

TIM SCOTT, SOUTH CAROLINA, CHAIRMAN  
ELIZABETH WARREN, MASSACHUSETTS, RANKING MEMBER

MIKE CRAPO, IDAHO  
MIKE ROUNDS, SOUTH DAKOTA  
THOM TILLIS, NORTH CAROLINA  
JOHN KENNEDY, LOUISIANA  
BILL HAGERTY, TENNESSEE  
CYNTHIA LUMMIS, WYOMING  
KATIE BOYD BRITT, ALABAMA  
PETE RICKETTS, NEBRASKA  
JIM BANKS, INDIANA  
KEVIN CRAMER, NORTH DAKOTA  
BERNIE MORENO, OHIO  
DAVID MCCORMICK, PENNSYLVANIA

JACK REED, RHODE ISLAND  
MARK R. WARNER, VIRGINIA  
CHRIS VAN HOLLEN, MARYLAND  
CATHERINE CORTEZ MASTO, NEVADA  
TINA SMITH, MINNESOTA  
RAPHAEL G. WARNOCK, GEORGIA  
ANDY KIM, NEW JERSEY  
RUBEN GALLEGO, ARIZONA  
LISA BLUNT ROCHESTER, DELAWARE  
ANGELA D. ALSOBROOKS, MARYLAND

CATHERINE FUCHS, STAFF DIRECTOR  
JON DONENBERG, DEMOCRATIC STAFF DIRECTOR

## United States Senate

COMMITTEE ON BANKING, HOUSING, AND  
URBAN AFFAIRS

WASHINGTON, DC 20510-6075

January 28, 2026

The Honorable David L. Fogel  
Assistant Secretary of Commerce for International Trade  
U.S. Department of Commerce  
1401 Constitution Avenue NW  
Washington, D.C. 20230

Dear Assistant Secretary Fogel:

I write to express concern about a recent amendment to your Ethics Agreement in which you explained that you will be unable to “divest [your] interest in [Nova Digital Opportunities Fund, L.P. (“Nova”)] until April 1, 2026.”<sup>1</sup> Your continued involvement and investment in Nova presents a conflict of interest for you in your recently confirmed role as Assistant Secretary and Director General of the U.S. and Foreign Commercial Service Global Markets at the U.S. Department of Commerce. I am therefore requesting information regarding your investment, your plans for divestment, and your efforts to mitigate any conflicts of interest in the interim.

Nova manages liquid token investments under Brevan Howard, a global crypto and digital investment management firm.<sup>2</sup> As a public servant, you hold a position that influences “foreign direct investment”<sup>3</sup> promotion efforts that may affect companies like Nova. Specifically, in your current role you are responsible for directly supervising the U.S. and Foreign Commercial Service and the International Trade Administration’s (ITA) “Digital Attaché” program which “[helps] U.S. companies increase exports, access the global online marketplace, and navigate digital economy policy challenges.”<sup>4</sup> This program is uniquely positioned to benefit companies like Nova: it was piloted to “advance commercial diplomacy, drive policy advocacy on technology issues, ensure linkages between trade policy and trade promotion efforts, and provide

---

<sup>1</sup> Office of Government Ethics, Nominee Form 278e, David L. Fogel, January 12, 2026, on file with the U.S. Office of Government Ethics,

[https://extapps2.oge.gov/201/Presiden.nsf/E0E306973FB2A4EE85258C68002C8D2D/\\$FILE/Fogel,%20David%20%20AMENDED%20finalEA.pdf](https://extapps2.oge.gov/201/Presiden.nsf/E0E306973FB2A4EE85258C68002C8D2D/$FILE/Fogel,%20David%20%20AMENDED%20finalEA.pdf).

<sup>2</sup> Hedgeweek, “Brevan Howard acquires long-short crypto fund,” March 13, 2023, <https://www.hedgeweek.com/brevan-howard-acquires-long-short-crypto-fund/>; The Block, “BH Digital raises \$9 million for its liquid token strategy,” Kari McMahon, March 23, 2023, <https://www.theblock.co/post/222009/bh-digital-raises-9-million-for-its-liquid-token-strategy>; Brevan Howard, “About Us,” <https://www.brevanhoward.com/about-us/>.

<sup>3</sup> International Trade Administration, “David L. Fogel Sworn In as Assistant Secretary of Commerce,” press release, October 16, 2025, <https://www.trade.gov/press-release/david-l-fogel-sworn-assistant-secretary-commerce>.

