SUMMARY

The SEC's Proposed Regulation E-Delivery

An AIMA Summary

On July 16, 2026, the U.S. Securities and Exchange Commission's (the "Commission") proposed new Regulation E-Delivery, to make it easier to use electronic delivery to satisfy certain obligations under the Federal securities laws.[1] This summary highlights the proposal's key elements and practical considerations for institutional investment managers that would be affected by Regulation E-Delivery.

1/ Overview

Regulation E-Delivery sets forth the circumstances under which "covered entities" would be permitted to use electronic delivery ("e-delivery") as the default method to deliver "covered information" to "covered recipients" under the Federal securities laws. Under these conditions, entities would not need to first obtain the covered recipient's affirmative consent which is currently required.

E-delivery requirements

Covered entities would be required to deliver covered information using one of two methods:

1. **Direct delivery**: The first method would require direct delivery to a covered recipient's electronic address for information that does not include personal financial information ("PFI").

2. **Statement of availability**: The second method would be the provisions of a "statement of availability" directing the covered recipient to a safeguarded website for information that does include PFI.

Covered entities would be required to provide a prominent statement with each delivery explaining how a covered recipient may obtain a paper copy, opt out of e-delivery, or update the electronic address on file, each free of charge.

While covered entities would be required to use one of the two e-delivery methods described above to satisfy their delivery obligations under Regulation E-Delivery, use of those methods would not preclude a covered entity from also using other forms of electronic delivery, provided such alternative methods are not otherwise restricted by rule or statute.

Key departures from current guidance-based approach

The proposal includes several key departures from the Commission's current, decades-old guidance-based approach to e-delivery.

First, the proposal would reverse the current default. Rather than requiring paper delivery unless a recipient affirmatively opts in to e-delivery, covered entities would be permitted to treat e-delivery as the default method, subject to a recipient's ability to opt out.

Second, the proposal would exempt covered information from the consumer consent requirements of the E-SIGN Act, removing a separate consent process that many

[1] "Electronic Delivery of Information Under the Federal Securities Laws", 91 FR 45884 (July21, 2026) (the "Proposing Release"). The proposal contains amendments to multiple Federal securities laws including, but not limited to, the Securities Act of 1933 (the "Securities Act"), the Securities Exchange Act of 1934 (the "Exchange Act"), the Investment Advisers Act of 1940 (the "Advisers Act") and the Investment Company Act of 1940 (the "Investment Company Act") and will affect how electronic delivery is governed across the Federal Securities laws.

covered entities currently layer on top of the Commission's own guidance-based framework.

Finally, for covered recipients currently receiving paper delivery, the proposal would require covered entities that wish to transition those recipients to default e-delivery to provide two paper notices. One being an initial notice at least 180 days before the transition, and a follow-up notice 30 days before the transition takes effect.

Comment period deadline

The comment period for Regulation E-Delivery is currently scheduled to close on September 21, 2026.

2/ Regulation E-Delivery

The Proposing Release provides seeks comments from the public on the proposed scope of the requirements, who is covered, what communications are covered and the delivery methods proposed.

Scope of persons covered by Regulation E-Delivery

Regulation E-Delivery applies to covered entities, a term that broadly includes any person required to deliver covered information to a covered recipient under the Federal securities laws.

The Proposing Release provides a non-exhaustive list of the entities the Commission anticipates as primary users of the rule, including issuers conducting registered or exempt securities offerings, registered investment companies and business development companies, broker-dealers, municipal securities dealers, government securities brokers and dealers, transfer agents, registered investment advisers, security-based swap dealers, and funding portals. It also includes any person, including third parties such as tender offer bidders or dissidents in a contested proxy solicitation, required to deliver covered information pursuant to Regulation 14A, Regulation 14C, Regulation 14D, Regulation 14E, Rule 13e-3 or Rule 13e-4.

The proposed definition of covered entity carries no registration or size-based threshold. The Proposing Release provides examples of what fall under the definition and states it would capture any person with a delivery obligation arising under the Federal securities laws. The Commission has stated that this broad, technology-neutral formulation is designed to remain evergreen, capturing future categories of persons that may become subject to a delivery obligation under applicable law.

Excluded from the proposed scope are persons whose delivery obligations arise solely from the rules of a self-regulatory organization ("SRO"), such as municipal advisors whose delivery obligations are imposed only by FINRA or MSRB rules rather than directly under the Federal securities laws.

