Simpson Thacher

Memorandum

SEC Proposes to Greatly Enhance Electronic Delivery of Required Disclosures Under the Federal Securities Laws

July 22, 2026

Under SEC-Chairman Paul Atkins, the Securities and Exchange Commission has proposed a new set of rules that would permit electronic delivery as the default method of delivery for all required disclosures under the federal securities laws. [1] If adopted, this would mark a foundational and very welcome shift in how registered investment advisers, investment companies, business development companies, broker-dealers, transfer agents, and other regulated entities may deliver required disclosures to investors, clients, and other market participants. It would rescind decades of antiquated SEC guidance built when paper materials were the primary disclosure tool and we expect it to deliver significant cost savings across the industry. The SEC has requested comments on the proposed new set of rules on or before September 21, 2026.

Key Changes

	Current E-Delivery Framework	Proposed New E-Delivery Rules
Default delivery method	Paper is the effective default; a recipient must affirmatively opt in before a "covered entity" may rely on E-Delivery.	E-Delivery may be used as the default method, subject to a recipient's right to opt out and receive paper materials free of charge at any time.
Delivery methods	No generally applicable requirements for content, format, or manner of E-Delivery.	Two permitted methods: (i) direct E-Delivery of information to an electronic address, or (ii) E-Delivery of a statement of availability directing the recipient to a website.
Treatment of personal financial information	No specific requirement.[2]	Personal financial information may be electronically delivered only through a statement of availability, and access must be through a process reasonably designed to safeguard the information.
Failure identification and remediation	No specific requirement.	"Covered entities" must adopt and implement written policies and procedures reasonably designed to identify and remediate failed E-Delivery, with prescribed remediation steps.
Website availability	No specific requirements for website presentation, format, or duration of availability.	Websites must meet minimum timing, format, and retention requirements, including at least a one-year availability period for covered information generally and at least three years. for covered information containing personal financial information.

[1] Electronic Delivery of Information Under the Federal Securities Laws, Release Nos. 33-11430; 34-105921; 39-2564; IA-6980; IC-36252 (July 16, 2026). File No. S7-2026-25 (the "Proposal").

[2] Under Regulation S-P, covered institutions are required to develop, implement, and maintain written policies and procedures that address administrative, technical, and physical safeguards for the protection of customer information.

Background

Under the SEC's existing framework, E-Delivery of required regulatory documents has been permitted for decades under SEC interpretive guidance issued in 1995, 1996, and 2000, together with the E-SIGN Act enacted in 2000.[3] In 1995, the SEC first articulated a framework under which E-Delivery could satisfy a statutory delivery requirement if the sender provided adequate notice, the recipient had adequate access to the electronic medium, and the sender had evidence that the information was actually delivered, with recipient consent typically used to establish the third factor.[4] Later in 1996, the SEC extended and refined that notice-access-evidence framework,[5] and again in 2000 in a release addressing E-Delivery in the context of the proxy rules and other SEC requirements.[6] Under current guidance, paper remains the default delivery method; a covered entity, which includes registered investment advisers, investment companies, business development companies, broker-dealers, transfer agents, corporate issuers, indenture trustees/obligors and others with statutory delivery requirements, generally may not rely on E-Delivery unless the recipient has affirmatively consented to it, whether through express opt-in consent or another form of evidence of delivery contemplated by the guidance.

The SEC staff has observed that, in the decades following the publication of the current guidance, a number of the examples in the guidance have become technologically outdated.[7] For example, the current guidance addresses consent to delivery using a floppy disk. Further, the SEC's Office of the Investor Advocate conducted testing involving 5,497 participants, of whom 4,295 identified as investors, and found that roughly 63% preferred some form of E-Delivery even for documents containing personal financial information or "PFI".[8] In light of the outdated guidance, and the growing preference for E-Delivery as the default, the Proposal aims to modernize the disclosure delivery framework under the federal securities laws.

