SEC Chair Nominee Can Champion the Critical Role of Investment Funds

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(As published on TheHill.com, April 4, 2017)

Despite a steady decline in unemployment, growth in gross domestic product (GDP) remains sluggish—dramatically sluggish by comparison to other recent economic recoveries. Achieving a growth rate closer to historical norms is imperative if we are to address a wide range of urgent national concerns.

No wonder that President Donald Trump is making the economy a top priority and rightly recognizing the vital role capital markets will play. The president tasked Jay Clayton, his nominee to chair the Securities and Exchange Commission (SEC), with unleashing “the job-creating power of our economy by encouraging investment in American companies.”

The Senate should move quickly to advance this mission by confirming the nominee, following his approval by the Senate Banking Committee earlier today.

In his testimony before the committee, Clayton outlined three principles that will guide his actions as chairman: “Well-functioning capital markets are important to every American; all Americans should have the opportunity to participate in, and benefit from, our capital markets on a fair basis....and there is zero room for bad actors in our capital markets.”

For more than 75 years, America’s registered investment companies—including mutual funds and exchange-traded funds (ETFs)—have been an essential vehicle for ordinary Americans seeking to participate in and benefit from capital markets.

Our funds have proven to be the most efficient and effective tools in the world for aggregating savers’ capital and investing it in private enterprises of all kinds. More than 93 million Americans have invested more than $19 trillion through nearly 10,000 mutual funds and ETFs.

If funds are to continue to serve investors and the economy well, the SEC’s agenda going forward should reflect three important objectives: preserving a proper framework of regulation for funds and their advisers; permitting funds to continue to use the most modern investment techniques on behalf of average investors; and helping funds communicate more effectively with shareholders.

The remarkable growth and success of the US fund industry has depended upon a resilient structure of regulation established by the Investment Company Act of 1940, as administered by the SEC over more than 75 years.

Title I of the Dodd-Frank Act has put this structure at risk, through the designation authority accorded the Financial Stability Oversight Council (FSOC). FSOC designation would subject funds or fund advisers to bank regulation of a kind altogether out of keeping with the nature of their business and altogether unnecessary in light of the low level of risk they pose.

As a member of the FSOC, and a key participant in the International Organization of Securities Commissions (IOSCO) and the Financial Stability Board (FSB), the new SEC chair should work to preserve—intact—the framework of capital markets regulation for funds and advisers that has proved so successful for so long.

From the industry’s inception, a core value proposition for funds has been to make available to ordinary investors a quality of portfolio management that otherwise would be unavailable to them. As portfolio management continues to evolve, fund investors continue to benefit from the most up-to-date investment techniques.

Derivatives, for example, help funds reduce risks, achieve efficiencies, enhance liquidity, and lower costs. New leadership at the SEC should make certain that any rule adopted concerning funds' use of derivatives does not dumb down fund portfolios by imposing arbitrary limits that would hobble funds' ability to best serve US investors and put them at a competitive disadvantage to other investment options.

Finally, the new leader of the SEC should bring the agency's disclosure rules into the 21st century and thereby dramatically improve the techniques available to funds to communicate with shareholders. In nearly every other corner of our economy and financial system, consumers receive information of all kinds electronically, via computers, tablets, phones and other devices.

Unfortunately, the SEC's rules today constrain delivery of required fund disclosure documents except in paper form. Shareholders pay twice—in significant, needless costs for paper and in loss of the advantages of e-delivery.

A 2016 ICI survey found that 92 percent of US households owning mutual funds had Internet access (compared to 78 percent of all US households). It is high time that the SEC moved toward an electronic "access equals delivery" model, while preserving the snail-mail option for any shareholder who so prefers.

The SEC chair traditionally stakes out the agency's regulatory agenda. Clearly, Jay Clayton has much to do and much that he can accomplish. America's capital markets long have been powerful engines of the nation's economic growth. They must continue to be.

The SEC must find ways to attract more companies to our public markets and facilitate funding for promising enterprises of all kinds, while protecting the interests of investors. America's fund industry has an important role to play here, and assuring it does so to the best possible effect should be a key objective of the new SEC leadership.

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