September 18, 2026

VIA ELECTRONIC SUBMISSION

Ms. Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

Re: **Electronic Delivery of Information Under the Federal Securities Laws, SEC File Number S7-2026-25, RIN 3235-AN57**

The Securities Industry and Financial Markets Association[1] and its Asset Management Group ("AMG")[2] (together, "SIFMA") appreciate the opportunity to provide comments to the Securities and Exchange Commission (the "SEC" or the "Commission") on proposed Regulation E-Delivery ("Regulation E-Delivery" or the "Proposed Rule").[3] The Proposed Rule would permit covered entities to deliver covered information to covered recipients electronically without requiring firms to obtain affirmative consent. This would be a significant improvement over the SEC's long-outdated electronic delivery guidance. SIFMA agrees that it is time to modernize delivery of required disclosures by allowing firms to make electronic delivery the default method for delivery. Indeed, SIFMA submitted a letter to SEC Chairman Atkins in September 2025 requesting that the SEC take the steps necessary to bring about this change (the "SIFMA Request").[4]

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1 SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry's one million employees, we advocate on legislation, regulation and business policy affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association ("GFMA").

2 SIFMA AMG brings the asset management community together to provide views on U.S. and global policy and to create industry best practices. SIFMA AMG's members represent U.S. and global asset management firms that manage more than 50% of global AUM. The clients of SIFMA AMG member firms include, among others, tens of millions of individual investors, registered investment companies, endowments, public and private pension funds, UCITS and private funds such as hedge funds and private equity funds. For more information, visit http://www.sifma.org/amg.

3 *See* Electronic Delivery of Information Under the Federal Securities Laws, 91 Fed. Reg. 45884 (the "Proposing Release").

4 *See* Letter from Kenneth E. Bentsen, Jr., President & CEO, SIFMA to Paul Atkins, Chairman, SEC (Sept. 15, 2025), available here.

While the Proposed Rule reflects a number of the key principles set out in the SIFMA Request, the Proposed Rule, including the requests for comment set out therein, raises a number of issues of concern to our members. In light of that, we respectfully offer our comments and recommendations regarding the Proposed Rule for the Commission's consideration.

I. Executive Summary

SIFMA supports the SEC's proposal to modernize the electronic delivery framework through Regulation E-Delivery. SIFMA's key comments are as follows:

- SIFMA supports the SEC's proposal to permit covered entities to make electronic delivery the default method for delivering covered information. This will result in significant benefits for covered recipients who increasingly prefer to access information electronically and substantial cost savings for covered entities and covered recipients.

- SIFMA supports the SEC's proposal to exempt the delivery of covered information under Regulation E-Delivery from the consumer consent requirements of the Electronic Signatures in Global and National Commerce Act ("E-Sign").

- The SEC should seek to avoid imposing new implementation or ongoing compliance costs that could reduce the investor benefits and cost savings expected from electronic delivery.

- SIFMA supports the scope of Regulation E-Delivery, including the definitions of "covered information," "covered entity," and "covered recipient," with certain recommended refinements. In particular, the SEC should expand the definition of "covered information" to include information delivered pursuant to self-regulatory organization ("SRO") delivery requirements to ensure consistent requirements. SIFMA encourages the SEC to confirm that the term "similar recipient of information" as used in the definition of "covered information" is intended to include legal representatives and former customers.

- SIFMA supports the proposed definition of "electronic address" as consistent with SIFMA's prior request to enable various electronic delivery methods. Consistent with Regulation E-Delivery as proposed, the SEC should not require read receipts or confirmation of website access.

- SIFMA generally supports the disclosure provisions of the Proposed Rule but requests that the SEC (i) permit covered entities to use electronic addresses received from affiliates, third parties, employers, and administrators of private funds on behalf of limited partners, or as a result of account transfers; (ii) allow covered entities to apply their existing householding policies to the delivery of the required disclosures; (iii) permit statements of availability to refer to broad categories of covered information rather than requiring specific identification of each item and a description of any "call to action" and deadlines; and (iv) remove the requirement that the statement of availability lead "directly" to the covered information.

- Covered entities should be allowed to include non-covered information in communications that contain covered information, consistent with current industry practices.

- Any requirement to allow covered recipients to opt out of electronic delivery and instead receive paper copies of documents should (i) be limited to retail customers, and (ii) permit covered entities to charge reasonable fees to account for printing, mailing, and other costs.

- The proposed requirement to provide paper copies of documents previously delivered electronically upon client request should be eliminated. If the Commission retains this requirement contrary to our strong recommendation to eliminate it, then it should not impose a specific time period for when paper copies must be delivered, given the ad hoc and bespoke nature of any client request and the extensive manual efforts that would be necessary to comply with such requests.

- Covered entities should be permitted to use other widely available formats for electronically delivering covered information to covered recipients that do not necessarily lend themselves to printing on paper.

- The Proposed Rule should permit a covered entity to provide opt-out elections on an "all or nothing" basis or by categories of documents defined by the firm, rather than requiring document-by-document opt-out capability. Some covered entities only provide electronic delivery on an all-or-nothing basis, while others provide selectivity based on certain categories of information. Covered entities would incur significant operational expenses to implement an "any or all" approach.

- Covered entities that disclose the right to restrict or terminate accounts that opt out of electronic delivery should be permitted to continue delivering information electronically after termination of an account, consistent with the disclosed delivery approach. Otherwise, covered entities that have designed their businesses around electronic delivery would be required to incur the same operational expenses of creating a postal delivery process as other firms.

- The proposed requirement to adopt specific policies and procedures to identify and remediate failed electronic deliveries is unnecessary. Covered entities are subject to existing requirements to have policies and procedures reasonably designed to comply with applicable law and typically have processes in place to monitor for delivery failures.

- The SEC should reduce the transition period from 180 days to 60 to 90 days.
- Regulation E-Delivery should not apply to dealings with institutional investors, allowing covered entities and institutional investors to determine their own arrangements, including an "access equals delivery" approach.
- It is unnecessary to include direct recordkeeping requirements, as covered entities already keep relevant records and are subject to comprehensive recordkeeping requirements under the Federal securities laws.

II. SIFMA Supports the Adoption of Regulation E-Delivery

SIFMA enthusiastically supports the SEC's proposal to modernize the electronic delivery framework. As we noted in the SIFMA Request, the SEC's current electronic delivery guidance was groundbreaking when it was established more than 25 years ago. The Commission has generally permitted electronic delivery of required information when there is timely and adequate notice that the information is available electronically, and the customer has consented to receive electronic delivery. Paper delivery, however, remains the default option for firms obligated to deliver information to investors, notwithstanding the significant changes in technology and customer use of electronic communications over the past three decades.

In the Proposing Release, the SEC discussed the growing, and nearly universal, use of the internet and other forms of electronic communications.[5] The SEC noted that investors and other recipients of regulatory information increasingly expect, and prefer, to receive information electronically. Meanwhile, the costs associated with paper delivery are enormous. A SIFMA survey of its members, which we discussed in a supplement to the SIFMA Request,[6] found that firms send an average of fourteen documents per retail account each year, totaling billions of documents sent to retail investors. Respondents spent an average of $62 million per year delivering documents to retail investors, with large firms spending more than $130 million per year. The cost of sending paper documents averaged $1.45 per document, compared with less than $0.20 per document delivered electronically.

Accordingly, SIFMA believes that its members and their customers will benefit from significant cost savings if the SEC permits covered entities to treat electronic delivery as a default option for delivering covered information. Covered entities can use their cost savings to invest in improvements to products, services, and technologies available to investors. SIFMA also expects that investors, including retail customers, will receive significant benefits from electronic delivery. Investors increasingly access information electronically using computers, mobile phones and apps, and other devices. As noted in the SIFMA Request, postal delivery has been cited in the past as providing security and timeliness for the delivery of sensitive documents. Today, electronic

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5 *See* Proposing Release, 91 Fed. Reg. at 45887-89.

