *Glass-Steagall Act*?

### **Financial Penalties**

One of the SEC's most critical functions is holding companies accountable when they defy rules and regulations that exist to protect investors, like those that prevent insider trading, require investment advisers to act in their clients' best interests, and mandate that companies provide their investors with information that could affect the company's value.

In the last year alone, the SEC has ordered companies to pay \$8.2 billion in penalties, after those companies ran illegal Ponzi schemes, paid off elected officials in exchange for political favors, and lied about the value of their companies to trick people into investing.<sup>180</sup>

You have repeatedly argued against levying corporate penalties. You have said, "Unless the corporation is inherently a criminal enterprise, or the shareholders themselves have somehow benefited from the fraud to the detriment of other corporations or the marketplace as a whole, fines against shareholders do not seem to be appropriate. And even in those circumstances a penalty may not be the right remedy."<sup>181</sup> You have also said, "as both a philosophical and practical matter, the effectiveness of a corporate penalty as a means for deterrence is questionable."<sup>182</sup>

1. Do you still hold these views, and do you intend to put in place a program of reduced fines when companies break SEC rules?

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<sup>178</sup> Securities and Exchange Commission, "Exemption From Exchange Act Rule 13f-2 and Related Form SHO," press release, <https://www.sec.gov/newsroom/press-releases/2025-37>; Securities and Exchange Commission. Release No. 34-102380, p. 3, <https://www.sec.gov/files/rules/exorders/2025/34-102380.pdf>.

<sup>179</sup> Investment Adviser Association, "Remarks by Paul Atkins at the Investment Adviser Association Compliance Conference," March 5, 2015, p. 1, <https://www.brookings.edu/wp-content/uploads/2015/04/Paul-Atkins-IAA-Speech.pdf>.

<sup>180</sup> Securities and Exchange Commission, "SEC Announces Enforcement Results for Fiscal Year 2024," press release, November 22, 2024, <https://www.sec.gov/newsroom/press-releases/2024-186>.

<sup>181</sup> Securities and Exchange Commission, "Remarks by Commissioner Paul Atkins at the American Chamber of Commerce in Japan," October 16, 2007, <https://www.sec.gov/news/speech/2007/spch101607psa.htm>.

<sup>182</sup> Fordham Journal of Corporate & Financial Law, "Evaluating the Mission: A Critical Review of the History and Evolution of the SEC Enforcement Program," Paul S. Atkins and Bradley J. Bondi, 2008, p. 401, <https://ir.lawnet.fordham.edu/jcfl/vol13/iss3/1/>.

2. What other enforcement tools, besides fines against corporations, will you prioritize if you are confirmed as Chair?
3. Do you believe the SEC should place greater emphasis on holding individual executives accountable and subjecting them to rigorous enforcement actions, civil monetary penalties, and disgorgement and restitution orders, with criminal referrals?
  - a. Do you commit to doing so even when the executives of giant corporations break the law?
  - b. Do you commit to doing so even if the executives may be allies or associates of President Trump?
4. Do you believe the SEC can only disgorge a wrongdoer's ill-gotten profits if the funds are feasibly distributed to investors? In circumstances where distribution is not feasible, should wrongdoers simply profit from their misconduct?

### **Your Conflicts of Interest**

After serving as an SEC Commissioner from 2002-2008, you established Patomak Global Partners (Patomak), where you have worked for the last 16 years. Patomak lists a broad swath of the industry as its clientele: banks, credit unions, fintechs, derivative clearing organizations, futures commission merchants, insurance companies, banking-as-a-service firms, and non-bank consumer lenders.<sup>183</sup> The firm employs a number of former government officials and Washington insiders.<sup>184</sup> Patomak is often recognized as “one of the most prominent sounding boards for banks, trading firms, fintechs and others seeking guidance on how to influence and respond to Washington’s edicts and investigations.”<sup>185</sup> Your insider advice on how to influence regulators comes with an exorbitant price tag: at least \$1,200 per hour.<sup>186</sup>

Beyond the conflicts inherent in the relationships you have built with Patomak clients that are regulated by the SEC, the SEC has previously considered outsourcing examinations of thousands of investment advisers to firms such as Patomak. This proposal was promoted by former Patomak president Daniel Gallagher, who previously served as a Republican SEC commissioner.<sup>187</sup> After the 2008 financial crisis led to an increase in enforcement actions against banks, independent consultants were increasingly used to conduct examinations of those

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<sup>183</sup> Patomak Global Partners, “Clients We Serve,” <https://patomak.com/company/clients-we-serve/>.

