September 21, 2026

Vanessa A. 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, File No. S7–2026– 25, 91 Fed. Reg. 45884 (July 21, 2026)

Dear Ms. Countryman:

Better Markets[1] appreciates the opportunity to comment on the above-referenced proposal.[2] The proposal would allow issuers, brokers, and other market intermediaries to send documents to investors electronically without first obtaining their affirmative consent. Because this would disadvantage investors who rely on receiving important information in paper format, the Commission should withdraw the proposal or require investors to opt in to e-delivery.

The Commission's principal justification for that proposal is that it is "expected to provide cost savings to issuers, market intermediaries, and ultimately investors and others who receive regulatory information."[3] Indeed, the Commission repeatedly bemoans the costs to companies of providing information in paper format if investors would rather receive the information electronically. Those costs, in its view, justify a requirement that investors opt out of e-delivery to receive documents in paper format, rather than an option to opt in to e-delivery.

The problem is that the Commission exists to protect investors. It does not exist to protect companies. It regulates companies. The Commission should be concerned with the costs to investors of not receiving essential information about their investments in their preferred format. By forcing investors to opt out of e-delivery, the Commission is ignoring those costs.

The Commission also fails to recognize that it could provide the cost savings that it is so eager to provide companies through a proposal that allows investors to opt in to e-delivery rather than a proposal that would force investors to opt out of e-delivery. Such a proposal would ensure that the cost savings that accrue to issuers, brokers, and other market intermediaries would result

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[1] Better Markets is a non-profit, non-partisan, and independent organization founded in the wake of the 2008 financial crisis to promote the public interest in the financial markets, support the financial reform of Wall Street, and make our financial system work for all Americans again. Better Markets works with allies—including many in finance—to promote pro-market, pro-business, and pro-growth policies that help build a stronger, safer financial system that protects and promotes Americans' jobs, savings, retirements, and more.

[2] 91 Fed. Reg. 45,884 (July 21, 2026).

[3] *Id.* at 45,886.

only from the conscious choice of investors who acknowledge that they do not want to receive paper copies and not from failing to provide paper delivery to investors who want paper delivery but do not realize they can opt out of e-delivery or do not take the time to perform the steps needed to receive paper documents. This would mean companies would save costs that investors actually wanted them to save and not because investors failed to take the initiative to opt out.

The Commission says that it believes "it is difficult to justify the costs and expenses associated with paper delivery as a required default delivery method when an investor or other recipient of covered information who has an electronic address does not affirmatively express a preference for delivery in paper format."[4] So the Commission is relying on the mere fact that someone has an email address as an excuse to relieve market participants of the obligation to provide paper copies of essential information unless investors take the time to inform those market participants of their preferences. The Commission needs a better justification than the fact that people use email to force investors to take action to receive information in paper format.

The requirement that investors opt out of e-delivery is especially pernicious given that currently investors must opt in to e-delivery to relinquish their ability to receive documents in paper format. Indeed, the Commission recognizes that under its current guidance, "issuers and market intermediaries generally deliver regulatory documents and reports in paper format unless the recipient consents or 'opts in' to e-delivery."[5] Given the status quo, "the burden should be on the provider" to obtain the investor's consent to make a change.[6] The Commission should not default investors into a new process to receive information that simply "creates hurdles for Main Street investors."[7] The fact that issuers, brokers, and other market intermediaries may prefer a system that requires investors to opt out of e-delivery because this will make it more likely that investors will not exercise that option is no reason to change from a system that requires investors to opt in to e-delivery to a system that requires them to opt out of e-delivery.

Indeed, there is no question whom an opt out option benefits. The Commission itself, in justifying the move to e-delivery, cites a commenter who said that "the requirement to affirmatively opt-in to receive documents by e-delivery creates an element of inertia."[8] There is no reason to believe the requirement to affirmatively opt out of e-delivery would not also suffer from the same element of inertia. As a result, the ability to opt out of e-delivery in no way protects investors. Instead, it is a smokescreen that the Commission essentially acknowledges will allow issuers to provide documents electronically not because that is what investors prefer but due to the inertia that may afflict some investors and benefit issuers at their expense.

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4 *Id.* at 45,892.

5 *Id.* at 45,886.

6 Brian Darling, *New Proposed E-Delivery Rule Removes Consumer Choice*, Real Clear Policy (Sept. 2, 2026), https://www.realclearpolicy.com/articles/2026/09/02/new_proposed_e-delivery_rule_removes_consumer_choice_1203991.html,

7 *Id.*

8 *Id.* at 45,890.

So the Commission recognizes that even if investors have the option to take a certain action, the element of inertia is likely to prevent them from doing so. Given that the Commission also recognizes that, up until now, "required regulatory disclosures and reports have generally been delivered in paper unless the person with the right to receive these disclosures and reports has elected otherwise,"[9] and that, up to now, the ability to provide essential information to investors electronically has been "largely based on an 'opt in' approach,"[10] the Commission should not make a change that is likely to harm investors who want to maintain the status quo.