Practical Considerations

Any covered entity that intends to use default E-Delivery will need: (1) E-Delivery Disclosure (as defined herein) that meets the standards outlined in the Proposal, (2) form communications for both direct E-Delivery and statement-of-availability communications calibrated to whether the covered information contains PFI, (3) a safeguarding process for any website through which PFI will be accessed, and (4) written policies and procedures reasonably designed to identify and remediate failed E-Delivery. Further, covered entities that want to convert existing clients or investors from paper to E-Delivery, rather than simply applying the new default to new clients

[3] Use of Electronic Media for Delivery Purposes, Investment Company Act Release No. 21399 (Oct. 6, 1995) (the "1995 Guidance"); Use of Electronic Media by Broker-Dealers, Transfer Agents, and Investment Advisers for Delivery of Information, Investment Company Act Release No. 21945 (May 9, 1996) (the "1996 Guidance"). Use of Electronic Media, Investment Company Act Release No. 24426 (Apr. 28, 2000) (the "2000 Guidance"). The Proposal provides for a two-year transition period before full rescission of the 1995 Guidance and 1996 Guidance during which covered entities may continue to rely on the prior framework or the new framework set out in the Proposal.

[4] *See* 1995 Guidance supra note 3.

[5] *See* 1996 Guidance supra note 3.

[6] *See* 2000 Guidance supra note 3.

[7] *See* 1995 Guidance supra note 3.

[8] Proposal at Section I.B, citing SEC Office of the Investor Advocate investor testing results.

or investors going forward, will need to be mindful of the 180-day initial notice and 30-day follow-up notice requirements. Fund complexes that currently rely on Rule 30e-3 under the Investment Company Act of 1940 (the “1940 Act”), as well as entities that maintain shareholder list systems built around mailing addresses for proxy and information statement notices and tender offer materials that want to rely on the Proposal will need to conduct outreach to shareholders to obtain electronic addresses. SEC Commissioner Mark T. Uyeda expressed concern regarding the implementation feasibility of the Proposal, noting that “regulatory disclosures often reach investors through a chain of intermediaries, and there is considerable operational infrastructure involved in getting a document from the initial financial entity to the end-user investor.”[9] Commissioner Uyeda welcomed comments on the operational infrastructure aspects of the Proposal and whether it is workable.

In practice, many investment advisers, including private fund advisers, already E-Deliver a substantial portion of their client communications today, after first obtaining an investor’s affirmative consent under the current guidance. If the Proposal is adopted, E-Delivery could become the default method for delivering covered information. For registered funds, the potential cost savings are expected to be significant. The SEC estimates that reliance on the Proposal would yield total aggregate annual savings in paper, printing, and postage costs of approximately $463 million across covered entities, net of approximately $511 million in one-time initial compliance costs and $209 million in recurring annual compliance costs (after the first year).[10] If adopted, reliance on the new E-Delivery framework is optional, and covered entities that prefer the certainty of an existing opt-in consent model may continue to operate on that basis after the rule takes effect.

The Proposal: Key Elements of Regulation E-Delivery

The Proposal would permit, but not require, a covered entity to treat E-Delivery as the default method of satisfying its delivery obligations under the federal securities laws, without first obtaining a recipient’s affirmative consent, so long as the recipient retains a continuing right to opt out and to receive paper free of charge at any time. Reliance on the Proposal would be voluntary in both directions: an entity may continue to operate under an opt-in consent model if it prefers, and a recipient who prefers paper may continue to receive it.

SCOPE: COVERED ENTITIES, COVERED RECIPIENTS, AND COVERED INFORMATION

The Proposal applies broadly to:

- **“Covered entities”** which includes registered investment advisers, investment companies, business development companies, broker-dealers, transfer agents, corporate issuers, and other entities with statutory delivery requirements;[11]

---

[9] Mark T. Uyeda, Commissioner, SEC, Statement on Proposed Regulation E-Delivery (July 16, 2026), available here.

[10] Proposal at Section III.C (estimates assume that 95% of covered entities will rely on the Proposal and that 95% of current recipients transition to electronic delivery).