6 *See* Letter from Melissa MacGregor, Deputy General Counsel & Corporate Secretary, SIFMA to Paul Atkins, Chairman, SEC (Mar. 13, 2026), available here.

notification is more secure because investor identities can be verified and important information can be shared with investors in a more timely fashion.[7]

III. Scope of Proposed Regulation E-Delivery

The Commission described the scope of Regulation E-Delivery as "e-delivery of 'covered information' by 'covered entities' to 'covered recipients.'"[8] The Proposed Rule would define "covered information" as "any information required to be delivered to a covered recipient under the [Federal securities laws]" except certain information required to be delivered under Regulation Crowdfunding.[9] "Covered entity" would be defined as "any person required to deliver covered information to a covered recipient."[10] "Covered recipient" would be defined as "any current or prospective customer, client, investor, security holder, counterparty, or similar recipient to whom a covered entity is required to deliver covered information."[11]

SIFMA generally supports the scope of Regulation E-Delivery. The Proposed Rule is generally consistent with the scope of SIFMA's request for rulemaking to allow covered entities to make electronic delivery a default method of delivering required information. The SIFMA Request noted that certain key principles are critical to treating electronic delivery as a default delivery method, including that (i) covered entities should only need to follow the updated rules and guidance with respect to communications that are required to be delivered under the Federal securities laws, including SRO rules; (ii) electronic delivery should be available as a default method for all covered entities required to deliver communications to investors under the Federal securities laws; and (iii) an electronic delivery address should include a variety of current and future electronic methods for delivering communications, including an email address, cell phone number, online account, web-based portal, mobile app, or other means developed by a covered entity to deliver communications electronically.[12]

SIFMA also supports the SEC's proposal to exempt from the consumer consent requirements of E-Sign covered information delivered under Regulation E-Delivery. As we stated in the SIFMA Request, SIFMA believes that such an exemption is necessary for covered entities to be fully able to use electronic delivery.[13]

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7 *See* SIFMA Request at 8-9. SIFMA is separately seeking guidance from the IRS regarding tax reporting obligations and electronic delivery and encourages broader adoption of similar electronic delivery approaches across regulatory regimes. *See* Letter from Jessica Barker, Managing Director, Tax & Associate General Counsel, SIFMA to Kevin Salinger, Assistant Secretary for Tax Policy (Acting) and Chief Counsel (Acting), U.S. Department of the Treasury, (Sept. 8, 2026), available here. Greater alignment should help provide investors with a more consistent client experience.

8 Proposing Release, 91 Fed. Reg. at 45891. The SEC should permit certain products to only provide electronic delivery consistent with their terms and conditions (e.g., tokenized securities).

9 Proposed Regulation E-Delivery § 303.101.

10 *Id.*

11 *Id.*

12 SIFMA Request at 3.

13 *Id.* at 7.

a. Covered Information

SIFMA believes that the term "covered information" appropriately includes only information required to be delivered to a covered recipient under the Federal securities laws. The SEC should not expand the definition of "covered information" to include disclosures or other information that are not required to be delivered under the Federal securities laws.[14] Applying Regulation E-Delivery only to required communications would be consistent with the approach that the SEC has historically taken with respect to electronic delivery and also respect the commercial relationships that covered entities have with covered recipients.

SIFMA requests that the SEC expand the definition of "covered information" to include information delivered pursuant to SRO delivery requirements.[15] SIFMA believes that this is important to ensure that there are consistent requirements for the use of electronic delivery by covered entities and avoid the potential for conflicting approaches by the various SROs. SIFMA hopes this will also result in communications that are required to be delivered under SRO rules being exempt from the requirements of the E-Sign Act.

b. Covered Recipient

The Proposed Rule would define "covered recipient" to mean "any current or prospective customer, client, investor, security holder, counterparty, or similar recipient to whom a covered entity is required to deliver covered information."[16] In the Proposing Release, the Commission noted that the phrase "similar recipient of information" is intended to include any legal representative of a covered recipient or any other person whom the covered recipient has designated to receive covered information on the covered recipient's behalf.[17] The Commission also indicated that the term would include a person who at the time of a communication is no longer a current customer of the covered entity.

SIFMA agrees that it is important to facilitate electronic delivery of covered information to a legal representative or other person that has been designated by a covered recipient to receive covered information on the covered recipient's behalf. SIFMA encourages the SEC to confirm that the term "similar recipient of information" is intended to include legal representatives and former customers.

c. Electronic Address

SIFMA supports the proposed definition of "electronic address" and believes it should facilitate the use of electronic delivery through existing and future methods of

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14 In the Proposing Release, Request for Comment 26, the Commission asked whether the scope of the definition is appropriate and whether it should be expanded to include certain disclosures not required to be delivered under the Federal securities laws. *See* Proposing Release, 91 Fed. Reg. at 45900.

15 This would include, for example, FINRA, the MSRB, and the exchanges.

16 Proposed Regulation E-Delivery § 303.101.

17 *See* Proposing Release at 45899.

electronic delivery. The Proposed Rule defines "electronic address" as "an identifier used to communicate with a covered recipient electronically, including: an email address; a mobile phone number; or any other means of electronic communication capable of receiving electronic delivery pursuant to an electronic delivery method . . . and alerting a covered recipient that covered information is available."[18]

In SIFMA's view, the approach proposed by the SEC correctly looks to the capability of the means of electronic communication, and not the covered recipient's use of covered information. For example, if a user disables notifications, or an electronic communication is caught up in a spam folder, that should not affect whether covered information has been delivered for purposes of the Federal securities laws. Covered entities would be required to alert the covered recipient each time that covered information is available. Such an alert should be allowed to be, for example, an email, a text, a notification from an electronic application, or some other form of notification that the covered information has been delivered.

SIFMA agrees that the SEC should not require that covered entities confirm that a covered recipient has accessed the covered information (e.g., by requiring read receipts on emails or confirmation that a covered recipient has accessed a website portal or covered information contained therein). For example, a user disabling notifications, or information getting caught up in a spam folder, should not affect whether information is deemed to have been delivered for purposes of the Federal securities laws. While the SEC acknowledges that there is a risk that covered information delivered electronically may not be opened or read, that risk exists today regardless of whether information is delivered electronically or via postal mail. The SEC's proposed approach is consistent with postal delivery where mailing a required communication is sufficient and firms are not required to have proof of delivery or otherwise confirm that a customer has opened or read the information delivered by postal mail. Moreover, while a covered entity might have the ability to confirm whether covered recipients have accessed material (e.g., for litigation purposes), the covered entity should not be required to use those capabilities to ensure that covered recipients are accessing or reviewing covered information (or retain related records). In addition, if a paper client has provided an email address in connection with their account profile, either at account opening or as part of account maintenance, covered entities should be able to treat that email address as having been "provided by" the covered recipient.

Information Provided by Affiliates. SIFMA requests that the SEC expand the definition of electronic address to include an email address or phone number provided by a covered entity's affiliate.[19] For example, in a financial services holding company, each covered entity that is a subsidiary of the holding company should be able to receive and use electronic addresses received from affiliates, regardless of whether the affiliates

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[18] Proposed Regulation E-Delivery § 303.101.

[19] The Proposing Release states that a covered entity's receipt of an electronic address from a third party (e.g., an affiliate) "generally would not meet the requirement that the electronic address be provided by a covered recipient." Proposing Release, 91 Fed. Reg. at 45901 n.118.

are registered with the SEC, and should not be required to separately obtain an electronic address from a covered recipient.