<sup>184</sup> Patomak Global Partners, “We are Senior Authorities and Global Leaders,” <https://patomak.com/team/>.

<sup>185</sup> Bloomberg Law, “Trump Picks Atkins, Ex-SEC Commissioner, to Succeed Gensler (3),” Lydia Beyoud and Nicola M. White, December 4, 2024, <https://news.bloomberglaw.com/us-law-week/trump-names-paul-atkins-as-sec-chair>.

<sup>186</sup> Wall Street Journal, How Trump’s Regulation Skeptic Helps Wall Street Navigate the Rules, Dave Michaels and Andrew Ackerman, December 31, 2016, <https://www.wsj.com/articles/how-trumps-regulation-skeptic-helps-wall-street-navigate-the-rules-1483192801>.

<sup>187</sup> Wall Street Journal, How Trump’s Regulation Skeptic Helps Wall Street Navigate the Rules, Dave Michaels and Andrew Ackerman, December 31, 2016, <https://www.wsj.com/articles/how-trumps-regulation-skeptic-helps-wall-street-navigate-the-rules-1483192801>.

institutions.<sup>188</sup> In April 2013, then-Chair of the Subcommittee on Financial Institutions and Consumer Protection Sherrod Brown held a hearing on the use of independent consultants as financial firm examiners, noting: “Because most consulting firms are private companies, there is little transparency about their business model to either the public or to Congress, leaving us to wonder about financial incentives.”<sup>189</sup>

Your financial ties to the industries you will soon regulate raise serious concerns about your ability to avoid conflicts of interest as a regulator. To that end, in October 2015, you were the only dissenter among dozens of business leaders who were asked to draft a report titled “Crony Capitalism: Unhealthy relations between business and government.”<sup>190</sup> Among other measures, the report recommended reforms to slow the revolving door between government and industry.

Beyond your personal ties to regulated industries, President Trump’s advisors and transition team members are the subjects of a number of ongoing SEC investigations. For example, Elon Musk’s company, Neuralink, is under investigation by the SEC.<sup>191</sup> Last year, lawmakers alleged that the company misled investors about the safety of its brain implant product.<sup>192</sup> Concurrently, Mr. Musk is negotiating settlement charges with the SEC over his failure to disclose his initial investment in Twitter in 2022.<sup>193</sup> Additionally, prosecutors are investigating Tether,<sup>194</sup> a cryptocurrency in which Department of Commerce Secretary Howard Lutnick’s firm Cantor Fitzgerald is heavily invested.<sup>195</sup> The President’s family owns their own crypto venture, World Liberty Financial.<sup>196</sup> Your impartiality will be critical in upholding the nation’s securities laws and promoting trust in our capital markets.

1. Why did you refuse to endorse the Committee on Economic Development’s “Crony Capitalism” report?

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<sup>188</sup> Senate Committee on Banking, Housing, and Urban Affairs, Subcommittee on Financial Institutions and Consumer Protection, “Outsourcing Accountability? Examining the Role of Independent Consultants,” April 11, 2013, <https://www.govinfo.gov/content/pkg/CHRG-113shrg81437/pdf/CHRG-113shrg81437.pdf>.

<sup>189</sup> *Id.* p. 2

<sup>190</sup> Politico, “Trump team member slams union, activist in favor of businesses,” Patrick Temple-West, November 28, 2016, <https://www.politico.com/story/2016/11/trump-team-unions-activists-231875>.

<sup>191</sup> Reuters, “SEC ‘reopens’ probe into Neuralink, Musk’s lawyer says,” Mrinmay Dey, December 13, 2024, <https://www.reuters.com/technology/sec-reopens-probe-into-elon-musks-neuralink-2024-12-13/>.