[11] Proposed Rule § 303.101 (definition of “covered entity”).

- **“Covered recipients”** which encompasses current or prospective customers, clients, investors, security holders, counterparties, or similar recipients of a covered entity’s delivery obligations;[12] and
- **“Covered information”** which is defined expansively as any information a covered entity is required to deliver to a covered recipient under the federal securities laws. The definition, however, carves out information that must be filed with or made public through the SEC without being delivered to particular recipients (such as disclosures required to be made public under Regulation FD), as well as certain other information.[13]

The following sets out a non-exhaustive list of examples of covered information for registered investment advisers, registered investment companies, business development companies, broker-dealers, issuers and certain other third parties:

Covered Entity	Examples of Covered Information
Registered Investment Advisers	Form ADV Part 2 brochures and brochure supplements; Form CRS client relationship summaries; marketing and testimonial disclosures; agency cross transaction disclosures; custody rule account statement notices; data breach notices; privacy notices
Registered Investment Companies and Business Development Companies	Shareholder reports; prospectuses and summary prospectuses; proxy materials and information statements; tender offer materials; interval fund repurchase notifications under Rule 23c-3 under the 1940 Act; Section 19(a) notices pursuant to Rule 19a-1 under the 1940 Act; data breach notices; privacy notices
Broker-Dealers	Trade confirmations; Regulation Best Interest disclosures; Form CRS client relationship summaries, quarterly free credit balance notices; disclosure of credit terms of margin loans; privacy notices; Regulation S-AM disclosures
Issuers and Certain Third Parties	Issuer prospectuses, issuer annual reports to security holders; proxy statements and information statements; tender offer statements and solicitation/recommendation statements

TWO PERMITTED E-DELIVERY METHODS

1. **Direct E-Delivery:** A covered entity may deliver covered information that does not include personal financial information directly to a covered recipient’s electronic address. The direct E-Delivery must include a prominent statement alerting the covered recipient that covered information is available, which identifies the covered information and the covered entity; a brief description of the covered information; the covered entity’s obligation to provide a paper copy of covered information free of charge, upon request; the ability to opt out of E-Delivery at any time and receive all or a subset of covered information in paper format, free of charge, following an opt-out election; the ability to update one’s electronic address free of charge (including, if applicable, an explanation of how to change the type of electronic address that will be

[12] Proposed Rule § 303.101 (definition of “covered recipient”).

[13] Proposed Rule § 303.101 (definition of “covered information”).

used for E-Delivery, such as email or mobile phone number); and the process for a covered recipient to request paper copies, opt out of E-Delivery, and update one's electronic address, which at a minimum must direct a covered recipient to a website through which one can make these requests and updates.

2. **Statement of Availability**: A covered entity may instead deliver a "statement of availability," an electronic communication that directs the recipient to a website where the covered information can be accessed. A covered entity must use the statement of availability method, rather than direct E-Delivery, whenever the covered information contains PFI. The Proposal defines PFI consistently with how it is defined under the current guidance (*i.e.*, information specific to a covered recipient's personal financial matters), and the term includes information such as account balances, holdings, or transaction details.[14] A statement of availability must include: (i) a prominent statement alerting the covered recipient that covered information is available, which identifies the covered information and the covered entity; (ii) a brief description of the covered information (that, as applicable, identifies whether the covered information may require action by the covered recipient within a fixed time frame to exercise certain rights, and whether the covered information is delivered by a person delivering on behalf of the covered entity); (iii) a website address where the covered information is available; (iv) a statement that covered information made available on a website may be superseded by subsequent versions; and (v) a prominent statement describing the covered entity's obligation to provide a paper copy free of charge upon request, the ability to opt out of E-Delivery at any time and receive all or a subset of covered information in paper format free of charge, the ability to update one's electronic address free of charge, and the process for making these requests, which at a minimum must direct the covered recipient to a website through which one can make these requests and updates. Where the covered information contains PFI, the process is required to be reasonably designed to safeguard the PFI (*e.g.*, use of passwords) and lead the recipient directly to the covered information immediately after the recipient completes such process.[15]

