

October 5, 2026

Vanessa A. Countryman
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

**Re: Electronic Delivery of Information Under the Federal Securities Laws
File No. S7-2026-25**

Dear Ms. Countryman,

As a retired investor advocate with a long record of engagement on issues related to disclosure effectiveness, I am writing to express my support for the Commission's recent e-delivery proposal.¹ Having opposed earlier, premature attempts by industry to rush the transition to e-delivery, I believe the time has come to recognize that a large majority of investors today prefer e-delivery and to reflect that reality in our regulations. To its credit, the Commission has proposed a reasonable and balanced rule to achieve this goal. It would make it easier for industry to transition to e-delivery while also providing strong safeguards for investors, including both those who receive disclosures electronically and those who prefer to receive paper disclosures through the mail.

If the rule is adopted without weakening amendments, and if it is implemented generally as described in the release, the modest new hurdles it imposes for investors who prefer to continue to receive paper delivery would, in my view, be outweighed by its potential to clean up problematic industry e-delivery practices.² If, on the other hand, the Commission were to succumb to industry pressure to water down its key investor protections, the rule would risk further eroding investors' already disturbingly low engagement with disclosures that are designed to help them make informed investment decisions and monitor their investments.

Background

When the Commission issued its first interpretative release on the topic of electronic delivery in 1995, only an estimated 14 percent of U.S. adults had access to the internet, which they accessed using dial-up connections that would seem unbearably slow to modern users.³ Three times as

¹ I am the former Director of Investor Protection for the Consumer Federation of America (CFA), where I served in various capacities from 1986 to 2021. I left CFA in 2021 to join the Securities and Exchange Commission as Senior Advisor to the Chair, retiring in January of 2025. I am writing in my personal capacity.

² As discussed further below, I am concerned that firms may not implement the rule as described, choosing instead to do an end-run around the rule's investor protections through account agreements that restrict investors' ability to continue to receive paper disclosures without adequate notice or other important safeguards. In preparing this letter, I reviewed account statements at a handful of prominent firms with a large retail business and found evidence of several problematic practices, as discussed further below.

³ Susannah Fox and Lee Rainie, Pew Research Center, *The Web at 25 in the U.S., Part 1: How the internet has woven itself into American life* (February 27, 2014), available at <https://www.pewresearch.org/internet/2014/02/27/part-1-how-the-internet-has-woven-itself-into-american-life/>.

many U.S. adults (42 percent) had never even heard of the internet, and another 21 percent had only a vague notion of what it was.⁴ Commercially available email was still a novelty.⁵ It is truly remarkable that the Commission succeeded with that release, and in two additional interpretative releases issued in 1996 and 2000, in fashioning a principles-based approach to electronic delivery that both encouraged firms to develop innovative new ways to communicate with investors and preserved investors' ability to choose to receive information in the manner that works best for them.⁶

In the intervening decades, technology has radically transformed the way we communicate and conduct business, including how investors interact with investment companies and investment professionals. Indeed, despite a regulatory system that includes affirmative consent and verification requirements before switching investors to e-delivery, a large majority of investors today receive disclosures electronically. Industry studies bear this out. For example:

- A 2022 survey conducted on behalf of SIFMA found that 79% of investors had already opted in to receive investor communications electronically, either through email, a financial institution's website, or a mobile app.⁷ Notably, this is a mere two percentage points lower than the percentage who expressed a preference for receiving at least one type of investor communication through e-delivery.
- A 2025 survey by the Investment Company Institute (ICI) found that 84 percent of fund investors report receiving at least some of their documents electronically.⁸
- A 2025 survey commissioned by Broadridge found that e-deliveries using either "email [or] 'push notifications from firms' apps" currently comprise 71% of all account statement deliveries, 83% of all trade confirmation deliveries, and 58% of all tax forms sent to U.S. individual investors."⁹

In light of this evidence, industry's claims that the current regulatory requirements are impairing investors' ability to receive disclosures electronically lack credibility.

At the same time, while a large majority of investors today express a preference for e-delivery, the preference for e-delivery is far from universal. For example:

⁴ *Id*

⁵ Old Dominion University, History of Email (2015-2021), available at <https://www.cs.odu.edu/~tkennedy/cs300/development/Public/M02-HistoryOfEmail/index.html>.

⁶ Despite this remarkable achievement, and the lack of compelling evidence that the guidance is impeding investor access to e-delivery, aspect of the guidance are clearly out of date. I therefore support the proposed approach of superseding the guidance with the proposed rule while retaining important principles from that guidance in the proposed rule.

⁷ fgs global, Most Investors Want Electronic, Not Paper, Delivery of Investor Documents (Summer 2022), commissioned by SIFMA, available at <https://www.sifma.org/wp-content/uploads/2022/07/SIFMA-Survey-Results-for-SEC-July-2022.pdf>. The percentage is slightly lower for investors 55 and over, but is still high (75%).

⁸ Letter from Investment Company Institute to Chairman Paul S. Atkins (Nov. 18, 2025), available at <https://www.ici.org/system/files/2025-11/25-cl-edelivery-framework-recommendations.pdf>.

⁹ Letter from Broadridge Financial Solutions, Inc. to FINRA (July 14, 2025), available at: <https://www.finra.org/sites/default/files/NoticeComment/Broadridge%20Comment%20Letter%20to%20FINRA%20-%202007-14-2025.pdf>.

