# From Opt-In to Opt-Out: SEC's Proposed Regulation E-Delivery Would End the Paper Default

**July 21, 2026**

## Overview

On July 16, 2026, the Securities and Exchange Commission (the "SEC" or the "Commission") proposed "Regulation E-Delivery" (the "Proposed Rule"),[1] a framework that would overhaul how required regulatory information is delivered under the federal securities laws. If adopted, the rule would permit—but not require—"covered entities" to use electronic delivery as the default method for delivering "covered information" to investors and other recipients, without first obtaining a recipient's affirmative consent, subject to specified conditions, including the recipient's ability to opt out and receive a paper copy free of charge. The Proposed Rule, if adopted, would generally supersede the Commission's decades-old, guidance-based e-delivery framework, which is built on an "opt-in" model.

In a significant related move, the proposal would also rescind Rule 30e-3 under the Investment Company Act of 1940, as amended (the "1940 Act"), the notice and access rule on which registered closed-end funds currently rely to satisfy shareholder report transmission requirements, and amend certain proxy and tender offer rules under the Securities Exchange Act of 1934 (the "Exchange Act"), as amended to align with the new approach.

The Proposed Rule reflects the Commission's broader modernization agenda. Chairman Atkins observed that in an age of artificial intelligence and blockchain, "a default to paper delivery should be a relic, not a standard,"[2] and noted that paper delivery imposes ongoing unnecessary costs that are ultimately borne by investors and reduce their returns. Commissioner Peirce, while supporting the Proposed Rule, characterized

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1 SEC Release No. IC-36252 (the "Release"). *See* https://www.sec.gov/files/rules/proposed/2026/33-11430.pdf.

2 *See* "Statement on Regulation E-Delivery" at: https://www.sec.gov/newsroom/speeches-statements/atkins-statement-regulation-e-delivery-07-16-26.

it as only a first step toward rethinking and modernizing the disclosure itself, noting that the Commission's rules still assume disclosures designed first for paper.[3]

This Debevoise In Depth summarizes the key features of the Proposed Rule that are of particular relevance to investment companies registered under the 1940 Act, including open-end funds, closed-end funds (collectively with open-end funds, "Funds") and business development companies ("BDCs").

## Who Is Covered: Open-End Funds, Closed-End Funds and BDCs as "Covered Entities"

The Proposed Rule would be available to any person that is required to deliver "covered information" to a "covered recipient" under federal securities laws—defined collectively as "covered entities." The definition is deliberately broad and designed to remain evergreen, but the Release specifically enumerates, among the entities the Commission anticipates would be the primary users of the rule, Funds and BDCs. As a result, Funds and BDCs would therefore all be able to rely on the rule, as would their distribution chains, registered broker-dealers, investment advisers, and transfer agents.

"Covered recipients" would encompass any current or prospective customer, client investor, security holder, counterparty or similar recipient of information—a formulation broad enough to reach both existing shareholders and prospective investors receiving offering materials.

Notably, reliance on the rule would be elective and divisible: a covered entity could choose to use e-delivery under the rule for only certain categories of covered information (e.g., information not containing personal financial information) or only certain categories of covered recipients (e.g., institutional investors), while continuing existing delivery practices for others.

An important limitation on scope warrants attention: the Proposed Rule reaches only delivery obligations imposed by the federal securities laws. Consistent with the approach taken in the existing e-delivery guidance, "covered information"[4] would not include disclosures required solely under state law or rules of self-regulatory organizations ("SROs"), including FINRA, and persons whose delivery obligations arise

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[3] *See* "Paper Taper: Statement on Proposed Regulation E-Delivery" (the "Peirce Statement") at: https://www.sec.gov/newsroom/speeches-statements/peirce-paper-taper-statement-proposed-regulation-e-delivery-071626.