Information Provided by Third Parties. SIFMA's broker-dealer members believe that the Proposed Rule should not require covered entities, such as broker-dealers, to provide electronic addresses of non-objecting beneficial owners ("NOBOs") to issuers, proxy solicitors, or other third parties because doing so puts NOBOs' security and privacy at risk, as well as undermines customer trust. When combined with other investor information, including name, mailing address, and security positions, the disclosure of electronic contact information may increase exposure to phishing, social engineering, financial crime, and cybersecurity risks. It also undermines privacy protections. Electronic addresses often serve as identifiers within customer authentication and account security processes. In addition, phone numbers aligned to mobile devices may be used to enhance security features, such as multi-factor authentication. Accordingly, in the event of a security breach, all of this information would enable a cyber-criminal to cause significant harm to customers.

Regarding customer privacy, in most instances, NOBOs have not expressly consented to the sharing of their email addresses, mobile phone numbers, or other electronic contact information. Requiring disclosure of such information may exceed customer expectations and the scope of consent originally provided. Customers generally expect broker-dealers to serve as the primary channel for communications regarding their accounts and investments. Providing electronic addresses could expose investors to unsolicited communications, create uncertainty regarding downstream use and retention of customer information, and undermine the trusted communication model that currently exists between investors and their broker-dealers. While we support the Commission's objective of facilitating electronic shareholder communications, it is not clear that achieving this objective requires disclosure of investors' underlying electronic contact information. Broker-dealers already maintain established electronic communication channels, including secure portals, mobile applications, electronic delivery platforms, and related notification services. SIFMA's broker-dealer members encourage the Commission to consider whether intermediary-managed electronic delivery models can achieve the same communication objectives while preserving customer privacy and reducing cybercrime risk.

Introducing-Clearing and Sub-Advisory Arrangements. Broker-dealers and investment advisers have various arrangements to provide services to customers, including introducing-clearing arrangements, sub-advisory relationships, and clearing/custodial arrangements. In these arrangements, customers typically consent to the sharing of information between the various SEC-registered entities, including contact information. For example, introducing brokers collect email addresses of customers through their onboarding process. Clearing firms should be able to rely on the introducing brokers to collect the consents and email addresses consistent with FINRA Rule 4311. In finalizing Regulation E-Delivery, the SEC should respect these arrangements and allow the sharing of electronic addresses among registered entities with prior customer consent, including for the initial transition period. Each covered entity in these arrangements should not be separately required to obtain an electronic address from a covered recipient. Instead, one covered entity should be able to rely on an electronic address that was provided by a covered recipient to the other covered entity in these arrangements.

Transfers of Customer Accounts. SIFMA encourages the SEC to allow a covered entity to use the electronic address of a covered recipient that is received from another covered entity as a result of an account transfer (e.g., mergers, acquisitions, transfers of financial advisors).

Information Provided by Employers. The definition of electronic address should also include an address provided or selected by a customer's employer.[20] A large number of public companies provide their employees the opportunity to participate in employee plans that allow them to: (1) be awarded equity stock as part of their compensation; or (2) purchase their employer's stock (collectively, "Equity Compensation Plans").[21] The employer or its parent company acts as the plan sponsor for these plans, and contracts directly with a covered entity (e.g., a broker-dealer or transfer agent) to service and administer the plan participants' equity awards that vest or to facilitate their stock purchases.

For new plan participants, upon instruction from the employer/plan sponsor, the covered entity establishes a limited-purpose brokerage account. That account is limited to holding and transacting in the employer's (or issuer parent's) stock, whether it is when the stock vests, or if the employee exercises their right to purchase the employer's stock. Generally, the employer provides a work email address for each employee who participates in the Equity Compensation Plan (but the employer could also provide a personal email address). To set up the limited-purpose brokerage account, the new plan participant/employee typically completes an online application, accepts terms and conditions, and is asked to provide an email address (which can be pre-populated with the employer-provided email address). The broker-dealer will then use that email address provided by the employee to send electronic communications.

SIFMA believes that under the circumstances of Equity Compensation Plans and for these limited-purpose brokerage accounts, the SEC should permit the covered entity to rely on the email address that the employer provided to it for the new plan participants unless that plan participant has changed it to another email address.

There are numerous reasons to support this request. First, the employee/covered recipient would receive the email at her work or personal email address, an address that they use on an ongoing basis and are familiar with reviewing and therefore would very likely read the initial notice from the covered entity. In addition, the employee would be

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[20] For example, an employer might provide or select an electronic address on the customer's behalf under applicable law for a non-ERISA 403(b) plan account.

[21] There are more than 6000 public companies that currently offer some form of equity compensation to their employees. It is estimated that there are at least 12 million recipients of this type of compensation. In 2024, $1.67 trillion was awarded to equity compensation recipients.

used to responding to an email sent to her work or personal email address. Second, the "third party" here is the employer/plan sponsor, who is transmitting to the covered entity an electronic address of employees who have agreed to participate in Equity Compensation Plans. The employer/plan sponsor is therefore a reliable source of information upon which the covered entity should be permitted to rely. Third, the employees could receive economic benefits since a covered entity's costs would presumably decline if they have fewer participants subject to physical delivery. This cost reduction could result in lower fees charged to the plan itself, thus resulting in savings to the plan participants.

In the Equity Compensation Plan business, a plan sponsor may also elect to change the covered entity (e.g., broker-dealer, transfer agent) servicing the plan participants' accounts. As a practical matter, the successor covered entity will send to the plan participants information about the transfer of accounts and will use the participant's email address of record if known or send the transfer notice by physical delivery if not known. These accounts are then transferred from one broker dealer to the successor broker-dealer through a "bulk transfer" and by use of negative consent.[22]

Assuming that Regulation E-Delivery goes into effect, Equity Compensation Plans will continue to transfer from one covered entity to another covered entity. In those circumstances, SIFMA believes that it would be reasonable for a successor covered entity to rely on an electronic address provided by the predecessor entity (a third party). Thus, if the successor entity receives from the predecessor entity a file of plan participants who receive their communications via e-delivery, the successor entity should not have to go through the steps under Regulation E-Delivery to re-confirm this. Rather, the successor entity should be permitted to rely on the file sent by the predecessor entity for purposes of determining e-delivery of plan participants. In practice, such an interpretation will enable the successor entity to use a <u>single</u> electronic notice of the <u>transfer</u> of accounts to the new entity that would state that e-delivery might be the default method of delivery (but still have an opt-out right in that notice), rather than having to send or mail <u>two</u> notices. Consistent with the FINRA guidance above, which allows negative consent to be used in bulk transfers of employee compensation plans, the successor entity should be able to do that here, and do so by notice of the transfer, rather than start the Regulation E-Delivery process all over again. This could also result in potential cost savings to the plan itself since the successor entity will have lower delivery costs by not having to make a second electronic or physical mailing. If successor covered entity reliance on predecessor covered entity e-delivery compliance is not allowed, then SIFMA believes that it would be reasonable for a successor covered

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[22] FINRA has issued guidance that permits a member firm to effect a bulk transfer of employee equity compensation plan accounts as directed by the employer by negative consent. *See* FINRA Interpretive Letter to T. Douglas Hollowell, UBS Financial Services, available here. In this guidance, FINRA cited to NTM 02-57 regarding use of bulk transfers following the termination of a networking arrangement between a member firm and another financial institution. FINRA stated that it believed that the bulk transfer of plan participants' accounts to another member firm could be done through negative consent letters as directed by the respective employer.

entity to use the email address in the file sent by the predecessor in its initial notice of electronic delivery.