- A recent study by the SEC’s Office of Investor Advocate found that more than a third of investors (36.2%) prefer paper delivery for documents containing personal information, and a smaller, but still significant, percentage (20.5%) prefer paper for documents that do not contain personal information.¹⁰ The vast majority (87.7%) agreed that they should be able to choose between paper and electronic delivery methods.¹¹
- Similarly, a 2025 Survey by the Finra Investor Education Foundation found that nearly a third of investors (32%) prefer paper delivery.¹² By way of comparison, 39% of respondents expressed a preference for email and only 10% expressed a preference for documents you access on the internet, not via email.
- A 2022 AARP study examining preferences regarding delivery of retirement account statements found that 57% of adults with employer-sponsored retirement plans would prefer to receive paper statements in the mail at least once a year, including 20% who would prefer to receive only paper statements.¹³

Nor is this merely an issue of investor preference. Access still plays a role, albeit a diminishing one. As noted in the Proposing Release, some Americans still lack access to the internet, particularly in rural areas. In addition, according to a 2025 Pew Research Center survey cited in the Release, 16% of U.S. adults responding to the survey indicated that they are “smartphone-only” internet users, which raises potential issues with the readability of disclosures delivered electronically.

There is also some evidence that e-delivery may depress readership of disclosures. For example, Finra Foundation surveys show a correlation between the rise of e-delivery and a decline in the percentage of investors who read disclosures. The percentage of investors on the 2025 survey who can remember having received disclosures (51%) and the percentage who say they at least skim those disclosures (42%) are both disturbingly low, and both are down significantly (8 percentage points and 9 percentage points, respectively) since Finra Foundation began asking the question in 2015. That corresponds with a period in which e-delivery surged.

The AARP survey of retirement account holders offers a possible explanation. The AARP survey found, for example, that those who receive paper statements are more likely to “always” review their paper statements (55% compared to just 36% of those who receive statements through e-delivery). Among survey respondents who said they rarely or never read their statements, those

¹⁰ Katherine Carman, Alycia Chin, and Nettie Selvernale, U.S. Securities and Exchange Commission, Office of Investor Advocate, OIAD Working Paper 2026 No. 2, Exploring Investor Preferences for Electronic Delivery of Financial Disclosures (May 2026), available at <https://www.sec.gov/files/exploring-investor-preferences-electronic-delivery-financial-disclosures.pdf>.

¹¹ *Id.* Among those, 53% strongly agreed and 33.7% agreed.

¹² FINRA Investor Education Foundation, Investors in the United States – A Report of the National Financial Capability Study (4th Ed. Dec. 2025) available at https://www.finrafoundation.org/sites/finrafoundation/files/2025-11/NFCS_Investor_Survey_Report_White_Paper.pdf.

¹³ AARP Retirement Account Statements: Paper or Electronic (May 2022), available at https://www.aarp.org/content/dam/aarp/research/surveys_statistics/econ/2022/retirement-accountsstatements-survey-report.doi.10.26419-2Fres.00529.001.pdf.

who receive their statements electronically were more likely than those who receive paper statements to say that “don’t always notice” the statements. Meanwhile, among survey respondents who expressed a preference for paper statements, 86% said they are more likely to read statements on paper and 78% said it is easier to read paper statements.

Other factors could explain, in whole or in part, the decline in investor engagement with disclosures that has occurred in tandem with the rise in e-delivery. But the trend is troubling and, at a minimum, deserves greater attention than it has so far received. The same is true, in my opinion, with regard to the readability of electronic disclosures for smartphone-only internet users. At the very least, this evidence that investors who prefer paper disclosures have good reasons for doing so should dissuade the Commission from easing the proposed rules’ protections for these investors.

Firms have a strong interest in converting investors to e-delivery. Their incentive is twofold: to make it as easy as possible for investors to opt in to e-delivery and to discourage investors from continuing to receive paper disclosures through the mail. I am convinced that a key reason the current policy has worked as well as it has to enable investors to receive disclosures in their preferred format is that the existing requirements to get affirmative consent and to verify investors’ ability to receive disclosures in the chosen electronic format have helped to constrain, though not entirely prevent, firms from forcing e-delivery on those who prefer paper.¹⁴

Eliminating those requirements without adequate safeguards in place would upset that balance and risk depriving investors of a choice of delivery methods. It could also undermine firms’ current incentives to make e-delivery as user-friendly as possible in order to increase investor uptake. For these reasons, my support for the proposed rule is contingent on its continued inclusion of strong set of investor safeguards.

The Proposal generally does a good job of balancing these conflicting interests.

The proposed rule sets out the conditions that “covered entities” (essentially anyone required to deliver information to investors under the federal securities laws) would have to meet in order to deliver “covered disclosures” electronically to “covered recipients”¹⁵ (essentially anyone who is legally entitled to receive required disclosures) *without* first obtaining the recipient’s affirmative consent.¹⁶ I strongly support the Commission’s proposed approach as it applies where investors are opening a new account or establishing a new relationship. With its pro-investor requirements

¹⁴ As noted above, some firms today use contract agreements to either require investors to accept e-delivery, to limit paper delivery, or to charge added fees for paper delivery. My quick, unscientific review of account agreements at a handful of prominent firms suggests such restrictions may be fairly commonplace, and practices appear to vary significantly from firm to firm.

¹⁵ I strongly support the broadly inclusive definition of covered recipient adopted in the proposed rule. Throughout this comment letter, when I use the term “investor” or “investors,” I generally intend that term to be consistent with the proposed definition of “covered recipient.”

¹⁶ It is unfortunate that the Commission has exempted Regulation Crowdfunding from the proposed rule. The e-delivery method adopted under that regulation lacks some of the key investor protections included in the proposed rule, such as the requirement that the statement of availability take the investor directly to the disclosure with a minimum number of clicks.

regarding notice, access, and investors' ability to opt out of e-delivery, it would be a marked improvement over the practices currently engaged in by some firms.¹⁷

As it applies to investors who currently receive paper disclosures, I believe investors would be better served by an approach that retains the requirement for firms to obtain affirmative consent before switching these investors to e-delivery. After all, the vast majority of investors who currently receive paper disclosures have effectively "chosen" paper delivery, by virtue of having passed up myriad opportunities to switch to e-delivery. As discussed above, they appear to have sound reasons for making that choice. They should not, in my opinion, have to clear additional hurdles in order to continue to exercise that preference. I appreciate, however, that the Commission has included a strong set of safeguards in its proposal both to protect the rights of and minimize disruptions for investors who prefer to receive disclosures in paper and to protect the interests of investors more generally.