> Saving money for large issuers, broker-dealers, investment advisers, and other entities in the space should not be the primary goal of the SEC when it comes to protecting investors from a lack of information about third parties with control over their money.[11]

So the Commission, which is supposed to protect investors and not burden them to benefit companies, should not "transfer[] friction from financial institutions to individual investors."[12]

In addition to justifying the proposal by the costs issuers and market intermediaries could save through e-delivery, the Commission justifies the proposal on the ground that "many Americans have demonstrated a growing preference for consuming information through electronic media as the use of the internet has grown."[13] That may be, but that does not mean it is the preference of all Americans. Polling and research "consistently show that a significant majority of older adults prefer to receive paper statements."[14] This may also be the category of investors least likely to undertake the steps necessary to opt out of e-delivery. "Senior investors will be disadvantaged the most, because they are the least likely to successfully navigate an online opt-out workflow."[15] The same may be true for investors with disabilities, in low-income households, and in rural areas with unreliable internet.[16] A growing preference among Americans generally for consuming information electronically does not justify the Commission adopting a rule that may harm American investors, especially seniors and its most vulnerable citizens.[17]

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9 *Id.* at 45,941.

10 *Id.*

11 Darling, supra note 6.

12 Andrew Langer, *The SEC's Paperless Default Would Leave Older Investors Behind*, Washington Examiner (Sept. 7, 2026) (noting that "the principal economic benefit would accrue to the institutions relieved of printing and postage costs, while the risk of missed information would be borne by investors"), https://www.washingtonexaminer.com/restoring-america/fairness-justice/4712612/sec-regulation-e-delivery-paper-statement-impact/.

13 *Id.* at 45,887.

14 https://www.nclc.org/wp-content/uploads/2025/05/2025.05.19_Letter_Concerns-Regarding-Electronic-Delivery-of-Financial-Statements-as-Default.pdf.

15 Darling, supra note 6.

16 *Id.*

17 *See Langer*, supra note 12 ("Pew Research Center has found that roughly one-third of older internet users have little or no confidence in their ability to perform online tasks, and nearly half say they need someone else to set up or explain a new device. Researchers studying paper versus web questionnaires have reached

It may well be that a growing number of Americans prefer receiving communications, including communications about their investments, electronically. A proposal that allows them to opt in to e-delivery would allow them to act on this preference without harming the percentage of Americans who would prefer to keep receiving those communications in paper format. Yet the Commission has chosen to force all investors to receive communications electronically unless some investors take the affirmative step of opting out of the new proposed e-delivery default.

The Commission says that requiring "recipients to receive regulatory disclosures and reports in paper format unless they opt in to e-delivery is outdated in today's world where it is common to communicate electronically."[18] It is undoubtedly common to communicate electronically in today's world, but that does not mean information essential to investors should be delivered only electronically by default. The provision of information to investors is not the same as keeping in touch with friends and family. It may be outdated to require investors to receive information about their investments in paper format. It is not outdated to allow investors to first acknowledge that they wish to switch to receiving this information electronically.

> Meaningful choice requires more than allowing people to reverse a decision made for them. It requires defaults that account for how people actually behave, including the predictable reality that some recipients will overlook notices, postpone responding, or misunderstand what will happen if they do nothing.[19]

To further justify the proposal, the Commission touts the benefits of electronic delivery. But that is not the issue. The Commission itself recognizes that "there are a variety of reasons why individuals and other recipients of information required under the Federal securities laws may prefer delivery in a paper format."[20] The issue is that the Commission has chosen to make e-delivery the default method and to force investors to opt out of e-delivery. Given that investors have been receiving information in paper format for decades, and as the Commission recognizes there may be many reasons that they would want to continue to do so, the Commission should require affirmative consent from investors before depriving them of receipt in paper format.

This is especially so since, as the Commission also recognizes, a federal law requires that when a statute or rule mandates that information must be provided to consumers in writing, that information may be provided to a consumer electronically only as long as the consumer has affirmatively consented to e-delivery.[21] The Commission says that issuers, brokers, and other market intermediaries have interpreted this law as requiring that they seek to obtain or confirm

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a parallel conclusion: Most older adults still lean toward paper, and those who rely on it are markedly more likely to drop out when the paper option disappears. That is precisely the behavior a paper-to-digital default would trigger . . . The SEC should not make older people navigate a new process merely to continue receiving the financial records on which they have relied for years.").

18 91 Fed. Reg. at 45,892.

19 Langer, supra note 12.

20 *Id.* at 45,893.

21 *Id.* at 45,921.

an investor's affirmative consent to e-delivery.[22] Although an agency may provide an exemption from this requirement "if the exemption is necessary to eliminate a substantial burden on electronic commerce and will not increase the material risk of harm to consumers,"[23] providing such an exemption here would increase a material risk of harm to investors. Investors, especially older investors who have long relied on receipt of financial information in paper format, would be more likely to fail to receive important information about their investments. The Commission should not dismiss this risk of harm to the investors whom they are supposed to protect.

Conclusion

We hope these comments are helpful as the Commission considers this matter.

Sincerely,

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22 *Id.* at 45,922.

23 *Id.*