<sup>4</sup> International Trade Administration, “Digital Attaché Program,” <https://www.trade.gov/digital-attache-program-0>.

front-line assistance for U.S. small and medium enterprises to take advantage of the robust e-commerce channels.”<sup>5</sup>

Given this inherent conflict of interest, you were required to fully divest from your interest in hedge funds like Nova within 90 days following your Senate confirmation on October 7, 2025.<sup>6</sup> Specifically, according to your ethics agreement signed on April 7, 2025, you had already requested an extension to fully divest from Nova: “[o]ther than for the divestiture of Nova ... I will submit my Certification ... within 90 days of confirmation. With regard to the Nova ... I will submit ... within 120 days of confirmation.”<sup>7</sup> Despite still having several more weeks to fully divest, you instead sought a waiver on January 12, 2026, from the Office of Government Ethics to extend your divestment from Nova from February 4, 2026 until April 1, 2026.<sup>8</sup> Your failure to meet your original divestment obligation also coincides with reports about a rare opportunity for Nova’s equity holders to recoup their investment in Berachain, a “bear-themed blockchain ... [that] raised \$142 million in venture capital” and was valued at \$1.5 billion.<sup>9</sup> Nova’s investment in Berachain is notable because it included a “refund clause [which] means that, unlike a traditional venture investment [Nova] didn’t take on any risk to its principal” when it invested in the blockchain project.<sup>10</sup> The refund clause will give Nova the right to recoup their investment until February 6, 2026, which—now that you have amended your Ethics Agreement—falls neatly within the confines of your recently approved extension.

Should Nova exercise the refund clause, you and other Nova equity holders stand to profit significantly from the company’s interest in Berachain. The American public deserves public servants who look out for the common good, not ones who aspire to line their pockets with crypto investment money or refuse to resolve conflicts of interest. In light of these concerns, I request that you provide responses to the following requests no later than February 4, 2026.

1. In your January 12, 2026 letter to OGE, you stated that you are unable to divest from Nova because “the new administrator will not permit [you] to complete redemption and divest [your] interest in the fund until April 1, 2026.”<sup>11</sup> Provide any and all written copies of this restriction from the new administrator.
2. Provide a summary of any and all justifications provided to you explaining why you are unable to divest until April 1, 2026 under Nova’s new administrator.
3. Provide the name and address of incorporation of Nova’s new administrator.
4. Provide the name and address of incorporation of Nova’s former administrator.

---

<sup>5</sup> U.S. Department of Commerce, Commerce Launches Digital Attaché Program to Address Trade Barrier,” March 11, 2016, <https://2014-2017.commerce.gov/news/opinion-editorials/2016/03/commerce-launches-digital-attache-program-address-trade-barriers.html>.

<sup>6</sup> Office of Government Ethics, “The Nominee Guide 2024,” August 30, 2024, [https://www.oge.gov/web/oge/nsf/0/C050C462DD7AF5DC85258B89004DDCF6/\\$FILE/The%20Nominee%20Guide%20\(2024\).pdf](https://www.oge.gov/web/oge/nsf/0/C050C462DD7AF5DC85258B89004DDCF6/$FILE/The%20Nominee%20Guide%20(2024).pdf).

<sup>7</sup> Nominee Form 278e, *supra* note 1.

<sup>8</sup> *Id.*

<sup>9</sup> Unchained, “Berachain Documents Show Brevan Howard Fund Offered \$25 Million Refund Right,” Jack Kubinec, November 24, 2025, <https://unchainedcrypto.com/berachain-documents-show-brevan-howard-offered-25-million-refund-right/>.

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

<sup>11</sup> Nominee Form 278e, *supra* note 1.

5. Provide a copy of any and all of the new administrator's divestment policies as they pertain to you as a Nova equity holder.
6. Provide any and all written copies of the former administrator's divestment policies as they pertained to you as a Nova equity holder.
7. Provide the date of when Nova changed administrators.
8. Have you recused yourself from any and all topics affecting Nova and digital asset hedge funds similar to Nova?
  - a. If so, provide a written statement describing any and all steps you have taken in your role as Assistant Secretary to properly recuse and screen yourself from these topics.
  - b. If not, explain why.

Sincerely,



---

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



---

Andy Kim  
Ranking Member,  
Subcommittee on National  
Security and International  
Trade and Finance