My support for the rule proposal is conditioned on its continued inclusion of these critically important investor protections:

- **The rule would require delivery of, not just access to, disclosures.**

The Commission has proposed a reasonable approach that grants industry's appeals to remove perceived barriers to e-delivery and provides them with significant flexibility in how they comply. Specifically, regardless of whether firms choose to adopt an opt-in or opt-out approach to e-delivery, the proposed rule would permit firms to satisfy their e-delivery obligations either by delivering information directly, such as in the body of or as an attachment to email, or by delivering a statement of the disclosure's availability through an email, text or push notification that would take the investor directly to the disclosure or inform them exactly where to find it.¹⁸

In proposing this approach, the Commission has appropriately rejected both the "access equals delivery" and "paper notice and access" approaches as not in investors' interest. With regard to access equals delivery, the Proposing Release states that, "in circumstances where the Federal securities laws currently require direct delivery of disclosure, we continue to believe ... that a contemporaneous notification that disclosures are electronically available is necessary." I strongly agree. Access equals delivery provides no such notification. Instead, it would put the onus on investors to monitor when disclosures become available and to go in search of the information. As such, it would inevitably lead to a decline in investor engagement with disclosures, undermining investors' ability to make well-informed investment decisions and to monitor their investments.

Under "notice and access," firms would be permitted to send investors who have not provided electronic contact information a paper notice that a particular disclosure is available online. It would then be up to the investor to seek out the information using a technology that, in some

¹⁷ While my review of account agreements is not sufficient to allow me to draw broader generalizations, I believe it is reasonable to assume that practices at most firms fall short of what would be required to comply with the proposed rule.

¹⁸ As a security measure, disclosures that include personal financial information would be required to use the statement of availability delivery method.

cases, the investor may not have access to or be comfortable using.¹⁹ In rejecting this approach, the Proposing Release states that “a covered recipient who has declined to provide an electronic address may be more likely to prefer to receive covered information in paper format” and that such an approach could “entail barriers to accessing covered information.” Both statements are, in my view, incontrovertible. Indeed, this approach provides the worst of both worlds, the cost of sending paper notices and, because of the additional steps required to access disclosures, the decreased likelihood that investors would actually seek out and read the disclosures.²⁰

Disappointingly, despite their clear harmful impact on investors, some members of industry continue to advocate that the Commission permit both access equals delivery and notice and access as alternative delivery methods.²¹ Moreover, in my review of a handful of account agreements at firms serving a large retail clientele, I found one firm, Robinhood, that currently appears to be using a form of access equals delivery and implied consent for at least some disclosures.²²

Robinhood’s account agreement requires users to “acknowledge that Robinhood’s primary methods of communication with you include (A) posting information on the Website, (B) providing information via the App, (C) sending email(s) to your email address of record, and (D) *to the extent required by law*, providing you with notice(s) that will direct you to the Platform where you can read and print such information. (Emphasis added) The account agreement goes on to state, “Unless otherwise required by law, Robinhood reserves the right to post Account Documents on the Website without providing notice to you.” The introduction to the account agreement emphasizes (in all caps) that Robinhood believes it can satisfy its notice requirement regarding changes to the account agreement “by the revised terms being posted on the Robinhood website” with the onus on the investors to “check for updates to this agreement.” Customers who continue to “maintain any account or access any services without objecting to any revised terms of this agreement ... are deemed to accept the terms of the revised agreement and will be legally bound by its terms and conditions.”²³

In my view, it is reasonable for a digital trading app, such as Robinhood, to require users to accept e-delivery as a condition of opening and maintaining an account. Their users are self-selected to be relatively tech savvy, and Robinhood provides clear notice in its account agreement that this is its policy. Investors who choose to open an account under these conditions are effectively giving affirmative consent to e-delivery. Instead, my concern here is with how

¹⁹ On the SIFMA survey, for example, 13% of respondents who don’t currently use e-delivery said it was because they “don’t feel comfortable with technology.” Another 10% said it was because their devices “are not equipped to receive electronic documents.”

²⁰ For these reasons, I also strongly support repeal of Rule 30e-3 in its entirety.

²¹ See, e.g., ICI news release, SEC’s E-Delivery Modernization Will Save American Investors Billions of Dollars (Sept. 21, 2026), available at <https://www.ici.org/news-release/secs-edelivery-modernization-will-save-american-investors-billions-of-dollars>. (Among ICI’s suggested “targeted improvements” to the rule is permitting “‘access equals delivery,’ where certain standard fund documents, such as shareholder reports, are made available online” and allowing “a ‘paper notice and access’ option for investors who do not have electronic contact information on file.”)

²² I could not determine, based on this review, whether or to what extent the disclosures in question include “covered disclosures,” as defined in the proposed rule.

²³ Robinhood Financial LLC & Robinhood Securities, LLC Customer Agreement (Revised September 1, 2026), available at <https://cdn.robinhood.com/assets/robinhood/legal/Robinhood-Customer-Agreement.pdf>.

they choose to provide that e-delivery and what the implications would be for investors if the Commission accepted an access equals delivery approach to delivery.²⁴ If the Commission were to accept the access equals delivery approach as an acceptable “delivery” method, there is every reason to believe such non-delivery delivery practices would risk becoming commonplace.