IV. Transition Process

SIFMA supports having a transition period for moving covered recipients from postal delivery to electronic delivery. Under the Proposed Rule, a covered entity may use electronic delivery as the default delivery method for any covered recipient receiving paper beginning 180 days following the date of the provision of an initial notice by postal mail if the covered entity provides a follow-up notice 30 days prior to the transition by postal mail and the covered recipient has not opted out of electronic delivery.[23] Initial and follow-up paper notices would not be required for covered recipients who already receive all covered information by electronic delivery.[24]

Shorten Transition Period. SIFMA encourages the SEC to consider a shorter transition period. For example, while the "Improving Disclosure for Investors Act of 2025" (S. 1877) would impose a 180-day transition period, a shorter period (e.g., 60 to 90 days) would also sufficiently inform covered recipients of the coming switch to electronic delivery and may even facilitate understanding given the proximity of the notices. Covered entities generally provide advance notice to clients of changes, often ranging from 30 to 90 days, especially if the change affects account access, statements, fees, or service features. Industry experience demonstrates that investors can successfully adapt to significant platform and service changes with notice periods substantially shorter than 180 days.

The transition process in the Proposed Rule also requires that a second notice be sent to covered recipients 30 days before transitioning covered recipients from paper to electronic delivery. Considering the wide acceptance of electronic delivery and access to information that we have seen in recent years, SIFMA believes that a second notice of the pending transition is unnecessary. SIFMA asks that the SEC remove the requirement in the Proposed Rule to deliver a second notice or at least give covered entities the option to deliver the second notice electronically to the covered recipient's electronic address.

If the SEC determines to retain a second notice requirement, SIFMA encourages the SEC to provide greater flexibility to covered entities by allowing any required second notice to be provided "at least" 30 days before the transition to electronic delivery. Covered entities might find it challenging to manage a prescribed 30-day notice, such as where 30 days before the change to electronic delivery lands on a Sunday or holiday.

Rule Should Be Effective Immediately. Regardless of the notice period used, the SEC should make Regulation E-Delivery effective immediately so that covered entities may begin the transition process as soon as they are ready. The SEC should also allow covered entities to continue relying on the existing SEC electronic delivery guidance for

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[23] *See* Proposed Regulation E-Delivery § 303.104.

[24] *See* Proposed Regulation E-Delivery § 303.104(a).

two years following the effective date of Regulation E-Delivery to ensure that covered entities can rely on their existing electronic delivery framework as they prepare for the transition to Regulation E-Delivery.

Safe Harbor. The Proposing Release indicates that the Commission intends Regulation E-Delivery to be a safe harbor rule.[25] SIFMA requests that the SEC clarify what happens after it rescinds its current electronic delivery guidance. In particular, SIFMA asks that the SEC confirm that Regulation E-Delivery is a nonexclusive safe harbor and that covered entities may continue to use other lawful electronic delivery methods that otherwise satisfy the applicable delivery requirements, including existing arrangements based on affirmative customer consent.

No Limitations on Transitions. SIFMA agrees that the SEC should not limit the types of covered recipients that can be transitioned to electronic delivery. The SEC should avoid making arbitrary decisions about the fitness to receive electronic delivery, whether based on age or other demographic information, and allow covered entities to make their own determinations not to transition certain covered recipients.

Allow Electronic Notice for Covered Recipients on Electronic Delivery. The SEC should limit the paper notice requirements to those covered recipients who currently receive only postal delivery. As the Commission noted in the Proposing Release, covered recipients who currently receive electronic delivery have already consented to electronic delivery and thereby indicated they are comfortable with it.[26] For those covered recipients that are enrolled in electronic delivery in whole or in part, covered entities should be able to send the required notices electronically. It would be unduly burdensome, and potentially confusing, to require covered entities to send paper notices to covered recipients that already receive electronic delivery. In addition, the notice to those covered recipients should only note what may change, namely, whether there will be any changes to the existing electronic delivery methods and opt outs as a result of the rule.

Notices of Changes to Electronic Delivery. Similarly, for those covered recipients enrolled in electronic delivery in whole or in part, Regulation E-Delivery should allow covered entities to provide notices of changes to electronic delivery via electronic delivery. Once a covered recipient is enrolled in electronic delivery, any changes to the method of electronic delivery should be delivered to the covered recipient's electronic address.

Greater Flexibility in Sending Notices. SIFMA encourages the SEC to provide greater flexibility for covered entities when they provide required notices to covered recipients. Specifically, notices should be allowed to accompany other communications (e.g., quarterly account statements) that are sent to covered recipients where the notice is readily apparent to the covered recipients. SIFMA believes that this will help to

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25 *See* Proposing Release, 91 Fed. Reg. at 45939, 45971-2.

26 See Proposing Release, 91 Fed. Reg. at 45916.

ensure that the notices are read by investors and will not hinder investor understanding, while also reducing costs.

General Descriptions of Electronic Address. The initial notice would require covered entities to include the electronic address that would be used to deliver covered information.[27] SIFMA encourages the SEC to drop this requirement and instead allow covered entities to describe the electronic address that will be used (e.g., the email address or phone number on file) and to encourage covered recipients to contact the covered entity if they would like to update the electronic address. Many covered entities currently do not include certain identifying information, such as investor email addresses and phone numbers, on account statements or other communications. The primary reason for this is concern about investor privacy and the risk that a misdelivered paper account statement could lead to inadvertent exposure of an investor's contact information in addition to their account information, which could lead to identity theft and other harms to investors. Delivering a paper transition notice containing an investor's electronic address and other identifying information would raise the same privacy risks. In addition, covered entities will incur significant cost personalizing the required notices for limited benefit to covered recipients who have already provided those electronic addresses to the covered entities.

Effect of Provision or Confirmation of Electronic Address. SIFMA supports the provision of Regulation E-Delivery that would allow covered entities to transition a covered recipient to electronic delivery if an electronic address is provided (or accepted for use).

V. Disclosure of Electronic Delivery

The Proposed Rule provides that a covered entity may deliver covered information to a covered recipient who has not opted out of e-delivery by delivering that information to an electronic address that a covered recipient provided (or accepted to use) to receive covered information if the covered entity first satisfies certain requirements, including providing certain disclosures to the covered recipient before using electronic delivery.[28] A covered entity must provide clear and conspicuous disclosure to the covered recipient that describes the types of covered information that will be delivered electronically to the customer's electronic address, unless the customer opts out of electronic delivery.[29] The disclosure must state, if applicable, whether a customer's request for paper or to opt out of electronic delivery could result in restrictions on or termination of the customer's relationship with the covered entity. Alternatively, a covered entity could choose to have customers opt in to electronic

27 *See* Proposed Regulation E-Delivery § 303.104(c)(1)(ii).

28 *See* Proposed Regulation E-Delivery § 303.102(a).

29 SIFMA requests confirmation that covered entities can fulfill the "clear and conspicuous" obligation by including the notice in a quarterly statement mailing or another regularly scheduled mailing, rather than as a standalone mailing.

delivery, in which case the covered entity would need to deliver disclosure stating that the covered recipient may opt out.

SIFMA generally supports Regulation E-Delivery's provisions relating to disclosure of electronic delivery as consistent with the SIFMA Request.[30] In particular, SIFMA supports the inclusion of delivery to an electronic address that a covered recipient "accepts to use" to receive covered information. This should allow covered entities to use applications, portals, and other means of electronic delivery. For example, a client downloading and signing into a mobile application should constitute acceptance of use.