[4] For Funds and BDCs, the Release specifically identifies the following as covered information: prospectuses, annual and semi-annual shareholder reports, notices required under Rule 19a-1 of the 1940 Act, proxy statements and information statements. *See id*. at pg. 50.

only under SRO rules would fall outside the definition of "covered entity" altogether.[5] The practical consequence for Funds and BDCs distributed through intermediaries is that a broker-dealer's FINRA-imposed delivery obligations would not be satisfied by compliance with the Proposed Rule, and that firms will need to track SRO-level developments separately, though FINRA has signaled that it is exploring a parallel move away from paper as the default.[6]

## Default E-Delivery Without Prior Affirmative Consent

If adopted, the rule would provide assurance that "covered entities" satisfying the rule's conditions have met applicable federal securities law delivery requirements through electronic delivery—without requiring affirmative consent from the recipient. This represents a marked departure from the SEC's 1995 and 1996 interpretive releases, under which electronic delivery generally could serve as the default delivery method only with the recipient's informed consent. In connection with the proposal, the Commission would rescind the 1995 and 1996 releases in their entirety—following a two-year transition period, as discussed below—while leaving intact most of the 2000 interpretive release, including its guidance on matters beyond delivery mechanics.[7]

Regulation E-Delivery would be permissive, not mandatory—it would provide a standardized safe harbor for e-delivery but would not require any entity to adopt electronic delivery. Funds and BDCs could continue to deliver materials in paper or could rely on existing methods, but Regulation E-Delivery would provide a streamlined, rule-based pathway to default e-delivery. Commissioner Peirce highlighted a practical consequence of this non-exclusivity: a firm that, by agreement with its customers, delivers only electronically or charges for paper copies could not rely on the Proposed Rule—which conditions the safe harbor on free paper upon request—but would not necessarily be out of compliance, and she has invited comment on whether the Proposed Rule's scope should expand to cover such arrangements.[8]

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5 *See id*. at pp. 47–48.

6 *See* Supporting Modern Member Workplaces (Reg. Not. 25-07) at https://www.finra.org/sites/default/files/2025-04/Regulation-Notice-25-07.pdf.

7 *See* the Release fn. 2 at p. 7.

8 *See* the Peirce Statement.

## Conditions for Relying on the Safe Harbor

To rely on Regulation E-Delivery, Funds and BDCs must satisfy the following conditions:

### Electronic Address Requirement

The covered entity must have an electronic address for the covered recipient, the covered recipient must not have opted out of e-delivery and the entity must have given a prominent disclosure that it will send covered information to that electronic address.

"Electronic address" is defined broadly and is intended to be technology-neutral—it could include an email address, mobile phone number, app, web portal or any other means of electronic communication that is capable of receiving delivery and alerting the recipient when covered information becomes available.

A covered entity that has no electronic address for a particular recipient would not be able to rely on the rule as to that recipient and would need to continue paper delivery. Notably, the Commission declined to permit a workaround for this population; the Proposed Rule contains no mechanism for sending a paper notice—such as a postcard with a QR code or URL—directing an electronic address-less recipient to online materials. The Release reasons that a recipient who has declined even to provide an electronic address is relatively likely to prefer paper, making this a deliberate design choice rather than a gap. For Funds and BDCs, the practical implication is that electronic address capture—at account opening, through subscription documents and via intermediary onboarding—becomes the gating operational item for realizing the Proposed Rule's benefits across an investor base.

### Two Permitted Delivery Methods

The Proposed Rule permits two delivery methods:

- Direct Delivery—sending the document itself (e.g., as an attachment or in the body of a communication) to the recipient's electronic address; and

- Statement of Availability—sending an electronic notice with a hyperlink to the document on a website, application or other electronic repository meeting the rule's requirements. Because the statement of availability method is also permitted for non-PFI information (discussed below), Funds and BDCs could adopt a single, uniform delivery workflow—routing all covered information through a secure website with an electronic notice of availability—rather than maintaining parallel processes for PFI and non-PFI materials.

Under either method, delivery must occur no later than the date the underlying federal securities-law requirement mandates, and every delivery must include the prominent statement explaining how to obtain paper copies, opt out and update one's electronic address, all free of charge.