The Commission has indicated that one of its goals with this rulemaking is to improve engagement with disclosures. While the jury is out on whether the proposal itself will deliver any such benefits, it is unquestionably the case that adopting an access equals delivery or paper notice and access approach would have the opposite effect. Broadridge has over the years examined “click rates” for disclosures delivered using different e-delivery methods and found dramatically different results in terms of investor engagement for different e-delivery methods, as described in their comment letter.²⁵ According to that analysis, both access equals delivery and notice and access, as adopted under 30e-3, resulted in few if any click-throughs. Sending a push notification with a link did noticeably better, but by far the best results came from push notifications with embedded content.²⁶

For these reasons, the Commission must continue to include an explicit delivery requirement when it finalizes the rule. Failing to do so would turn a proposal with the potential to benefit investors by cleaning up problematic industry practices into one that undermines the securities laws’ disclosure regime and, in doing so, exposes investors to significant harm.

- **The rule would require firms to make electronic disclosures easily accessible.**

The rule proposal includes additional provisions to minimize the “friction” investors encounter when attempting to access electronic disclosures. These provisions are needed to ensure that substandard e-delivery practices don’t further undermine investors’ engagement with critically important disclosures.

- Ensuring e-delivery goes to a working address that the investor accepts to use for this purpose.

At the most basic level, the rule would require information (either the disclosure itself or the statement of availability) to be delivered to an electronic address that the investor either provides or accepts to use for this purpose. Faced with evidence of non-delivery (such as an email bounce-back), firms would be required to update their contact information and revert to paper delivery until they are able to do so.

My review of account agreements found evidence that some firms currently seek to disclaim responsibility for ensuring contact information remains up-to-date. Fidelity’s account agreement, for example, states that “so long as we send communications to you at the physical or electronic

²⁴ I have not conducted a comprehensive review, but I doubt that Robinhood is alone in adopting this approach.

²⁵ Letter from Charles V. Callan, SVP Regulatory Affairs, Broadridge Financial Services, Inc. (Sept. 21, 2026), available at <https://www.sec.gov/comments/S7-2026-25/s7202625-1067279-3687454.pdf>.

²⁶ I encourage the Commission to pursue additional opportunities to promote this approach, which e-delivery makes possible but does not require. Given their continued advocacy for anti-investor approaches like access equals delivery, I am skeptical that industry can be relied on to adopt these pro-investor approaches without more of a push from the Commission.

address of record given on the application, or to any other address given to us by you or any other authorized person, the communications are legally presumed to have been delivered, whether you actually received them or not.”²⁷ I suspect this is fairly common legal language, and that in practice firms such as Fidelity take steps to ensure they maintain up-to-date electronic contact information, if only because they have a commercial interest in doing so. If that’s the case, they should have no objection to the proposed requirement. To the extent that some firms currently fail to do so, this rule provision could help to promote best practices.

While its benefits extend to all recipients of e-delivery, this requirement to maintain an up-to-date electronic address is particularly important in the context of firms converting customers from paper to e-delivery using an electronic contact method previously provided by the customer for an entirely different purpose. In some cases, the contact method previously provided may be ill-suited for receipt of disclosures. In others, it may no longer be active.

This provision should be strengthened, in my view, by requiring firms to periodically verify that an address is correct when they see other indications that deliveries may not be getting through. Such evidence could take the form of a repeated and prolonged failure by the recipient to open any text or email messages, for example. Failure to open the messages could reflect the customer’s choice not to read the disclosure, but it could also be evidence that the address is no longer current or that the recipient has lost the ability to use technology for complex tasks. For example, individuals experiencing cognitive decline, including those who were once comfortable using technology, may find use of technology increasingly challenging as they age.²⁸

- Ensuring e-delivery takes investors directly to the disclosures.

Minimizing the steps investors must go through to access disclosures once they receive notice of their availability is critically important to encouraging investor engagement with those disclosures. As stated in the Proposing Release, “Investors and other covered recipients are more likely to review information that they can access directly. They are less likely to review information if they must click through multiple pages to access it or if they are directed to a landing page where they have to sort through a large number of documents that are not the subject of the statement of availability received by the covered recipient (e.g., a landing page with covered information for funds not held by the covered recipient).”

Direct delivery by its very nature minimizes such barriers, but it also poses risks for disclosures that contain personal financial information. In light of these security and privacy risks, I support the proposed requirement that firms use the statement of availability method for disclosures that include personal financial information. Importantly, the Commission has proposed requirements for the statement of availability delivery method that would require firms to take investors

²⁷ See, e.g., Fidelity Account Customer Agreement, available at https://www.fidelity.com/bin-public/060_www_fidelity_com/documents/brokerage-account-customer-agreement.pdf.

²⁸ I am disappointed that the Commission hasn’t given greater attention to the potential effect of the proposal on investors who are experiencing cognitive decline. The challenges some older investors face in dealing with technology also offers a compelling reason for maintaining the safeguards in the proposal to minimize the steps investors must go through to access disclosures electronically and to preserve investors’ ability to choose paper delivery.

directly to the required disclosures without imposing “overly burdensome” restrictions on access.²⁹

Here again, there is evidence that, while some firms are already doing an excellent job in this regard, the proposed rule could benefit investors by helping to clean up problematic practices engaged in by others. For example, a review of e-delivery practices conducted by Corporate Insight (CI) on behalf of Broadridge found a wide range of practices among firms using otherwise generally comparable e-delivery platforms.³⁰ As just one of several examples included in the study, CI found that it took as few as 5 and as many as 13 steps to access a prospectus on a secure website among firms included in the review, and between 9 and 17 steps to access a prospectus on a mobile app. Meanwhile, it took just 2 to 4 steps to access a prospectus delivered via email.