SIFMA requests the Commission to confirm that covered entities can apply their existing householding policies and procedures to the delivery of disclosures and notices required under the Proposed Rule. Covered entities currently employ householding policies and procedures tailored to their individual businesses in delivering certain covered information to covered recipients. For example, registered investment companies rely on the SEC's householding rules to avoid having to deliver multiple copies of prospectuses and shareholder reports for the same fund to shareholders who share the same address, provided that certain conditions, including written notice and the ability to opt out, are met.[31] The inability to household the delivery of these disclosures and notices would result in significant cost to covered entities, and the delivery of multiple duplicative documents to covered recipients' households, which may detract from investor understanding and engagement with the disclosures. There is no policy rationale for treating electronically delivered disclosures differently from postal delivery in this regard.

a. Delivery of Information Containing PFI

Under the Proposed Rule, a covered entity would be required to deliver covered information that includes personal financial information ("PFI"), and may deliver all other covered information, through delivery of a statement of availability.[32] The statement of availability would include a prominent statement alerting the covered recipient that covered information is available, a brief description of the covered information, and direct the covered recipient to a website address where the covered information is available.[33] If the covered information does not include PFI, the website address must lead the covered recipient directly to the covered information that is described in the statement of availability.[34] If the covered information includes PFI, the website address must include a process reasonably designed to safeguard the PFI, and

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30 SIFMA encourages the SEC to continue considering whether access equals delivery would be appropriate for retail investors in particular circumstances.

31 *See* Rule 154 under the Securities Act of 1933, 17 C.F.R. § 230.154; Rule 30e-1 under the Investment Company Act of 1940 ("1940 Act"), 17 C.F.R. § 270.303e-1.

32 *See* Proposed Regulation E-Delivery § 303.102(c)(1).

33 *See id.*

34 *See id.*

lead the covered recipient directly to the covered information immediately after the covered recipient completes such process.[35]

General Description of Covered Information. SIFMA supports the proposed requirement to include a description of the covered information in the statement of availability. However, the SEC should not require specific identification of each item of covered information that is available, which would be unduly burdensome, require constant updating or tailoring depending on the mix of covered information being delivered, and impede understanding and engagement by covered recipients. The SEC should confirm that the statement of availability may refer to broad categories of covered information being made available, such as a "prospectus," "shareholder reports," or "account statements." This approach would also better accommodate existing firm and vendor systems, some of which have character limitations that make it operationally challenging to identify each covered item individually, particularly where fund names or other required information consume a significant portion of available space. Similarly, it is unreasonable to specify every "call to action" and deadline to take action in the text of the notice of availability. If a notice is asking for a customer to take action, it is unreasonable to expect covered entities to be able to tailor the notice of availability to this degree. Requiring specificity also may reduce confidentiality by taking the substance of the linked information into the text of the notice, rather than putting customers on notice that they have an electronic delivery that they should open.

Personal Financial Information. The SEC has proposed to define "personal financial information" as "information specific to a covered recipient's personal financial matters, such as an account number or details regarding a specific securities transaction." The SEC should exclude from the definition of personal financial information masked account numbers and other identifiers that cannot be used to identify information specific to a covered recipient's personal financial matters. Covered entities may send a variety of covered information that includes masked account numbers or other identifiers for various reasons, including for internal tracking purposes. Simply including a masked account number or other identifier should not mean that covered entities cannot deliver the covered information directly.

Directly to Covered Information. SIFMA urges the SEC to remove the requirement that the statement of availability lead "directly" to the covered information. Instead, Regulation E-Delivery should permit covered entities more flexibility to take approaches that are reasonably designed to ensure that covered recipients can easily access the covered information, such as where the availability of covered information should be readily apparent to the covered recipient. For example, covered entities might maintain a landing page where many covered recipients can access the covered information, similar to the legal disclosure and other websites where covered entities currently maintain covered information. Many covered recipients already access information in this manner.[36] Covered entities might decide to include highlighted "as

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35 *See id.*

36 If the SEC requires that covered information be delivered directly, the SEC should permit hyperlinks to SEC websites (e.g., IAPD).

of" dates or other indicators that information was recently updated. This approach would mitigate burdens associated with including hyperlinks directly to documents while minimizing the additional "burdens" on covered recipients. The proposed requirement also would be unduly burdensome and create significant operational complexity for covered entities in building systems to ensure that links to covered information are appropriately updated in the statement of availability.

In addition, the proposed requirement bifurcates the delivery of covered information depending on whether or not it contains PFI and prohibits covered entities from delivering covered information that does not contain PFI to a website or app that requires a covered recipient to log in with a password. SIFMA encourages the SEC to allow covered entities the option to deliver all covered information to a password-protected website or app. This would enable covered entities to simplify the customer experience and ease the operational burdens on covered entities by allowing covered entities to provide a means for covered recipients to receive electronic delivery of all covered information in one place, instead of having to go to two different places, depending on the content of the covered information.

The proposed requirement could also inadvertently undermine client cybersecurity awareness and expose covered recipients to heightened phishing, impersonation, and fraud risks. Phishing is the second most common initial access vector for financial services.[37] Many financial scams begin with email phishing or other electronic communications impersonating financial institutions and are designed to induce recipients to click on fraudulent links, enter credentials, or disclose sensitive information. Consequently, many covered entities educate clients not to click on links embedded in unsolicited or unexpected electronic communications and instead to access information through trusted channels, such as the firm's official website, mobile application, or other authenticated platform.

Secure Delivery. Regulation E-Delivery should allow covered entities to deliver covered information containing PFI in a secure manner. For example, covered entities might be able to deliver covered information in a password-protected or other manner that is reasonably designed to ensure that only the covered recipient will be able to access the information. The Proposed Rule should allow covered entities to deliver this information by protecting the covered information itself with a password, by having the covered recipient log into a portal using a password to access the covered information, or by using other methods of protecting the PFI that may be developed or adopted by covered entities in the future.

SIFMA further requests that the SEC consider a less prescriptive format requirement for the delivery of covered information electronically. The requirement in the Proposed Rule that the format used for direct delivery use a "widely available format that is convenient for reading in electronic format, being printed on paper, and permanently retaining in an electronic format" would preclude a number of widely available electronic formats for delivering information, but which are not necessarily

[37] *See* Verizon, 2026 Data Breach Investigations Report, available here.

designed for printing, such as XML, xls, csv, video, audio and others. Regulation E-Delivery should permit covered entities to deliver covered information using these technologies, and others that will be developed in the future.

The Proposing Release asks whether there are special considerations related to electronically delivering regulatory materials associated with assets that are issued or transferred using distributed ledger technology, including blockchain and similar technologies. In the context of tokenized shares of funds and securities, and associated digital wallet technologies, we note that wallet addresses and related messaging protocols may be capable of receiving delivery or notice of the availability of covered information. However, the delivering covered entity may not control whether a wallet provider, application, or other interface provides an additional push notification or other user-facing alert to the covered recipient. We request that the SEC clarify that, where a covered recipient has provided or accepted a wallet address or comparable digital address for purposes of receiving covered information, delivery to an electronic address through a protocol or mechanism reasonably designed to make the recipient aware that the information is available satisfies the requirement to provide a prominent statement alerting the covered recipient that covered information is available. Requiring confirmation of such a user-facing alert would place responsibility on the delivering party for functionality that may be outside its control.

b. Delivery of Information that Does Not Contain PFI

Regulation E-Delivery would permit covered entities to deliver covered information that does not include PFI directly to a covered recipient's electronic address.[38] The covered information would need to be delivered in a widely available format that is convenient for reading in electronic format, being printed on paper, and permanently retained in an electronic format.[39] SIFMA is concerned that this requirement is overly prescriptive and would potentially deter covered entities from using evolving or new technologies to present covered information. The concern about the prescriptive approach is not only focused on the future; there are technologies being developed today, such as artificial intelligence, that would be challenging to use under Regulation E-Delivery. For example, some SEC Staff have suggested that the evolving use of artificial intelligence could revolutionize the way disclosures are presented to covered recipients.