DISCLOSURE OF E-DELIVERY

To rely on the E-Delivery framework outlined in the Proposal, a covered entity would need to provide covered recipients with a *clear and conspicuous* disclosure ("E-Delivery Disclosure") describing the types of covered information that will be delivered electronically and how to opt out of E-Delivery. As applicable, the E-Delivery Disclosure would need to state whether a covered recipient's request for paper or to opt out of E-Delivery could result in restrictions or termination of the covered recipient's relationship with the covered entity. The E-Delivery Disclosure is meant to help ensure that covered recipients who provide an electronic address to receive covered information are aware of how the covered entity intends to use the electronic address in communicating with the covered recipient and to inform the covered recipient of the specific items of covered information that will be electronically delivered using the covered recipient's electronic address.

[14] Proposed Rule § 303.102(c); Proposed Rule § 303.101 (definition of "personal financial information").

[15] Proposed Rule § 303.102(c)(1), setting out the required content of a statement of availability.

SAFEGUARDING, OPT-OUT, AND ADDRESS-UPDATE RIGHTS

The Proposal preserves several investor protections that mirror the current guidance. For example, the Proposal would require a covered entity, free of charge, to send one paper copy of any electronically delivered covered information upon a recipient's request, using U.S. first-class mail or another reasonably prompt means, within three business days of the request and within the covered entity's applicable record-retention period (or, if none applies, the preceding two years); to honor a recipient's opt-out of E-Delivery as to all or a subset of covered information at any time, promptly upon request; and to permit a recipient to update the electronic address, or the type of address (*e.g.*, switching between an email address and a mobile number), on file at any time, free of charge.[16]

WEBSITE AVAILABILITY REQUIREMENTS

The Proposal imposes requirements for covered information delivered through a statement of availability. For example, a covered entity would need to make the covered information available no later than the applicable delivery date and keep it available for at least three years if the information contains PFI, or one year if it does not, unless another provision of the federal securities laws specifies a different retention period. The website must present the information in a format that is convenient for both online reading and printing and that permits permanent, free retention by the recipient, and, where the information contains PFI, access must be restricted through a process reasonably designed to safeguard the PFI.[17] A temporary outage would not itself constitute a violation if the covered entity has adopted and implemented written policies and procedures reasonably designed to ensure continued website availability and if the covered entity takes prompt action to ensure that the covered information becomes available as soon as practicable once it becomes aware, or reasonably should have become aware, of the disruption.[18]

POLICIES AND PROCEDURES TO IDENTIFY AND REMEDIATE E-DELIVERY FAILURES

The Proposal requires every covered entity relying on E-Delivery to adopt and implement written policies and procedures reasonably designed to identify failed electronic deliveries, such as bounced emails or invalid electronic addresses, and to promptly take reasonable remediation steps, either by obtaining a valid electronic address from the recipient or by delivering the information in paper form until a valid address is obtained.

The Proposal is careful to note that this requirement is aimed at actual delivery failures and is not intended to require covered entities to monitor open rates, clickthrough rates, or other measures of recipient engagement.[19]

---

[16] Proposed Rule § 303.102(f)-(g).

[17] Proposed Rule § 303.103(a)-(d).

[18] Proposed Rule § 303.103(e).

[19] Proposed Rule § 303.102(h); Proposal at Section II.B.9 (discussing scope of the failure-identification requirement).