The large disparity in user experience among firms using secure websites and mobile apps to deliver disclosures strongly supports Commission action to limit the number of steps required to access disclosures under the statement of availability delivery method. Under no circumstances should the Commission weaken these critically important investor protections.

This evidence further suggests that investors would benefit from an approach that requires, rather than permits, firms to offer direct delivery as an option investors can choose for *all* disclosures that don’t include personal financial information. Short of that, firms that choose to deliver documents containing no personal financial information using the statement of availability method should be precluded from forcing investors to log in to a secure website to access these public disclosures. I urge the Commission to consider adopting these investor-friendly tweaks to the rule.

The rule would also set minimum website availability periods for any disclosures that aren’t already subject to such a period. It would require disclosures that include personal financial information to be available on the website for at least three years after posting. Disclosures that don’t include personal financial information would have to remain available for at least one year. I support this requirement, but encourage the Commission to strengthen it by requiring firms to alert investors when disclosures containing personal financial information are due to be removed from the website. Including such an alert would give investors an opportunity to download the information before it is removed.

- **Disclosures delivered electronically would be required to include clear notice of key information.**

As discussed above, there is some evidence suggesting that investors who rely on e-delivery are less likely to notice when they receive disclosures than investors who receive paper disclosures through the mail. Consistent with the Commission’s stated goal of improving investor

²⁹ The “reasonable access” requirement of the definition is meant to ensure that the electronic locations where disclosures are made available are easily accessible to covered recipients and do 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.

³⁰ See Appendix 3 of the Broadridge comment letter.

engagement with disclosures, the proposal includes strong notice requirements that should help to address this problem. These include both an initial general notice (e.g., when an investor opens an account or consents to e-delivery) and notice requirements that would apply each time a disclosure is delivered electronically.³¹

My support for the rule is conditioned on its continued inclusion of the following general notice requirements. As discussed below, my review of account agreements suggests these proposed provisions are badly needed to address the often opaque communications investors currently receive about firms' e-delivery policies.

- The proposed definition of “electronic address” would require that the means of e-delivery used by the firm alert the investor each time a disclosure is made available. Requiring such an alert (whether by email, text, or some form of push notification) is necessary to help ensure that covered recipients are aware that covered information is available for them to review. The proposed approach is sufficiently flexible to allow practices to evolve with changes in technology.
- In circumstances where the investor has provided an electronic address, and regardless of whether a firm adopts an opt-in or opt-out approach to e-delivery, a firm that wishes to rely on the proposed rule to satisfy its delivery requirements would have to provide the investor with prominent notice that it will send disclosures to the electronic address provided. This would enable investors to quickly identify whether the electronic address the firm proposes to use for e-delivery is suitable for this purpose and to either update the address, or opt out of e-delivery, if it is not.
- For firms that intend to default investors into e-delivery, the notice would need to describe the types of disclosures that would be delivered to the electronic address unless the recipient opts out of e-delivery. Firms that limit investors' ability to receive paper disclosures, either by placing restrictions on the account or terminating the account, would need to disclose that fact. This would provide investors with information they need to determine whether the firm has delivery policies that are consistent with their preferences.
- For new accounts, firms could incorporate these required disclosures into their onboarding or account opening processes, regardless of whether they are adopting an opt-in or opt-out approach. I agree this is a reasonable approach, but for it to work to provide investors with actionable information, the Commission will need to enforce the requirement that the notice be clear and conspicuous.

My review of account agreements at a handful of prominent firms suggests that investors could benefit greatly from improved notice practices. As discussed above, I found evidence that some firms may rely on “delivery” methods that do not provide notice that the information is available

³¹ As discussed below, in the section discussing protections for investors who prefer paper disclosures, it also includes strong notice requirements for current paper recipients at firms that choose to transition to default e-delivery.

in situations where notice is not explicitly required by law.³² In addition, I found evidence of current notice practices that fail the “clear and conspicuous” test, including because they do not clearly describe the types of disclosures that would be delivered electronically or because they do not clearly describe the restrictions that could result from opting out of e-delivery. For example:

- Among the handful of account agreements I reviewed, Robinhood’s came closest to providing the clear and conspicuous notice the rule would require. It includes a clearly labeled and fairly straightforward description of the requirement to consent to e-delivery as a condition of maintaining an account, the right to revoke that consent, and the consequences of doing so. Although this description does not come until deep in the account agreement, the discussion of e-delivery makes clear that the e-delivery requirement applies to “all account documents,” and it lists the type of information included in that category.³³ With regard to the consequences of revoking consent to e-delivery, it states: “Subject to the terms of this Agreement, you may revoke or restrict your consent to electronic delivery of Account Documents at any time by notifying Robinhood Financial in writing of your intention to do so. However, you understand that if you revoke or restrict your consent to electronic delivery of Account Documents, Robinhood Financial has the right to restrict and/or close your Account, and terminate your access to Robinhood’s services.” Although this is more explicit than other account agreements I reviewed, it is still not entirely clear from this whether there are instances in which access to the account would *not* be restricted or terminated or what form, short of account closure, restrictions on the account might take.
- Schwab’s notice of its e-delivery policy is similarly located deep into the account agreement, though it too carries a prominent and unambiguous heading, “Consent to Electronic Delivery of Records and Regulatory Information.”³⁴ Unlike some others I reviewed, it also specifies the types of disclosures and notices that are subject to the e-delivery policy. When it comes to describing the extent of its e-delivery requirement, however, Schwab resorts to convoluted legalese, rather than a clear and explicit statement, undermining the likelihood that investors will fully understand its implications. It states: “As a condition of your eligibility to receive certain Schwab products, services or offers, or as a condition for you to set up access to your Account through the web or another Electronic Service, upon notice to you, Schwab may require that you accept delivery of trade confirmations, account statements, prospectuses, issuer information, or other documents by electronic means such as electronic mail or through one of our websites.” If you were to test this disclosure with investors, I suspect you

³² See pages 6-7.

