SULLIVAN & CROMWELL

Investment Management Newsletter

Q3 2026

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The S&C Quarterly Investment Management Newsletter highlights key legal and regulatory developments relevant to the investment management industry. For more information on these and other developments, we encourage you to reach out to your regular Sullivan & Cromwell LLP contact.

In this issue, we discuss key developments in Q3 and early Q4 2026, including recent SEC rule proposals, no-action letters and enforcement updates, as well as other key updates, including recent SEC staff statements and announcements. We also discuss several CFTC and Internal Revenue Service developments relevant to the investment management industry.

Recent Legislative Developments and Rulemakings

Senate Fails to Advance the CLARITY Act. On September 15, the Senate voted 49 to 50 against cloture on the motion to proceed to H.R. 3633, the Digital Asset Market Clarity Act (the "CLARITY Act"), falling short of the 60-vote threshold required to advance the legislation.

The CLARITY Act, which passed the House in July 2025, would establish a federal regulatory framework for digital commodities, allocating authority between the SEC and CFTC, establishing a registration framework for digital commodity intermediaries and providing a limited exemption from registration under the Securities Act of 1933 (the "Securities Act") for primary transactions in digital commodities. As it is unlikely that the CLARITY Act will be enacted this year, the bill will most likely need to be reintroduced in the next Congress and proceed through the legislative process again. The same week that the CLARITY Act failed to be advanced in the Senate, the SEC issued an innovation exemption for tokenized securities (described later in this newsletter).

SEC Proposes Amendments to Expand Securities Eligible for Cross Trading by Registered Funds. On October 9, the SEC proposed amendments to Rule 17a-7 under the Investment Company Act of 1940 (the "Investment Company Act"), which provides relief from the prohibition of certain cross trades between a registered fund and its first- and second-tier affiliates under Section 17(a) of the Investment Company Act. The proposed amendments would expand the scope of securities eligible for cross trades, update the conditions related to pricing and oversight and enhance investor protection. The SEC also proposed related amendments to Forms N-PORT and N-MFP.

The proposed amendments would also permit a registered fund to price an eligible security in a cross trade using either (i) the price used in the fund's next computation of its net asset value on the day of the cross trade or (ii) a price that the fund's investment adviser determines, using unaffiliated pricing sources, reasonably

represents the security's current market price. Comments are due by December 14, 2026.

The proposed amendments primarily focus on restrictions for registered funds, but they would apply equally to business development companies ("BDCs") unless the SEC adopts BDC-specific rules under Section 57 of the Investment Company Act in the future.

For further discussion of the proposed amendments, please refer to our publication here.

SEC Proposes Framework for Custody of Crypto Assets and Other Changes to the Custody Rule. On October 1, the SEC proposed amendments to the custody rules under the Investment Advisers Act of 1940 (the "Advisers Act") and Investment Company Act that would, among other things, establish new custody arrangements for crypto assets and modify existing custody requirements for registered management investment companies and BDCs (collectively, "regulated funds").

The proposal would permit advisers and regulated funds to maintain crypto assets with certain state trust companies, subject to specified safeguards, and would permit advisers to self-custody crypto assets where no qualified custodian is available, subject to additional safeguarding requirements and, for regulated funds, board oversight. The proposal would also establish new exceptions from the Advisers Act custody rule (Rule 206(4)-2, which under the proposed rule would be redesignated as Rule 223-1), including for discretionary trading authority; ease certain audit requirements for private funds; expand broker-dealer custody options for regulated funds; and clarify the application of the Investment Company Act custody rules (Rules 17f-1, 17f-2, 17f-4, 17f-5, 17f-6, and 17f-7) to BDCs. The SEC also requested comment on crypto assets and custody arrangements that may fall outside the proposed framework.

Comments are due by December 7, 2026. For additional information, including key takeaways and implications, please refer to our publication here.

SEC Proposes Amendments to Expand Retail Access to Private Markets. On September 30, the SEC announced a package of proposals and requests for comment intended to expand retail investor access to private market investments through changes to performance-based compensation requirements, interval fund regulation, multiple share class requirements and accredited investor eligibility.

- *Performance-Based Compensation*. The SEC proposed amendments to Rule 205-3 under the Advisers Act that would permit investment advisers to

regulated funds to receive performance-based compensation, subject to specified conditions, including a fee cap of 20% of the fund's net capital gains or net capital appreciation, fund governance requirements and board approval and oversight. The proposal would also expand the definition of "qualified client" to include accredited investors and impose additional disclosure requirements for performance-based compensation paid by regulated funds, including certain existing incentive fee arrangements.

