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Confirmation Hearing for SEC Chair Nominee Atkins — Takeaways for Fund Managers

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The Senate Banking Committee convened on Thursday to consider the nomination of Paul Atkins, President Trump's nominee for Chair of the Securities and Exchange Commission, along with the nominees for the Comptroller of the Currency, the Assistant Secretary of the Treasury and the Department of Transportation.

Atkins, a former SEC Commissioner, shared his views on the current regulatory landscape, contending that today's environment stifles capital formation and indicating a pivot from the SEC's recent emphasis on aggressive enforcement. Overall, nothing occurred at the hearing that would change the expectation that Atkins will be confirmed. Currently, the SEC only has three members, meaning the Democratic Commissioner in theory could effectively have veto power over actions requiring a vote of the SEC because she can deny a quorum for any action she strongly opposes; if Atkins is confirmed, the Republican majority would no longer need the Democratic Commissioner, so it will be able to begin with formal rulemaking steps.

Key takeaways for fund managers from Atkins' testimony are below.

Position on Private Funds

Surprisingly, Atkins faced relatively few questions about private funds. Nonetheless, in responding to questions, he noted that investors in private funds are typically sophisticated and have sufficient resources to hire advisers. In response to a question from a Democratic member of the Committee, he conceded that retail investors in registered funds benefit from additional investor protections, such as diversification rules. Atkins confirmed that the SEC would continue to enforce penalties against firms that mislead investors, but he drew a distinction between accredited investors—who he said have the sophistication and means to fend for themselves—and registered fund investors, possibly indicating a less restrictive or more principles-based regulatory and enforcement framework for the private fund industry.

Focus on Disclosure Practices

Atkins expressed concerns about the inefficient disclosures that investors face, stating, “investors are flooded with disclosures that do the opposite of helping them understand the true risks of an investment.” At the same time, he stated that investors should be protected from incorrect or materially misleading private fund disclosures. While his testimony suggests that the SEC would continue scrutinizing firms’ marketing practices, this could signal a willingness to pare back rules that require voluminous disclosure that most investors do not read.

Digital Assets and Cryptocurrency

In his opening statement, Atkins signaled that digital assets and cryptocurrency will be a prominent focus if he is confirmed. He highlighted his experience developing best practices for the digital asset industry since 2017, pointing to what he views as ambiguous or outdated regulations that have led to market uncertainty and inhibited innovation. Atkins stated that a “firm regulatory foundation” for digital assets would be a top priority, emphasizing a “rational, coherent, and principled approach.” Consistent with the work that already has started under the Crypto Task Force, his comments suggest a more measured and predictable environment for market participants, which could foster greater institutional involvement and spur technological developments in the digital asset space. Consistent with his overarching views on regulation expressed throughout the hearing, Atkins stressed the importance of clear rules that encourage capital formation, which believes are critical as the SEC considers its role in overseeing rapidly evolving cryptocurrency markets.

Creating Efficiencies within the SEC

In response to questions regarding how he might work with the Department of Government Efficiency, Atkins indicated general support for seeking greater efficiency in the SEC's operations. "If there are people who can help with creating efficiencies in the agency or otherwise, I would definitely work with them." As has been reported elsewhere, more than 12% of the SEC has already taken a voluntary buyout; any further cuts as a result of involvement by DOGE could result in the SEC prioritizing certain types of investment adviser firms for focus from the Division of Examinations. While the SEC's future staffing levels are not yet known, its future resource allocation is likely to be influenced by any priority given to protecting less sophisticated and less well-resourced investors.

We will continue to monitor further developments in Atkins' nomination process.

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