Director Daly's Remarks Highlight Division of Investment Management Priorities

August 3, 2026

In his keynote remarks at the PLI Investment Management 2026: Current Issues & Trends on July 28, 2026, Brian Daly, Director of the Division of Investment Management of the Securities and Exchange Commission ("SEC"), offered valuable insight into ongoing policy developments across the asset management industry. Topics of discussion covered electronic delivery of information, Novel ETFs (defined below), the SEC's RegFlex Agenda (defined below), and proxy voting.

Regulation E-Delivery. Director Daly's remarks discussed the SEC's recently proposed "Regulation E-Delivery",[1] which would overhaul how required regulatory information is delivered under the federal securities laws by permitting (but not requiring) "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.[2]

Director Daly observed that physical delivery is an outdated and expensive relic for how investors receive information. In his remarks, Director Daly expressed his hope that Regulation E-Delivery, if adopted, would do more than simply transition the SEC's informational delivery requirements from the physical delivery of paper envelopes to emailed delivery of PDFs, but, rather, trigger broader innovation by industry participants for the next era of information delivery, with potential applications of artificial intelligence or personalized delivery.

Director Daly also noted that Regulation E-Delivery represents a collaborative effort across various divisions within the SEC - the Division of Investment Management, the Division of Corporation Finance, the Division of Trading and Markets, and the Division of Economic and Risk Analysis - to holistically modernize SEC's mailings and informational requirements.

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1 SEC Release No. IC-36252. The full text of the proposing release for Regulation E-Delivery is available here.

2 Additional Debevoise commentary on Regulation E-Delivery is available here.

Request for Comment on Novel ETFs. Director Daly's remarks also addressed the SEC's recent request for public comment on exchange-traded funds ("ETFs") seeking to invest in innovative asset classes or engage in novel investment strategies.[3] Director Daly noted that the request for comment follows recent interest by sponsors of ETFs to utilize the ETF wrapper to provide investment exposure to innovative asset classes and using novel investment strategies ("Novel ETFs").[4] The SEC's request for comment seeks input from market participants on questions in the following areas:

- whether and when Novel ETFs with a principal investment strategy to invest in non-securities assets should be considered investment companies under the Investment Company Act of 1940, as amended ("1940 Act"), and, therefore, registered and regulated under the 1940 Act;
- the ability of Novel ETFs to rely on rule 6c-11 under the 1940 Act which permits ETFs that satisfy certain conditions to operate without the expense and delay of obtaining customized exemptive relief; and
- the registration and launch process for Novel ETFs.

Director Daly explained that the 2019 adoption of rule 6c-11 represented an important effort of regulatory modernization that unlocked the ETF structure as entire asset class, allowing retail investors to gain access to market beta and market alpha at a low cost and facilitating an explosion of new ETF registrants and launches, including Novel ETFs.

Director Daly noted, however, that the growth of Novel ETFs presents a number of challenges for the SEC staff to consider. For example, Director Daly discussed how Novel ETFs proposing to offer exposure to prediction markets raise questions for the SEC staff about the mechanics of how such an investment strategy would function in an ETF wrapper, given that those strategies feature a single investment exposure to event contracts that are binary in nature. Likewise, Director Daly noted that Novel ETFs offering exposures to perpetual futures strategies present a different way of looking at investment, payout and capital.

The remarks highlighted that there is enormous pressure on the SEC staff to "get it right" when it comes to their review of Novel ETFs. He noted that, for many Novel ETFs, the first product to market is often the product that wins the greatest market

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[3] SEC Release No. IC-36228. The full text of the request for comment is available here.

[4] The request for comment defines "Novel ETFs" as including, to date, "crypto assets; commodity-focused instruments; single-stock strategies; heightened leverage; blockchain-enabled opportunities; private assets; event contracts; and/or a combination of any of the above."

share. Director Daly once again encouraged industry participants to provide input on the request for comment to the SEC staff sooner rather than later.