<sup>192</sup> Reuters, “US lawmakers ask SEC to scrutinize Musk comments on Neuralink,” Marisa Taylor, November 22, 2023, <https://www.reuters.com/technology/us-lawmakers-ask-sec-scrutinize-musk-comments-neuralink-2023-11-22/>.

<sup>193</sup> CNN, “Elon Musk says SEC orders him to pay fine over Twitter purchase or face charges,” Chris Isidore, December 13, 2021, <https://www.cnn.com/2024/12/13/business/elon-musk-sec-fine-demand/index.html>.

<sup>194</sup> Wall Street Journal, “Federal Investigators Probe Cryptocurrency Firm Tether,” Angus Berwick, Vivian Salama, and Ben Foldy, October 25, 2024, <https://www.wsj.com/finance/currencies/federal-investigators-probe-cryptocurrency-firm-tether-a13804e5>.

<sup>195</sup> Wall Street Journal, “Cantor Fitzgerald Holds Tether Convertible Bond, Howard Lutnick Says,” Angus Berwick, January 29, 2025, <https://www.wsj.com/livecoverage/fed-interest-rate-tesla-meta-earnings-01-29-2025/card/sen-warren-presses-howard-lutnick-on-tether-ties-before-confirmation-hearing-cEvRGcskZwmj7N8FuOjk>.

<sup>196</sup> Associated Press, “Donald Trump doesn’t share details about his family’s cryptocurrency venture during X launch event,” Fatima Hussein and Adriana Gomez Licon, September 17, 2024, <https://apnews.com/article/trump-crypto-digital-assets-a08456edc5947451f3f23b184ed9fb29>.

2. You have advised many financial firms that are regulated by the SEC<sup>197</sup> throughout your 16 years at Patomak. Please provide a comprehensive client list for Patomak Global Partners for the length of your employment with the firm.
3. Do you commit to recusing yourself from all matters relating to any current or former client of Patomak Global Partners?
4. Please provide the Committee with any valuation models and estimates that were used to establish a target sales price for your stake in Patomak Global Partners.
5. Please identify the external buyers of Patomak Global Partners and the terms of the acquisition. Please identify any internal buyers of Patomak Global Partners and the terms of the acquisition.
6. Are any parties to the transaction, internal or external, using financing to complete the acquisition? If so, please list the financial institutions or other persons providing the financing and the terms of the financing.
7. Do any of the external acquirers have, or could reasonably expect to have, pending business before the SEC?
8. The SEC has numerous ongoing investigations of individuals associated with President Trump, including family members, advisors, and longtime associates. Will you commit to allowing non-political staff at SEC to conduct these investigations without interference? Will you commit to following staff recommendations for enforcement or other matters involving these individuals?
9. To the extent that, in the future, SEC staff recommends opening an investigation into President Trump and/or individuals associated with him, including family members, advisors, and associates, will you follow these recommendations and avoid interfering in these cases?
10. During your conversations with President Trump, or any of his advisers or transition team members, were there any discussions of specific SEC cases or investigations? If so, please list each conversation, the nature of the conversation, and which specific entities were discussed.
11. Do you commit to providing a complete list of your expert witness testimony and reports?
12. Please list all meetings and conversations you have taken as an employee of Patomak with companies under the SEC's jurisdiction since President Trump announced his intention to nominate you as Chair of the SEC.

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<sup>197</sup> On file with the Committee on Banking, Housing, and Urban Affairs.

13. Have you communicated with Acting Chair Uyeda or Commissioner Peirce since you were nominated by President Trump? Please provide the date(s) of any such communications, method of communications (e.g., phone, email, text message, etc.), and a summary of any Commission business that was discussed.

**Conclusion**

The U.S. stock market is the envy of the world because the SEC promotes safe and transparent markets that support American businesses, foster innovation, and prevent retail and institutional investors from being cheated. If confirmed, you will inherit the keys to the engine of our economy. I ask that you come to your nomination hearing prepared to answer the questions in this letter, and that you provide written answers so that the Senate—and the American people—can better understand how you plan to lead this critical agency.

Sincerely,



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Elizabeth Warren  
Ranking Member  
Committee on Banking,  
Housing, and Urban Affairs