Scope of covered information

Regulation E-Delivery applies to covered information, which is any information a covered entity is required to deliver to a covered recipient under the Securities Act, the Exchange Act, the Investment Company Act, the Advisers Act, or any of the other Federal securities laws. For this purpose, the terms "deliver" or "delivery" are defined broadly to encompass any term used to describe the delivery of information under the Federal securities laws, including to deliver, furnish, transmit, send, give, mail, provide, forward, make available or disseminate information.

The Proposing Release illuminates the scope of covered information with a non-exhaustive list of examples organized by covered entity type.

- **Investment advisers:** Form ADV Part 2 brochures and supplements, marketing rule disclosures for testimonials and endorsements, agency cross-transaction disclosures and custody rule account statement notices.
- **Investment companies:** fund prospectuses, fund annual and semi-annual shareholder reports, notices under Investment Company Act Rule 19a-1, and proxy and information statements.
- **Broker-dealers:** trade confirmations, Form CRS disclosures and Regulation S-AM disclosures.
- **Issuers, other soliciting persons, and third parties:** issuer prospectuses, annual reports to security holders, proxy and information statements, tender offer statements and solicitation/recommendation statements, and offering circulars.
- **Obligors and indenture trustees:** bondholders' lists and reports to security holders.

Excluded from the scope of covered information is information required to be delivered under Regulation Crowdfunding, Rule 15c2-11, or the security-based swap trade acknowledgment rule. Covered information also does not include information that is required to be filed with the Commission or otherwise made generally available to the public but not delivered to particular recipients.

E-delivery methods

As proposed, Regulation E-Delivery sets forth two permissible methods a covered entity may use to satisfy its delivery obligations electronically: direct delivery and delivery of a statement of availability (together, the "E-Delivery Methods"). The permissible method in each case depends on whether the covered information includes PFI. According to the Proposing Release, the definition of PFI is similar to the Commission's 1996 Guidance, describing information specific to a covered recipient's personal financial matters.

For covered information that does not include PFI, a covered entity may use direct delivery, meaning the covered information is delivered directly to the covered recipient's electronic address, such as being attached to or included in the body of an email. A covered entity is also permitted to use the statement of availability method for covered information that does not include PFI, even though direct delivery would otherwise be available.

A covered entity is not permitted to use direct delivery if the covered information contains PFI. Instead, it must use a statement of availability delivered to the covered recipient's electronic address that directs the covered recipient to a website where the covered information can be accessed. The website must require the use of a process reasonably designed to safeguard the PFI, such as a password or multi-factor authentication, and must lead the covered recipient directly to the covered information immediately after the covered recipient completes that process.

Regardless of the E-Delivery Method used, a covered entity must deliver the covered information no later than the date by which such information is required to be delivered under the federal securities laws. Each delivery must include a prominent statement explaining the process to obtain a paper copy of covered information upon request, opt out of e-delivery for all or a subset of covered information, and update one's electronic address, each free of charge.

3/ Transition Process and Related Amendments

The Proposing Release also includes a proposed transitional process and several additional requirements relating to the expanded ability to use electronic delivery.

Transition process for covered recipients currently receiving paper

Regulation E-Delivery includes a special transition process that is proposed to apply to covered recipients who, as of the rule's effective date, are receiving covered information in paper format. This provision would apply when a covered entity wishes to transition such recipients from paper to default e-delivery, and it is designed to ensure that recipients experiencing this change are meaningfully notified before it takes effect.

Under the proposed transition process, a covered entity may seek to transition a covered recipient from paper to default e-delivery if that recipient is currently receiving paper and the covered entity has an electronic address on file for them. In that case, the covered entity must provide an initial paper notice at least 180 days before the transition to default e-delivery, followed by a paper follow-up notice at least 30 days before the transition takes effect. Each notice must alert the covered recipient to the upcoming transition and specify the electronic address at which covered information will be provided going forward. Each notice must also include a prominent statement describing the covered recipient's ability to opt out of e-delivery and continue receiving paper at any time free of charge, the ability to update or confirm the electronic address on file, and the process for exercising either of those options.

This transition requirement would not apply in two circumstances: where a covered recipient already receives e-delivery for all covered information, or where a covered entity does not wish to transition its existing paper recipients to default e-delivery at all. In either case, a covered entity may continue delivering covered information to such recipients under its current practices without triggering the transition notice requirements.