³³ “‘Account Documents’ include notices, disclosures, current and future account statements, regulatory and shareholder communications (such as prospectuses, proxy solicitations, and privacy notices), trade confirmations, tax-related documents, and any other information, documents, data, and records regarding your Account, this Agreement (including amendments to this Agreement), and the agreements and disclosures governing the services delivered or provided to you by Robinhood, the issuers of the securities or other property in which you invest, and any other parties.”

³⁴ Schwab Account Agreement (Oct. 2026), available at <https://www.schwab.com/legal/schwab-brokerage-account-agreement>. (It further states that, once the investor receives notice of the requirement to accept e-delivery for a particular account or service, the investor’s “enrollment in or acceptance of such products, services or offers, or your new access to the web or Electronic Services, constitutes your consent.”)

would find that a significant percentage of investors would miss the crucial detail buried in that sentence, that their ability to access their account through the firm’s website or digital app is conditioned on their acceptance of e-delivery, essentially making e-delivery mandatory. It doesn’t make clear what other “products, services or offers” also require the customer to accept e-delivery. Furthermore, use of the word “may” suggests that exceptions to this policy are possible, but it is unclear whether that is actually the case and, if so, what those exceptions might be.

- Vanguard’s account agreement is similarly vague about the restrictions it imposes on investors who fail to opt in to e-delivery, and it is far less clear about the types of disclosures affected by its policy.³⁵ It states, “If You do not consent to e-delivery, VBS or its mailing vendor will use the USPS to deliver the information to You. However, to receive certain VBS products, services, or offers, including, for example, online trading, VBS may require You to consent to electronic delivery of certain documents.” While Vanguard provides one concrete example, “online trading,” that “may” require acceptance of e-delivery of “certain documents,” it fails to make clear what all is captured by the term “online trading” or what, if any exceptions may be available. Nor does it explain what type of disclosures are included among those “certain documents” that may be required to be e-delivered. It also fails to mention here that investors who choose to receive paper disclosures will be subject to a \$25 annual account fee (waived for those who choose e-delivery), unless they meet one of the other waiver conditions.
- Fidelity provides notice – albeit in small type, without a conspicuous header, and written in legalese – on the first page of its account agreement that customers must agree to e-delivery to conduct business with Fidelity and its affiliates. Specifically, in the second half of a list of conditions customers must accept when signing the account application, it includes agreeing “to conduct business with Fidelity and its affiliates electronically, which necessarily includes having your personal financial information transmitted electronically, and to electronic delivery of all documents (including your initial notice of our privacy policy) and communications related to this account and all your other Fidelity accounts as detailed in the Electronic Delivery Agreement, which is incorporated herein by reference.” The account agreement itself does not provide any additional details on Fidelity’s e-delivery policies, nor does it provide a direct link to the Electronic Delivery Agreement.³⁶ For investors who access it, the Electronic Delivery Agreement lists the types of documents that are covered by the e-delivery policy. It also includes a section on revocation of consent, although the discussion there leaves key questions about the consequences of revoking consent unanswered. It states: “You may revoke your consent at any time on Fidelity.com or NetBenefits.com, as applicable. ... To the extent Fidelity maintains your account(s) after you have revoked consent (whether indefinitely or for a period of time until it is closed), Fidelity may, when permitted by applicable law, (i)

³⁵ Vanguard Brokerage Account Agreement (Effective October 1, 2026), available at <https://personal1.vanguard.com/pdf/v718t.pdf>.

³⁶ Electronic Delivery Agreement, available at https://www.fidelity.com/bin-public/060_www_fidelity_com/documents/fidelity/electronic-delivery-agreement.pdf. I wasn’t able to determine how and when the agreement is delivered to investors (or whether it is simply made available on the website), which would determine whether it would constitute “clear and conspicuous” notice.

charge a reasonable fee for the delivery of communications by mail, and (ii) continue electronic delivery of communications for which consent is not required.” Fidelity does not explain what criteria it would use to determine whether it would maintain the account, nor does it specify what constitutes a “reasonable fee” for paper delivery or what types of disclosures would still be delivered electronically. I wasn’t able to immediately discern how and when the Electronic Delivery Agreement is provided to investors (or whether it is simply made available on the website), which would determine whether it would constitute “clear and conspicuous” notice.

The proposed rule supplements this general notice requirement with additional requirements that would apply when disclosures are delivered electronically, whether directly or through the statement of availability method. All such e-deliveries would be required to include a notice of the investor’s right, free of charge, to request a paper copy of the disclosure, to opt out of e-delivery at any time for some or all disclosures, and to update their electronic address. The statement would have to direct the recipient to a website (or other electronic platform) through which they could make these changes. The message delivering the disclosure or the statement of availability would also need to provide basic information about the type of information that is being disclosed, including whether it requires action within a fixed time frame. These notice requirements should help to combat the problem of investors’ overlooking important disclosures when they are delivered electronically, as discussed above.

The proposal encourages, but does not include any concrete provisions to require, firms to “design their statements of availability so as to increase their salience, user-friendliness, and enhance covered recipients’ understanding of the required regulatory disclosures delivered.” I am frankly skeptical that encouragement of this type will be sufficient to achieve the desired result. The industry has a poor record in this regard, particularly when disclosing information, such as the right to opt out of e-delivery, that they would prefer the investor did not understand. I might be less skeptical if industry weren’t actively pushing the Commission to accept delivery methods – access equals delivery and notice and access – that they know would diminish investor readership of those disclosures. If the Commission is serious about wanting firms to make these notices (and disclosures generally) more user-friendly, I believe it will take additional rulemaking. At a minimum, I urge the Commission not to water down the provisions in the rule proposal requiring “clear and conspicuous” notice.