### Heightened Protections for Personal Financial Information ("PFI")

The proposal distinguishes "personal financial information" ("PFI")—information specific to a recipient's personal financial matters, such as account numbers or details of specific securities transactions—and imposes heightened protections.

Covered information containing PFI may not be sent by direct delivery (e.g., as an email attachment). Instead, it must be delivered via a statement of availability and accessed through a safeguarding process reasonably designed to protect the PFI, with the hyperlink leading directly to the information after the safeguarding process is completed.

Industry participants should carefully consider how the PFI/non-PFI distinction would operate in practice, particularly for documents that combine standardized content with recipient-specific information, such as distribution notices or repurchase conformations, and whether the line the Proposed Rule draws is sufficiently clear to support consistent classification across their delivery workflows.

## Required Disclosures and Investor Rights

Every e-delivery under the Proposed Rule must include a prominent statement explaining how the recipient may:

- request a paper copy of any covered information previously delivered electronically, free of charge;
- opt out of e-delivery at any time, free of charge, and receive paper delivery going forward; and
- update the recipient's electronic address free of charge.

Each of these options must be accessible through at least a website destination.

### Paper Copy on Request

Covered entities must provide one paper copy of any covered information previously delivered electronically, free of charge, during the applicable federal record-retention period (or the preceding two years if no specific retention requirement applies). The paper copy must be sent by U.S. first class mail or another reasonably prompt means within three business days after receiving the request (unless federal securities laws specify otherwise).

## Delivery Mechanics: Timing, Separation from Marketing and Failed-Delivery Remediation

Three operational conditions apply across both delivery methods.

- **Timing**: e-delivery must occur no later than the date delivery is required under the applicable federal securities law—the Proposed Rule changes the medium, not the deadline.

- **Separation**: direct deliveries and statements of availability must be transmitted separately from non-covered communications such as marketing materials—meaning sponsors cannot fold regulatory deliveries into promotional emails and will need distinct transmission workflows.

- **Remediation**: covered entities must adopt written policies and procedures reasonably designed to identify failed e-deliveries (e.g., bounce-backs) and promptly remediate them by obtaining a corrected electronic address or reverting to paper until one is obtained. Sponsors should expect this to become a standard compliance program item.

## Website Requirements (Statement of Availability Method)

Unless a longer period applies under another rule, covered information must remain posted for at least three years (PFI) or one year (non-PFI), in a format convenient for reading online and printing, and recipients must be able to retain copies permanently, free of charge. PFI must sit behind a safeguarding process reasonably designed to protect it. The covered entity may use its own website or a third-party service provider, but not EDGAR. Commissioner Uyeda flagged format as a live comment issue, cautioning that the default shift should not come at the expense of accessibility and inviting comment on whether the proposed formatting conditions suffice to keep documents clear and digestible electronically.[9]

## Transitioning Existing Paper Recipients

For covered recipients who, as of the rule's effective date, receive any covered information in paper and for whom the covered entity has an electronic address, Regulation E-Delivery would require a structured transition process before defaulting those recipients into e-delivery.

The transition process requires two paper notices:

- **Initial Notice**: A paper notice sent by mail at least 180 days before default e-delivery begins (describing what will move to e-delivery, identifying the electronic address, stating the transition date and explaining free opt-out including on a document-by-document basis—and address-update mechanics via toll-free number and website); and
- **Follow-Up Notice**: A paper notice sent 30 days before the transition date.

While the follow-up notice is generally required, it is not required if the recipient has updated or confirmed an electronic address after receiving the initial notice (and has not opted out), or if the recipient opted out after the initial notice.

The practical takeaway: the transition clock, notice drafting and transfer-agent coordination should be scoped, because the 180-day runway makes this the longest-lead-time item in any implementation plan.