TRANSITIONING EXISTING PAPER RECIPIENTS – 180- AND 30-DAY NOTICES

A covered entity that wishes to move an existing paper recipient onto default E-Delivery must follow a transition process. The entity must first send a paper "initial notice" at least **180** days before the transition, followed by a paper "follow-up notice" at least **30** days before the transition date. The initial notice must be sent separately from other communications and must describe the categories of covered information that will move to E-Delivery, disclose the electronic address the entity intends to use, disclose the recipient's rights to opt out, to update the address on file, and to receive paper copies free of charge, and provide a toll-free telephone number and website through which the recipient can exercise those rights.[20] The follow-up notice would need to comply with the direct E-Delivery and statement of availability requirements outlined above. If a recipient responds to either notice by confirming or updating an electronic address, the entity may begin E-Delivery immediately, without waiting out the balance of the 180-day period and without sending the follow-up notice; if the recipient opts out in response to the initial notice, no follow-up notice is required.

As discussed further below under Practical Considerations, one key transition challenge is that many covered entities, including registered investment companies relying on Rule 30e-3 under the 1940 Act, as well as entities that maintain shareholder list systems built around mailing addresses for proxy and information statement notices and tender offer materials have not historically been required to collect recipients' electronic addresses, which the Proposal's default E-Delivery framework generally requires.[21]

E-SIGN ACT EXEMPTION

Because the consumer consent provisions of the federal E-SIGN Act would otherwise stand in tension with a default, opt-out E-Delivery model, the SEC is proposing to exercise its exemptive authority under Section 104(d)(1) of the E-SIGN Act to exempt any covered information delivered under the Proposal from those consent requirements.[22]

STATUS OF THE CURRENT E-DELIVERY FRAMEWORK

The 1995 Guidance, which first established the notice-access-evidence-of-delivery framework, and the 1996 Guidance, which extended that framework to broker-dealers, transfer agents, and investment advisers, would both be rescinded in their entirety upon adoption of the Proposal (albeit with a two-year transition period before the rescission is effective). The SEC would, however, reaffirm certain principles from the rescinded guidance if the Proposal is adopted, including the "envelope theory"—the principle that a document enclosed alongside a required

---

[20] Proposed Rule § 303.104(c).

[21] Proposal at Section II.F.1, and Question 125 (inviting comment on transition difficulties, including whether smaller funds require a longer compliance period).

[22] 15 U.S.C. § 7001 et seq.; Proposal at Section II.E, invoking the SEC's exemptive authority under Section 104(d)(1) of the E-SIGN Act. As the Proposal notes, covered entities have historically interpreted the E-SIGN Act to require a covered entity to seek to obtain or confirm the covered recipient's affirmative consent to E-Delivery via email or other electronic means and that the covered recipient respond in kind.

delivery is itself deemed delivered. Most of the 2000 Guidance, which addressed E-Delivery in the context of the proxy rules and other SEC requirements, would be retained.

RESCISSION OF RULE 30E-3

The Proposal would rescind Rule 30e-3 under the 1940 Act, which since 2018 has permitted certain funds to satisfy their shareholder report delivery obligations by posting the report online and mailing recipients a paper notice, such as a postcard, informing them of its availability.[23] If the Proposal is adopted, closed-end funds and business development companies that currently rely on Rule 30e-3 would no longer need to mail that paper notice, and open-end funds[24] would likewise be able to deliver shareholder reports electronically as a default matter, in each case once the applicable E-Delivery conditions are satisfied.

AMENDMENTS TO REQUIREMENTS FOR THE DISSEMINATION OF PROXY, TENDER OFFER AND OTHER MATERIALS

The Proposal also sets out proposed amendments to Regulations 14A and 14C and Rule 14d-5 under the Securities Exchange Act of 1934 (the "Exchange Act"), which address the delivery and website availability of proxy materials, information statements for actions without proxy solicitation (*e.g.,* written consents), and the dissemination of third-party tender offer materials through stockholder lists and security position listings, respectively. Under the current "notice and access" guidance, a registrant soliciting proxies may satisfy its delivery obligation by sending a paper "Notice of Internet Availability of Proxy Materials" at least 40 calendar days before the meeting date, while posting the proxy statement, annual report, and proxy card on a publicly accessible website through the conclusion of the meeting; shareholders may request paper copies at no charge within three business days. An analogous internet-availability model applies to information statements under Regulation 14C, which must be sent to entitled holders at least 20 calendar days before the meeting or action date.