- **The proposed delivery method provides reasonable protections for investors’ personal information.**

When delivering disclosures that include personal financial information, in order to avoid sending sensitive information through potentially unsecure methods (such as unencrypted emails), firms would be required to use the statement of availability delivery method. Moreover, the disclosures would need to be accessed through a platform, such as a firm’s website or app, that is reasonably designed to safeguard the personal financial information.³⁷ While direct delivery has the benefit of minimizing the steps investors must go through to access disclosures,

³⁷ As discussed above, in order to minimize the potential for these security measures to impede the investor’s access to the disclosures, the platform would need to lead the recipient directly to the disclosure immediately after completing the security measures.

I believe requiring sensitive information to be communicated through more secure means makes sense for investors and industry.

In advocating for e-delivery, industry groups often claim that it is more secure than delivery through the mail. I have seen no evidence to support this claim, and it is not a view that is necessarily shared by investors. The OIAD study found, for example, that two thirds of investors (66.6%) expressed a degree of concern about cybersecurity and privacy issues related to e-delivery. In light of such concerns, strong privacy and security protections for disclosures that contain personal financial information may help to overcome resistance to e-delivery among some investors.

Moreover, firms tend to sound considerably less sanguine about the security of e-delivery when discussing the issue in their account agreements. Fidelity's account agreement, for example, requires customers to acknowledge that, "Since electronic (including wired and wireless) communications may not be encrypted ...there is a risk that data, including email, electronic and wireless communications, and personal data, may be accessed by unauthorized third parties when communicated between you and Fidelity or between you and other parties." It disclaims any responsibility for losses that occur as a result of the storage, use, or transmission of "information about you and your account(s)."³⁸ Here again, making firms more explicitly accountable for using appropriate communications methods for disclosures that include personal financial information could help to promote best practices across the industry.

- **The rule proposal includes strong protections for investors who prefer to continue to receive paper disclosures.**

As discussed above, there is a significant minority of investors who, for a variety of reasons, prefer paper delivery over e-delivery. The Commission has included a strong set of safeguards in the rule proposal to protect the interests of such investors. These protections fall into two categories: 1) general protections requiring firms to continue to offer investors the ability to opt out of e-delivery without facing undue burdens or unreasonable costs and 2) specific protections for customers who currently receive paper disclosures during a transition to e-delivery as the default. My support for the rule is contingent on its continued inclusion of these essential safeguards.

- The rule would require firms to continue to make it easy to opt out of e-delivery.

Firms that choose to rely on the rule to satisfy their delivery requirements would have to permit investors to opt out of electronic delivery for any or all required disclosures at any time, free of charge. As discussed above, they would have to provide investors with prominent notice of their right to do so, and that notice would have to direct the investor to a website where they could make such changes. Firms would be required to respond promptly to any such request.

³⁸ In a section headed "Limits to Our Responsibility," the Fidelity Account Agreement requires customers to agree that Fidelity is not responsible for losses they incur as a result of "the storage and use of information about you and your account(s) by our systems and transmission of this information between you and us; these activities occur entirely at your risk".

As discussed above, firms have a strong incentive to push investors into e-delivery. Preserving the ability to opt out of e-delivery is essential to protect the interests of the significant percentage of investors who continue to prefer paper disclosures, including in particular those who either lack access to the internet or who are uncomfortable using technology for this purpose. To better meet the needs of these investors, I encourage the Commission to require firms to provide a toll-free phone number, and not just a website or digital platform, as a mechanism for opting out of e-delivery.

Importantly, the proposed requirements would allow covered recipients to choose which types of covered information are provided in paper format or electronically on a document-by-document basis. Giving investors a choice to receive some disclosures electronically and others in paper holds obvious benefits investors. Studies, including the SIFMA survey and OIAD study, suggest that investors are far more likely to prefer paper delivery for certain documents than they are for others.³⁹ In light of these apparent disparities, giving investors the ability to choose different delivery methods for different types of disclosures might make them more willing to accept e-delivery for at least some disclosures.

In an admirable effort to prevent firms from using fees to discourage investors from requesting paper disclosures – either on an on-going or one-off basis – the Commission proposes to require firms to make paper disclosures available free of charge. As stated in the Proposing Release, this “would mean that the covered entity could not directly or indirectly impose a charge on a covered recipient who opts to receive paper delivery, such as by imposing a separate charge for paper delivery or imposing a charge that is waived only for covered recipients who receive disclosures electronically.” While I greatly appreciate the Commission’s proposal to prohibit firms from imposing a fee to receive paper disclosures, and agree that in an ideal world this would be the appropriate policy, I am concerned that it may have the unintended effect of discouraging firms from choosing to rely on the proposed rule to satisfy their e-delivery obligations.

At least some firms currently impose such fees, and the disclosures can be less than transparent.⁴⁰ Moreover, as noted throughout the Proposing Release, the proposed rule does not override contract law. While firms that choose to rely on the rule would have the assurance that they are fulfilling their delivery obligations, they would not be required to do so. I am concerned that, if firms were prevented from recovering the added costs associated with paper disclosure, they might be more likely to use account agreements to evade important safeguards in the rule and force customers to accept e-delivery as a condition of maintaining an account.