c. Website Disclosure Requirements

SIFMA supports a broad definition of website. Regulation E-Delivery would define "website" as "an internet website or other internet- or electronic-based location where information is stored or presented, such as a mobile application, to which a covered recipient has been provided reasonable access."[40] SIFMA requests that the SEC expand the definition of website to use other examples of locations beyond mobile

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38 *See* Proposed Regulation E-Delivery § 303.102(c)(2).
39 *See id.*
40 *See* Proposed Regulation E-Delivery § 303.101.

applications and to delete the requirement that the covered recipient has been provided reasonable access. First, there are other applications beyond mobile applications that covered entities might use or develop to deliver covered information. Second, the focus should not be on whether a covered recipient has been provided reasonable access. The SEC explained that the "reasonable access" requirement is meant to ensure that an electronic location is easily accessible and would not involve "overly burdensome restrictions on access including fee requirements or the collection of nonessential information (for instance, related to marketing) or otherwise that may inhibit expedient navigation to covered information."[41] This standard would unnecessarily complicate covered entities' analyses as to whether they are providing unreasonable access. SIFMA also believes that another term, such as "electronic location," would be more appropriate than "website," which itself might suggest that internet websites are the only appropriate manner for electronic delivery.

SIFMA believes that it is unnecessary to include the proposed provisions requiring a covered entity to adopt and implement written policies and procedures reasonably designed to ensure that the covered information is made available and remains available in the manner required by the rule and to take prompt action to ensure that the covered information becomes available in the manner required as soon as practicable following the earlier of the time at which the covered entity knows or reasonably should have known that the covered information is temporarily unavailable.[42] Covered entities are already subject to rules requiring them to adopt and implement written policies and procedures reasonably designed to ensure that they comply with the Federal securities laws and rules.[43] However, to the extent that the SEC requires policies and procedures, the SEC should recognize that there could be periods where access may be unavailable for business or other purposes (e.g., due to scheduled site maintenance) and not penalize covered entities when access is unavailable for reasonable periods of time.[44]

d. Postcard Notice and Electronic Access

The Commission noted in the Proposing Release that currently, under the proxy rules, an issuer or other soliciting person can satisfy its obligation to furnish proxy materials to shareholders either by posting its proxy materials online and notifying the record holders that they are available, or by providing them with a full set of proxy

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41 *See* Proposing Release, 91 Fed. Reg. at 45903.

42 *See* Proposed Regulation E-Delivery § 303.103(c).

43 For example, investment advisers are subject to Rule 206(4)-7 under the Investment Advisers Act of 1940 and broker-dealers that are FINRA members are subject to FINRA Rules 3110 and 3120.

44 For example, when the SEC adopted amendments to the internet adviser rule in 2024, the SEC incorporated into the requirement that the adviser provide advice through an "operational interactive website" a proviso that "temporary technological outages of a de minimis duration" would not cause the adviser to lose the ability to rely on the rule, without any requirement for the adviser to adopt related policies and procedures, instead relying on the existing compliance procedures requirements under the Investment Advisers Act of 1940 ("Advisers Act"). *See* Exemption for Certain Investment Advisers Operating Through the Internet, 89 Fed. Reg. 24693, 24712 (Apr. 9, 2024).

materials.[45] The solicitor may use different options for different shareholders. Either the notice or the "full set" of proxy materials may be delivered to the shareholder with prior consent. Otherwise, shareholders receive the notice in paper form, with the ability to access the materials online, or the full set in paper form.

The Proposed Rule would eliminate the current notice and access approach for the distribution of proxy materials in favor of the notice and delivery requirements of Regulation E-Delivery. The Commission stated that it "preliminarily believes that most covered recipients who provide an electronic address would be transitioned to e-delivery under the proposed rule if adopted, and a covered recipient who has declined to provide an electronic address may be more likely to prefer to receive covered information in paper format."[46] The Commission further explained that the notice and access approach may impose greater costs and inconvenience on covered recipients as compared with Regulation E-Delivery, and result in less cost saving for covered entities.

SIFMA encourages the SEC to retain the notice and access approach to delivery of proxy materials to covered recipients. Covered recipients have years of experience with receiving information in this manner, and SIFMA believes that many covered recipients would choose to continue receiving proxy materials in this manner. Moreover, covered entities have designed their delivery approaches around notice and access and would incur unnecessary cost and operational burdens in moving solely to the approach allowed under Regulation E-Delivery as proposed.

SIFMA further suggests that the SEC make postcard notice and electronic access an option for covered entities to deliver all covered information to covered recipients. A postcard notice could direct covered recipients to covered information that does not contain PFI, such as an investment adviser's brochure on a public website, or to a password-protected website or portal for any covered information, including covered information containing PFI. By making such notice and access an option for delivering covered information, the SEC would remove the strict bifurcation between postal and electronic delivery under the Proposed Rule; enable covered entities to have more choices about how to structure delivery of covered information; and enhance covered entities' ability to deliver covered information to covered recipients that facilitates postal notice of availability while reducing the costs of delivering required information using postal mail.

e. Other Requirements for Form and Manner of Delivery

The Proposed Rule would require that a statement of availability or direct delivery of covered information be delivered separately from communications that are not covered information, except as otherwise provided under the Federal securities laws.[47] SIFMA believes this requirement should be removed from the final rule. Covered entities frequently provide both covered information and non-covered

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45 *See* Proposing Release, 91 Fed. Reg. at 45923-24.
46 *See id.* at 45961.
47 *See* Proposed Regulation E-Delivery § 303.102(e).

information together, and they are able to do so in a manner that is helpful to covered recipients without obscuring the required information. For example, some covered entities may deliver a "welcome package" to a new customer that contains documents that are required to be delivered to the customer (e.g., Form ADV Parts 2 and 3) and additional information (e.g., customer agreement). Welcome packages can include important information about how to electronically activate web portals or other information to facilitate electronic delivery.

A requirement for separate deliveries could result in one or more messages being overlooked and require covered entities to revamp their existing delivery processes to separate covered information from other information to facilitate separate deliveries. Similarly, covered entities might provide consolidated statements that combine information required under the Federal securities laws with information governed by other regulatory regimes. Covered entities should be permitted to continue delivering these integrated statements without separating SEC-regulated content from information governed by other regulatory regimes. Covered entities should not be limited in the types of information that can be included in an electronic message, provided that the information is presented in a manner that facilitates the understanding of what information is being delivered.

VI. Obligation to Provide Paper Copies

Regulation E-Delivery would require a covered entity to send, free of charge, one paper copy of any of the covered information that the covered entity has delivered through electronic delivery to a covered recipient during the period the covered entity is required to retain the covered information under the Federal securities laws, or in the two years preceding the date of the covered recipient's request if there is no such requirement, to any such covered recipient requesting such a copy.[48] Unless otherwise specified in the Federal securities laws, a covered entity would be required to send the paper copy of covered information by U.S. first class mail or another reasonably prompt means within three business days after receiving the covered recipient's request.[49]

Allow Electronic Delivery of Requested Covered Information. SIFMA requests that Regulation E-Delivery be amended to remove any requirement for covered entities to provide paper copies of covered information previously delivered electronically upon a covered recipient's request. While Regulation E-Delivery allows covered entities to move from a model of affirmative consent for electronic delivery to negative consent, it does not change the fact that customers still retain choice regarding the way they receive covered information. Covered entities should be entitled to rely on the customer's choice under Regulation E-Delivery and not be required to develop infrastructure to generate and deliver paper copies of covered information that was previously delivered electronically, which would be very costly for covered entities.[50] Regulation E-Delivery

48 *See* Proposed Regulation E-Delivery § 303.102(f)(1).
49 *See id.*
50 Commission rules should be consistent with the regulatory philosophy under the Federal securities laws, which generally reflect a respect for investor autonomy to make investment decisions

should instead provide that covered recipients may opt out of electronic delivery on a going forward basis only, and that such covered recipients should be able to receive paper copies of covered information that is to be delivered after the opt-out date, but that previously delivered information may be re-delivered electronically when requested. Regulation E-Delivery should permit covered entities to decide whether to provide paper copies of documents previously delivered electronically, and whether or not to charge a fee for printing and delivering documents in paper form, in their own business discretion.