Application of the E-SIGN Act

To the extent that covered information delivered under proposed Regulation E-Delivery would otherwise be subject to the consumer consent requirements of the Electronic Signatures in Global and National Commerce Act ("E-SIGN Act"), the Commission is proposing to exempt such covered information from those requirements entirely, relying on its exemptive authority under Section 104(d)(1) of the E-SIGN Act.

Under the E-SIGN Act, absent an applicable exemption, a business generally must obtain a consumer's affirmative consent before it may use electronic records to satisfy a legal requirement that information be provided to that consumer in writing. It must also satisfy certain related disclosure requirements. Because this consent requirement operates independently of, and in addition to, the Commission's own e-delivery framework, covered entities currently relying on e-delivery for natural-person recipients have generally needed to separately satisfy E-SIGN's consumer consent and disclosure requirements alongside the Commission's e-delivery guidance.

If adopted, the proposed exemption would remove this separate, duplicative layer of consent for covered information delivered under Regulation E-Delivery, such that a covered entity satisfying the conditions of Regulation E-Delivery would not need to separately obtain E-SIGN consent before delivering that information electronically to a covered recipient. The Commission has requested comment on the scope and appropriateness of this proposed exemption as part of the broader rulemaking.

Amendments to facilitate Regulation E-Delivery

The Proposing Release also includes amendments to certain existing Commission rules that currently address, or are related to, the delivery of regulatory information. These amendments are meant to facilitate the proposed e-delivery framework. They also reflect a modernized approach to the use of electronic media across Commission rules and forms more broadly. The amendments are designed to promote consistency between the Commission's existing rules governing electronic media and the new default e-delivery framework established under Regulation E-Delivery. They are also designed to eliminate provisions that would otherwise operate in parallel with, or in a manner inconsistent with, the proposed rule.

Specifically, the Commission is proposing to rescind Rule 30e-3 under the Investment Company Act. This rule currently gives registered closed-end funds and insurance company separate accounts offering variable annuity or variable life insurance contracts an alternative way to satisfy their shareholder report delivery obligations. Going forward, funds would instead rely on Regulation E-Delivery.

The Commission is also proposing to amend Regulations 14A and 14C and Rule 14d-5 under the Exchange Act. These provisions govern the dissemination of proxy materials, information statements, and tender offer materials. The amendments would coordinate the existing "notice and access" framework under Rule 14a-16 with the E-Delivery Methods established under the proposed rule.

Website availability of covered information

Where a covered entity uses the statement of availability method to deliver covered information, Regulation E-Delivery, as proposed, would require the covered entity to ensure that the covered information is made available on a website. The proposal defines "website" broadly to include other internet or electronic-based information repositories, such as a mobile application. The proposed rule also sets forth minimum requirements governing both the length of time covered information must remain available on the website and the format in which it must be presented.

With respect to duration, a covered entity would be required to maintain covered information on the applicable website for a specified minimum period following delivery. This ensures that a covered recipient retains the ability to access the information after receiving the initial statement of availability, rather than only at the moment of delivery.

With respect to format, the proposed rule is designed to help ensure that covered information is presented on the website in a manner comparable to how it would have been presented in paper format and does not impose undue barriers to a covered recipient's ability to access the information.

Where the covered information made available on the website includes PFI, a covered recipient would only be able to access that information through a process reasonably designed to safeguard the PFI, such as a password or multi-factor authentication requirement. This safeguard requirement is consistent with the safeguards required under the E-Delivery Methods more generally.

Identifying and remediating e-delivery failures

As proposed, Regulation E-Delivery would require covered entities to adopt and implement written policies and procedures reasonably designed to identify and remediate failed e-delivery. A failed e-delivery would include the detection of an invalid or inoperable electronic address, such as through a bounce-back notification or other similar means of identifying that a covered recipient did not receive the covered information as intended.

Where a covered entity identifies a failed e-delivery, the proposed rule would require the covered entity to promptly take reasonable steps to remediate the failure. These steps would include obtaining a new, valid electronic address from the covered recipient or, until such a new address is obtained, delivering the covered information to that covered recipient in paper format.

4/ Questions?

If you have any questions on the Proposing Release, please reach out to Sarah Gaynor (sgaynor@aima.org).

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