³⁹ As noted above, the OIAD study found that more than a third of investors (36.2%) expressed a preference for e-delivery of disclosures that include personal information, compared with just 20.5% for disclosures that do not include personal information. The SIFMA survey found that investors were most likely to prefer to receive tax forms (44%), legal notices (37%), and account statements (35%) through the mail, and least likely to prefer to receive the annual privacy policy notice (23%), “research and planning education materials” (24%), and trade confirmations (28%) through the mail. I recognize that neither brokerage account statements nor tax forms would be governed by this rule, though it seems likely that, if the Commission adopts this rule, Finra will quickly follow suit for disclosures required under its rules, including brokerage account statements.

⁴⁰ See above discussion of the Vanguard account agreement.

Under these circumstances, an acceptable compromise might be to allow firms to impose a *reasonable* fee to cover the added costs of paper delivery. If the Commission were to adopt such an approach, the reasonableness of any such fee should be based on its direct correlation to the cost of printing and mailing paper disclosures, and the Commission would need to be prepared to monitor for excessive fees. Required e-delivery notices would need to include notice of any such costs in their discussion of the consequences of revoking consent to e-delivery.

- For investors who currently receive paper disclosures, the rule provides for clear notice ahead of a transition to e-delivery.

The investors most likely to be harmed in a transition to default e-delivery are those who currently receive paper disclosures, but who have provided an electronic address at some point. They may include investors whose e-delivery mechanism, such as a smartphone, is not well suited for reading and storing disclosures. They may also include investors who are simply not comfortable using technology for this purpose. Under the proposed rule, if firms choose to transition to default e-delivery, these investors would have to reaffirm their preference for paper. Fortunately, the proposed rule includes strong provisions to require advance notice of the coming transition so that investors can make an informed decision of how to proceed.

Specifically, a firm that wishes to transition current investors receiving some or all of their disclosures in paper to e-delivery would generally be required to provide the investor with an initial notice at least 180 days before the transition to default e-delivery along with a follow-up notice 30 days before the transition. These notices would have to be delivered through the mail. In addition to alerting the investor about the coming transition to e-delivery, the notices would have to specify the electronic address to which disclosures would be e-delivered and provide a prominent statement describing the ability to: opt out of e-delivery and receive paper copies at any time; the ability to update or confirm their electronic address; and the process by which the investor could make these changes. Where firms give customers a choice among several different types of e-delivery, they would also have to provide a process customers could use to select their preferred method. If applicable, firms would have to disclose whether opting out of e-delivery would result in restrictions on or termination of the relationship or account.

This information is essential to enable investors to make an informed choice of delivery methods and to ensure that the electronic address to be used for e-delivery is up-to-date and appropriate for that purpose. Moreover, the 180-day lead-in for that initial notice is necessary to ensure that investors have time to act in response to the change in policy, particularly since some firms may limit or restrict investors' ability to receive paper. An investor that is uncomfortable or unable to use the internet for this purpose may be forced to move their account. They need time to do so in order to minimize what could be considerable cost and inconvenience of doing so, including possibly having to sell investments in an unfavorable market. Under no circumstances should the Commission consider shortening the required notice period. My support for the rule is conditioned on its continued inclusion of these essential safeguards.

Conclusion

Providing investors with the information they need to make informed investment decisions forms the bedrock of our federal securities laws. But that disclosure system only works if investors

actually receive the disclosures designed to serve this purpose. As technology transforms the way we communicate, it is important to update our regulations to reflect that change. But updating those delivery requirements must not come at the expense of undermining investor engagement with those disclosures.

Accordingly, back in 2017, the SEC’s Investor Advisory Committee (IAC) adopted a recommendation on a pro-investor transition to e-delivery.⁴¹ In that recommendation, the IAC urged the Commission to “continue to explore methods to encourage a transition to electronic delivery that respect investor preferences and that increase, rather than reduce, the likelihood that investors will see and read important disclosure documents.” As currently drafted, the proposed rule is generally consistent with the 2017 IAC recommendation. This sets it apart from the access equals delivery and notice and access alternatives advocated by industry and considered in the Release, which would unquestionably further depress the likelihood that investors read and understand the disclosures designed to help them make informed investment decisions and monitor their investments.

If the Commission stands firm in adopting its pro-investor proposed approach, it will lay the groundwork for much needed improvements enabled by e-delivery to the timeliness, readability, and usefulness of required disclosures. As I wrote in an earlier comment letter to the Commission during my time at CFA, however, “simply changing the default for how disclosures are delivered from paper to digital is unlikely to deliver the potential benefits to investors of a technology-enabled approach to disclosure. If investors, and not just industry, are to benefit from a move to greater reliance on digital disclosure, we must reimagine our approach not just to the delivery mechanism but also to the disclosures themselves in light of the capabilities unlocked through electronic delivery (e-delivery).”⁴²

While I appreciate that the Commission has encouraged firms to seize this opportunity to make those improvements voluntarily, experience suggests that a nudge will not be enough. I am convinced it will take affirmative Commission action to bring about pro-investor changes. I therefore urge the Commission not to stop with Reg E-Delivery, but instead to use it as a launching pad for the far more important task of developing investor disclosures that provide investors with the information they need, at the time when they need it, and in a form they can understand. Only then is the Commission likely to achieve its stated goal of improving investor engagement with disclosures.

Respectfully submitted,

Barbara Roper, retired

⁴¹ Recommendation of the SEC Investor Advisory Committee regarding Promotion of Electronic Delivery and Development of a Summary Disclosure Document for Delivery of Investment Company Shareholder Reports (Dec. 7, 2017), available at <https://www.sec.gov/spotlight/investor-advisory-committee-2012/recommendation-promotion-of-electronic-delivery-and-development.pdf>.

⁴² Letter from Consumer Federation of America to the SEC regarding Mutual Fund Disclosure Modernization (Dec. 15, 2020), available at <https://www.sec.gov/comments/s7-09-20/s70920-8144542-226675.pdf>.