If the Commission decides to retain the requirement to deliver paper copies of previously delivered information, SIFMA requests that the provision be amended to limit the burden placed on covered entities. For example, the three business days allowed for covered entities to respond to a request for paper copies is too brief and impractical for covered entities to meet.[51] SIFMA believes that the SEC should not impose any time period for when information must be redelivered. If the SEC determines a time period is necessary for the protection of investors, the SEC should allow covered entities to use a commercially reasonable time to send paper documents in response to a request.

SIFMA also requests that the requirement to provide historical documents containing covered information be limited to documents that are, at the time of the request, required to be maintained in an easily accessible place under applicable recordkeeping rules under the Federal securities laws.[52]

<u>Allow Charges for Paper Copies</u>. SIFMA urges the SEC to remove the requirement that covered entities send, free of charge, any paper copies of covered information if a covered recipient has been enrolled in electronic delivery. Locating, printing and mailing paper copies of documents is a time-consuming and expensive process for covered entities. SIFMA believes that there should be reasonable limits on covered entities' obligation to provide paper copies of documents to covered recipients. Compliance with this provision will be extremely costly for covered entities. For example, where a covered recipient is enrolled in electronic delivery, a covered entity should be able to satisfy requests by providing documents electronically. Much of the SEC's approach appears to be informed by existing electronic delivery guidance, which the SEC has acknowledged is outdated and which was developed during a time when download speeds and electronic access were significantly limited as compared with today.

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based on disclosure. As proposed, Regulation E-Delivery's requirement to deliver paper copies of information that was previously delivered electronically pursuant to the customer's choice is in tension with this philosophy by imposing additional delivery obligations on covered entities in scenarios where there is no suggestion that the documents were not effectively delivered.

[51] *See* Proposed Regulation E-Delivery § 303.102(f)(1)

[52] *See, e.g.,* Rule 17a-4(a), (b) and (e) under the Securities Exchange Act of 1934 ("Exchange Act"), 17 C.F.R. § 240.17a-4(a), (b) and (e) ; Rule 204-2(e) under the Advisers Act, 17 C.F.R. § 275.204-2(e); Rule 31a-2(a) under the 1940 Act, 17 C.F.R. § 270.31a-2(a).

In addition, SIFMA believes that Regulation E-Delivery should allow covered entities to impose a reasonable charge for the cost of printing and mailing paper documents. For example, covered entities should not be forced to provide free paper copies if a covered recipient requests an unreasonable number of documents. In addition, the SEC should allow covered entities to provide discounts or other benefits for covered recipients enrolled in electronic delivery.

SIFMA believes a regulatory prohibition on charging reasonable fees for paper delivery runs contrary to standard market economics by forcing covered entities to cover the incremental costs of providing paper copies through fees they charge to their entire client base. This unfairly shifts much of the burden of providing paper delivery from those requesting paper delivery to those receiving electronic delivery, which is the more cost-effective means of delivery.[53]

VII. Opting Out of Electronic Delivery

Regulation E-Delivery would require a covered entity to permit a covered recipient to opt out of electronic delivery of "any or all" covered information at any time, free of charge.[54] Further, a covered entity must comply promptly with a covered recipient's opt out election.[55]

The ability of a covered entity to rely on Regulation E-Delivery should not depend on the entity's ability to comply with an "any or all" opt out election. SIFMA believes that some covered entities would find it difficult, if not impossible, to permit covered recipients to opt out of electronic delivery on a document-by-document basis. Regulation E-Delivery should permit covered entities to provide the opt out election on an "all or nothing" basis or on a category-by-category basis.[56] Regulation E-Delivery should permit each covered entity to determine how best to provide covered recipients with the ability to opt out of electronic delivery in accordance with its own business model and technological capability.

SIFMA also requests that the SEC respect the ability of covered entities to establish commercial terms with covered recipients. For example, as the Commission noted, some covered entities reserve the right to restrict or close the account of a person who opts out of electronic delivery or otherwise requests paper copies of documents.[57] The Proposing Release states that if a covered entity were to restrict or close the account of a person who opts out of electronic delivery, the covered entity still would need to

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53 The prohibition on charging fees for paper delivery is also a form of price control that does not otherwise exist in the Exchange Act or rules promulgated thereunder.

54 *See* Proposed Regulation E-Delivery § 303.102(f)(2).

55 *See id.*

56 For example, one large dual registrant provides seven category types for electronic or postal delivery settings: statements; notices and disclosures; performance reports; prospectuses; shareholder notices; tax reporting; and trade confirmations. Other covered entities use different categories of information.

57 *See* Proposing Release, 91 Fed. Reg. at 45911.

comply with the rule's paper delivery requirements on request of that person.[58] SIFMA disagrees with this position. Covered entities that disclose the right to restrict or terminate accounts that opt out of electronic delivery should be permitted to continue delivering information electronically after termination of an account, consistent with the disclosed delivery approach. Otherwise, covered entities that have designed their businesses around electronic delivery would be required to incur the same operational expenses of creating a postal delivery process as other firms.

VIII. Identifying and Remediating Electronic Delivery Failures

Regulation E-Delivery would require each covered entity to adopt and implement written policies and procedures reasonably designed to identify and remediate failed electronic delivery.[59] If any failed electronic delivery is identified, the covered entity must promptly take reasonable remediation steps, including obtaining a new electronic address or delivering the covered information in paper format until the covered recipient provides a new electronic address.[60]

SIFMA believes that this provision is unnecessary. As noted above, covered entities already are subject to requirements to adopt, implement and maintain written policies and procedures reasonably designed to ensure compliance with the federal securities laws. Covered entities typically have processes to monitor and remediate electronic delivery failures, including email bounce-backs, such as by notifying a customer by postal delivery of an electronic delivery failure and switching a customer to postal delivery after successive electronic delivery failures. SIFMA believes the SEC should avoid imposing prescriptive policies and procedures requirements as a condition to relying on Regulation E-Delivery and, instead, give covered entities more flexibility to adopt and implement policies and procedures reasonably designed to address delivery requirements in light of their business models. Moreover, the SEC should not require a specific remediation approach. For example, covered entities might determine to send a postcard notice of electronic availability of covered information, rather than mailing paper copies of covered information, in the event of a failed delivery.

If the SEC determines to include a specific remediation requirement in a final rule, SIFMA asks that covered entities be afforded a reasonable period of time in which to carry out any needed remediation steps. Moreover, the rule should not require a covered entity to send the entire package of materials that failed to deliver electronically but instead should allow covered entities to notify covered recipients of the failure by postcard or other form of postal mail, with a request to furnish an updated electronic address and information about how to access the covered information electronically.

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58 *See id.*.

59 *See* Proposed Regulation E-Delivery § 303.102(h).