## Rescission of Rule 30e-3: Key Impact for Closed-End Funds and BDCs

Rule 30e-3 currently permits registered closed-end funds and BDCs that register on Form N-2[10] to satisfy Section 30(e) and Rule 30e-1 transmission obligations by posting reports online and mailing a paper notice (e.g., postcard). Under the Proposed Rule,

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[9] *See* Statement on Proposed Regulation E-Delivery ("Uyeda Statement") at: https://www.sec.gov/newsroom/speeches-statements/uyeda-statement-proposed-regulation-e-delivery-071626.

[10] BDCs which are not registered investment companies generally satisfy their annual report obligations under Section 30(e), as applied by Section 64(a)—thorough Exchange Act reports and the proxy rules' annual report delivery mechanism; the Proposed Rule's parallel amendments to those rules would similarly channel BDC deliveries into the Proposed Rule's framework.

Rule 30e-3 would be rescinded in its entirety and, importantly, the paper postcard with a URL or QR code would not be a permitted delivery method under the new framework. Funds and BDCs relying on Rule 30e-3 therefore face a binary path: build to Reg E-Delivery's conditions or revert to full paper transmission for recipients without electronic addresses.

## Compliance Timeline and Implementation

The SEC proposes a two-year interim period from the Proposed Rule's effective date (which is proposed to be 60 days after publication of a final rule in the Federal Register) before rescinding the 1995 and 1996 e-delivery interpretive guidance. This interim period is designed to allow covered entities time to adjust technology systems and processes and design compliant statements of availability and direct delivery processes.

## Key Considerations and Action Items for Fund and BDC Sponsors

Given the breadth of the proposed rule, Fund and BDC managers should consider the following:

- **Audit current delivery practices (closed-end funds and BDCs)**. Assess which documents the Fund or BDC currently delivers in paper or electronically, and under what authority (including Rule 30e-3), and, critically, what percentage of the shareholder base has an electronic address on file. That percentage is the ceiling on the Proposed Rule's cost savings.

- **Evaluate the impact of Rule 30e-3's rescission (closed-end funds and BDCs)**. Closed-end funds and BDCs relying on notice-and-access should model both paths (Regulation E-Delivery compliance vs paper reversion) and their costs.

- **Assess PFI implications**. Identify which covered communications contain personal financial information and determine the operational changes needed to deliver those communications via the statement-of-availability method with appropriate safeguarding processes.

- **Engage Intermediaries Early**. Most fund shares are held in street name, so implementation will largely run through broker-dealers and other intermediaries. Commissioner Uyeda specifically asked whether the Proposed Rule will be "workable in practice given this intermediated delivery chain."[11] As a result, sponsors should work with their intermediaries on implementation plans and review whether distribution and shareholder servicing agreements need amendment.

- **Begin Address Capture Now**. Update account-opening and subscription documents to collect electronic addresses with the required prominent disclosure—the gating item for every other benefit of the Proposed Rule.

- **Consider Commenting**. Practical concerns—PFI classification of hybrid documents, intermediated chain mechanics and transition notice logistics are precisely what the Commissioners have invited comment on.

## Conclusion

Proposed Regulation E-Delivery would effect the most significant modernization of the SEC's delivery framework in three decades, replacing a paper-default, opt-in regime that Chair Atkins characterized as a relic of a bygone era. The economic logic is straightforward, paper delivery costs are ultimately borne by fund shareholders and investor preference data supports the shift: Commissioner Uyeda cited SEC survey findings that nearly 80% of U.S. investors prefer some form of e-delivery for documents without personal information, and roughly 63% prefer it even for documents containing personal information.[12] But the safe harbor's benefits must be earned through its conditions—transition notices, PFI safeguarding, document-by-document opt-outs, website availability, and remediation policies and procedures for failed e-deliveries. As Commissioner Peirce emphasized, the Proposed Rule is a first step in a longer disclosure modernization project rather than its conclusion.

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Please do not hesitate to contact us with any questions.

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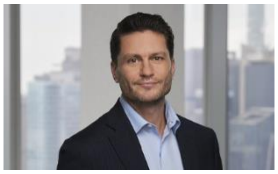
11 *See* Uyeda Statement.

12 *See id*.



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