RegFlex Agenda. Director Daly's remarks also highlighted several key takeaways from the SEC's recently released 2026 Regulatory Flexibility Agenda (the "RegFlex Agenda").[5] Items on the RegFlex Agenda include proposed amendments to the custody rules under the Investment Advisers Act of 1940, as amended, ("Advisers Act") and the 1940 Act, amendments to cross-trade requirements under Rule 17a 7 under the 1940 Act, pay-to-play reform, affiliated securities lending agent arrangements and rulemakings aimed at enhancing retail exposure to private markets.[6]

Alongside broad efforts to modernize and foster innovation, Director Daly's remarks cited "responsible retailization"[7] as a core theme of the RegFlex Agenda, noting that further developments in this area are to be expected. In this connection, the RegFlex Agenda states that the Division of Investment Management is "considering recommending that the [SEC] propose amendments to existing rules and/or propose new rules … to better facilitate retail investor exposure to private markets through registered investment companies and to allow investment advisers to charge performance fees to an expanded set of clients," explaining that "[f]acilitating retail investor exposure to private markets through registered funds and modernizing the performance fee framework would provide needed investment opportunities for retail investors seeking to diversify their investment allocation in line with their investment time horizon and risk tolerance and open more opportunities for retail investors."[8]

Proxy Voting. Director Daly once again brought into focus the current state of proxy voting by registered investment advisers and the role proxy advisors play in that process. Director Daly's remarks called back to an earlier speech he had made in January 2026 before the New York City Bar Association,[9] during which he questioned the role that proxy advisory firms play within the contemporary landscape and whether it was appropriate for certain categories of managers (such as managers to passive index funds or quantitative and systematic managers) to vote proxies. In this January 2026 speech, Director Daly had encouraged advisers to "to re-evaluate and reassess – and perhaps to redirect" their current proxy voting arrangements. Director Daly's January 2026 speech had followed an executive order issued by the Trump administration entitled "Protecting American Investors From Foreign-Owned and Politically-Motivated Proxy

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[5] The full 2026 RegFlex Agenda is available here.

[6] In an accompanying statement, SEC Chair Paul S. Atkins characterized the RegFlex Agenda as reflecting "robust rulemaking" aimed at embracing innovation and new technology, reversing the decline of public companies and revitalizing public markets, and facilitating retail investor participation in private markets.

[7] Additional Debevoise coverage regarding the retailization of private markets access is available here and here.

[8] The full text of this RegFlex Agenda item is available here.

[9] The full text of Director Daly's January 2026 speech is available here.

Advisors”[10] as well as comments by SEC Chair Paul Atkins to “de-politicize” shareholder meetings.[11]

In his most recent remarks, Director Daly observed that “[p]roxy voting is not in a good place in our markets right now” and that managers are currently operating in a “business-as-usual” mode, as investment advisers often feel compelled to vote on matters that are not germane to their clients’ investment objective. However, Director Daly noted that business as usual among investment advisers can harm their clients when weighed against the costs associated with proxy voting. Director Daly noted that “[m]anagers are spending investor money” and “reducing investor returns” in the process, meaning that “[o]rdinary Americans are going to have less money at retirement, have less money to send their children to the school of their choice, … have less money to bequeath to their heirs, because [investment advisers] are spending money on proxy processes that are not appropriate or necessary in today's age.”

Director Daly reinforced his earlier comments regarding voting of proxies on behalf of funds pursing passive investment strategies, as well as the need for sponsors to come in with their suggestions on proxy voting and to engage with him and his office. In urging the industry to engage with the staff on this topic sooner rather than later, he noted that there had been “not a single substantive engagement" on this topic in the intervening months following his January 2026 speech. Director Daly credited industry engagement with SEC staff as being an important element of the SEC’s recent successes in providing valuable relief and guidance in an efficient and effective way.

Conclusion. Taken together, Director Daly’s remarks clarify the current priorities of the Division of Investment Management and the regulatory developments that will define the balance of the 2026 and beyond. This includes a wide range of substantive rulemakings aimed at modernizing the current regulatory framework to reflect current needs, fostering innovation within the asset management industry going forward, and enhancing the experience of retail investors. However, his remarks also highlight the extent to which substantive engagement between the SEC staff and industry participants remains a procedural priority.

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Please do not hesitate to contact us with any questions.

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[10] Exec. Order No. 14366, 90 Fed. Reg. 58503 (Dec. 11, 2025). The full text of the executive order is available here.

[11] The full text of Chair Atkins’ remarks are available here.

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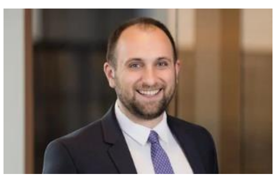

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