Under the Proposal, these separate notice-and-access and paper-mailing regimes would be replaced by the Proposal's general framework—meaning covered entities could deliver proxy materials and information statements by direct delivery to an electronic address or through a statement of availability, subject to the Proposal's guidelines regarding content, timing, and website-availability requirements. The Proposal would eliminate the current 40-calendar-day deadline for the "Notice of Internet Availability of Proxy Materials" and would instead require that proxy materials be delivered electronically no later than the date required under the federal securities laws, with the practical deadline for a routine annual meeting generally established by applicable state corporate laws. The 20-calendar day deadline for information statements under Rule 14c-2 under the

---

[23] 17 C.F.R. § 270.30e-3, adopted in Optional Internet Availability of Investment Company Shareholder Reports, Investment Company Act Release No. 33115 (June 22, 2018).

[24] The SEC narrowed Rule 30e-3's scope in 2022 when it adopted the "Tailored Shareholder Reports" rules, excluding funds that file on Form N-1A, meaning open-end mutual funds and exchange-traded funds, from Rule 30e-3's coverage. As a result, open-end funds are currently required to deliver shareholder reports to shareholders and are not permitted to only provide notice of such reports. Rule 30e-3 today applies only to closed-end management investment companies and business development companies that file on Form N-2, and to certain insurance company separate accounts filing on Form N-3 that have shareholder report obligations under Rule 30e-1 under the 1940 Act. *See* Tailored Shareholder Reports for Mutual Funds and Exchange-Traded Funds, Investment Company Act Release No. 34731 (Oct. 26, 2022).

Exchange Act, by contrast, would continue to apply as a substantive delivery deadline under the federal securities laws.

Under current Rules 14a-7 and 14d-5 under the Exchange Act, a registrant must, upon request, either mail a requesting party's or bidder's materials to security holders or furnish shareholder lists with names, mailing addresses, and security positions. The Proposal would amend both rules to require that furnished lists include "all addresses"—including electronic addresses—and where an issuer cannot supply complete electronic address information, the fallback would be to distribute materials on the requesting party's or bidder's behalf rather than furnish a partial list.

The Proposal does not seek to amend Rule 13e-4(e) under the Exchange Act governing issuer tender offers (including tender offers by business development companies and tender offer funds) because the SEC believes the existing language of Rule 13e-4(e), which permits dissemination by "mailing or otherwise furnishing" tender offer materials, is already broad enough to encompass electronic delivery.[25] Issuer tender offer materials would nonetheless constitute covered information under the Proposal and could be delivered electronically in reliance on the Proposal.

Beyond shareholder reports and proxy-related materials, registered funds are required to deliver a number of other documents to shareholders under the federal securities laws that would constitute covered information under the Proposal's broad definition. This includes, but is not limited to, prospectuses and summary prospectuses, interval fund repurchase offer notifications sent pursuant to Rule 23c-3(b)(1) under the 1940 Act and Section 19(a) return-of-capital notices. As the proposed framework would set out its own content, timing, and website-availability requirements applicable across all covered information, the SEC stated that, if adopted, retaining a separate notice-and-access regime would be unnecessary and could cause shareholder confusion.

[25] *See* Proposal at n.396 and accompanying text.

For further information regarding this memorandum, please contact one of the following authors:

NEW YORK CITY

John C. Ericson
+1-212-455-3520
jericson@stblaw.com

Lesley Peng
+1-212-455-2202
lpeng@stblaw.com

Margaret Foster
+1-212-455-3622
margaret.foster@stblaw.com

WASHINGTON, D.C.

David W. Blass
+1-202-636-5863
david.blass@stblaw.com

Anne C. Choe
+1-202-636-5997
anne.choe@stblaw.com

Neesa Patel Sood
+1-202-636-5580
neesa.sood@stblaw.com

BOSTON

Seth Davis
+1-617-778-9012
seth.davis@stblaw.com