60 *See id.*

IX. Institutional Investors

Regulation E-Delivery, as proposed, does not distinguish between retail and institutional investors. SIFMA believes that the SEC should recognize that there are important differences between the retail and institutional markets. Institutional business is conducted nearly exclusively electronically, and paper delivery generally occurs only to satisfy regulatory requirements. Regulation E-Delivery should allow a covered entity and an institutional investor to agree between themselves how and in what format the covered entity will deliver covered information to the investor. The reasons supporting the adoption of default electronic delivery of covered information apply even more so where the covered recipient is an institutional investor.

A covered entity should be able to treat the institutional investor as being in self-service mode under which the institutional investor would "pull" any desired covered information without the covered entity being required to send notices of availability of the covered information ("access equals delivery"), if and as needed, as opposed to "push" mode or where notice is required for each communication. This should also apply when a retail customer has designated their investment adviser to receive immediate trade confirmations under Rule 10b-10. This approach would build upon the SEC Staff's long-standing approach allowing electronic delivery of Rule 10b-10 confirmations to institutional investors.[61] Similarly, covered entities should not be subject to the same conditions applicable to enrollment or transition of retail investors. For these purposes, the SEC should look to the definition of "institutional investor" under FINRA Rule 2210 in defining "institutional investor" for purposes of Regulation E-Delivery.

Managing delivery of notices for institutional investors creates significant operational burdens and costs that outweigh the benefits of providing separate notices. Unlike retail investors, institutional investors can have many, sometimes hundreds, of accounts or subaccounts for which separate notice for each communication can be required. In our members' experience, institutional investors do not want to receive multiple duplicative communications or notices for the same communication, particularly in paper form. Moreover, electronic communications can allow institutional investors to manage access to documents based on their needs, for example, the "paper image" copy of a confirmation or statement may not even be useful to an institutional investor as compared to a more useful, machine-readable format from the covered entity or its clearing mechanism (e.g., DTCC). An inbox full of "notices of availability" similarly does not reflect the needs or wants of an institutional covered recipient. Perpetuating a construct for institutional investors where postal delivery is required creates operational and compliance risk for little incremental benefit to most institutional investors who primarily choose to rely on real-time electronic sources.

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61 *See* Omgeo, LLC, SEC Staff No-Action Letter (Mar. 12, 2008).

X. Escheatment

In the Proposing Release, the Commission noted that delivery failures may be used as evidence of account abandonment for purposes of state escheatment laws.[62] The Commission asked for comment regarding the intersection of Regulation E-Delivery with state escheatment laws.[63] In our view, by encouraging client "login" activity, electronic delivery may actually increase "owner generated activity" and reduce instances of dormancy. Furthermore, more frequently updated means of contacting customers reduces the risk of lost securities holders.

SIFMA does not believe that escheatment considerations should prevent the Commission from moving forward with E-Delivery as the default. SIFMA believes that the Commission should assess the intersection of electronic delivery and state escheatment laws through the lens of investor protection, particularly for buy-and-hold, long-term investors who may be minimally engaged with their accounts but have not abandoned them. The current patchwork of state laws is difficult to interpret, and standards that treat inactivity as evidence of abandonment can put investments at risk of premature escheatment and liquidation, which result in avoidable financial harm. SIFMA believes that investors' investments should be protected from escheatment until the confirmed death of the natural person owner. Inactivity should not be interpreted to mean an investor has abandoned their assets, because many investors adopt a long-term, buy-and-hold strategy requiring minimal activity on their part. Because of the variety of factors that can lead to a failed delivery, returned physical mail or email is not a reliable indicator that an investment has been abandoned.[64]

XI. Shareholder Communication Rules

The SEC proposed several amendments to the shareholder communication rules under the Securities Exchange Act of 1934. Among other things, the SEC requested comment as to whether the period of time in which an intermediary must forward proxy materials received from an issuer or other soliciting person to beneficial owners should be shortened from five business days to three business days.[65] Similarly, the SEC asked for comment whether to shorten, from five business days to three, the period of time in which an intermediary must transmit a compiled list of NOBOs, the period of time in which the intermediary has to compile the NOBO list, and the period of time in which an intermediary must execute and return an omnibus proxy to the issuer and send a corresponding notice to respondent banks.[66] The SEC also asked for comment whether the deadline for an intermediary to prepare and send a statement of availability should be different from the proposed five business day period, whether to shorten the current

[62] *See* Proposing Release, 91 Fed. Reg. at 45914.

[63] *See id.*

[64] The SEC noted its concerns about the risk of escheatment in its recent proposal to amend Rule 17ad-17 under the Exchange Act to require transfer agents and broker-dealers to notify security holders when they risk being deemed inactive and at risk of being subject to escheatment. *See* Transfer Agent Rules, 91 Fed. Reg. 56946, 56996-98 (Sept. 4, 2026).

[65] *See* Proposing Release, 91 Fed. Reg. at 45931.

[66] *See id.*

time periods for intermediaries to request a copy of proxy materials from a soliciting person after receiving such request from a beneficial owner and to forward the copy to the requesting beneficial owner each from three business days to two.[67]

SIFMA requests that these deadlines not be reduced from their current requirements. Even with improvements in technology, carrying out these functions in less than the currently required time would prove very challenging and costly to covered entities, with a heightened risk of non-compliance due to the increased time pressure. These risks would be heightened during the busy proxy season when covered entities are handling hundreds of events simultaneously. Moreover, even with advances in technology, there will still be a need to process paper deliveries, which require more time. If, as proposed, the SEC eliminates notice and access as a means for delivering proxy materials to shareholders, SIFMA believes that there will be an increase in the number of "full set" customers, which will impose operational challenges and require more time to fulfill. SIFMA notes that the SEC has not identified any issue with the current requirements in need of resolution.

XII. Recordkeeping

The SEC included in its requests for comments a question whether the Commission should include a direct, dedicated recordkeeping provision in Regulation E-Delivery requiring covered entities to maintain records regarding the provision of the disclosure of electronic delivery.[68] SIFMA believes it is unnecessary to include a separate recordkeeping requirement in Regulation E-Delivery. The Federal securities laws and regulations impose comprehensive recordkeeping requirements on many covered entities, including broker-dealers and investment advisers. For example, a registered investment adviser must keep a record of written agreements entered into by the adviser with any client or otherwise relating to the adviser's business as such.[69] A broker-dealer must keep all communications sent or received, and all written agreements, relating to its business as such.[70]

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[67] *See id.* at 173.
[68] *See id.* at 67.
[69] *See* Rule 204-2(a)(10) under the Advisers Act, 17 C.F.R. § 275.204-2(a)(10).
[70] See Rule 17a-4(b)(4), (b)(7) under the Exchange Act, 17 C.F.R. § 240.17a-4(b)(4), (b)(7).

SIFMA appreciates this opportunity to present these comments on proposed Regulation E-Delivery and your consideration of them. We would be happy to discuss any of the comments, or any other aspect of the Proposed Rule generally. Please do not hesitate to contact Melissa MacGregor at 202-962-7385, or Kevin Ehrlich at 202-962-7336 if you have any questions or require additional information.

Sincerely,

Melissa MacGregor

Melissa MacGregor
Deputy General Counsel & Corporate Secretary

Kevin Ehrlich

Kevin Ehrlich
Managing Director and Associate General Counsel,
SIFMA Asset Management Group

cc: The Honorable Paul S. Atkins, Chairman
The Honorable Hester M. Peirce, Commissioner
The Honorable Mark T. Uyeda, Commissioner
Jim Moloney, Director, Division of Corporation Finance
Brian Daly, Director, Division of Investment Management
Jamie Selway, Director, Division of Trading and Markets
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