- *Interval Funds and Multiple Share Classes*. The SEC proposed amendments to Rules 23c-3 and 18f-3 under the Investment Company Act that would provide interval funds greater flexibility in managing repurchases, including permitting monthly repurchases, allowing funds to defer initial repurchases for up to two years and replacing the existing prescribed liquidity requirement with a principles-based standard. The proposal would also generally permit registered closed-end funds and BDCs to issue multiple share classes without obtaining individualized exemptive relief.

- *Accredited Investor Eligibility*. The SEC issued five notices seeking comment on six potential additional pathways to accredited investor status based on professional credentials or examinations, including a new FINRA-developed accredited investor examination and certain existing professional licenses and designations.

Comments on the interval fund proposal and accredited investor notices are due December 4, 2026, and comments on the performance-based compensation proposal are due December 7, 2026.

For more information on the proposed amendments, including key takeaways and implications, please refer to our publication here.

SEC Staff Issues Statement on Fair Value Measurement and Disclosure for Private Assets. On September 28, Kurt Hohl, the SEC's Chief Accountant, and Brian Daly, Director of the Division of Investment Management, jointly published a staff statement reminding registrants of fair value measurement and disclosure requirements under FASB Accounting Standards Codification Topic 820, with a particular focus on private credit.

The statement emphasizes the importance of rigorous valuation practices, noting that private credit assets often require significant judgment because their valuations rely on significant unobservable inputs. On valuation, the staff reminded registrants that a lack of timely borrower information does not relieve management of its

responsibility to estimate fair value and that measurements must reflect a market participant perspective (including prevailing credit spreads and liquidity conditions). When the initial transaction price represents fair value and a subsequent measurement uses unobservable inputs, the valuation technique must be calibrated so that its result at initial recognition equals that transaction price.

The statement also emphasizes the need for meaningful disclosures concerning Level 3 fair value measurements, including the valuation techniques and significant inputs used and how changes in those inputs could affect fair value. The staff cautioned that boilerplate or overly aggregated disclosures may not be sufficient. The statement further notes that, as secondary markets for private fund interests develop, additional market information may become available and affect the inputs used in fair value measurements.

SEC Proposes to Rescind Rule 14a-8 and Amend Rule 14a-4(c). On September 16, the SEC proposed to rescind Rule 14a-8 and amend Rule 14a-4(c) under the Securities Exchange Act of 1934 (the "Exchange Act"). Rule 14a-8 generally requires companies, including regulated funds, to include eligible shareholder proposals in their proxy materials.

The proposed rescission would apply to all companies subject to Rule 14a-8 and would leave the framework for shareholder proposals to state law and, where permitted, companies' governing documents. The proposed rescission follows an August 14, 2026 announcement from the staff of the SEC's Division of Corporation Finance that it would no longer respond to any Rule 14a-8 no-action requests.

The SEC also proposed amendments to Rule 14a-4(c) that would permit companies to exercise discretionary voting authority on certain shareholder bylaw proposals without separately including them on their proxy cards, subject to specified disclosure and shareholder opt-out requirements.

Comments on both proposals are due November 20, 2026.

For further discussion of the proposals, including key takeaways and implications, please refer to our publication here.

SEC Grants Innovation Exemption for Tokenized Stock Trading. On September 17, 2026, the SEC issued two five-year, conditional exemptions to facilitate the permissioned trading of tokenized NMS stock through automated market makers ("AMMs") and liquidity pools (together, "AMM Liquidity Pools"):

- an exemption from the definition of "exchange" for TSVs; and
- an exemption from the definition of "dealer" for certain liquidity providers that supply tokenized NMS stock to an AMM Liquidity Pool.

Together, these exemptions (collectively, the "Innovation Exemption") allow certain venues that use AMM Liquidity Pools to facilitate trading tokenized versions of certain listed U.S. stocks without registration as a national securities exchange or alternative trading system, while also permitting liquidity providers to deposit tokenized stock into those AMM Liquidity Pools without registering as dealers, in each case subject to several conditions and limitations. The Innovation Exemption is effective immediately. The SEC is requesting comment on all aspects of the Innovation Exemption. For further discussion of the Innovation Exemption, including key implications, please refer to our publication here.

SEC Proposes Reforms to the Proxy Solicitation Process. On September 16, the SEC proposed amendments to modernize the proxy solicitation process by replacing the requirement to deliver annual reports to securityholders with a requirement to file them on Form 10-K or furnish them on EDGAR, removing certain minimum delivery periods for proxy materials and prospectuses, eliminating the requirement to file Notices of Exempt Solicitation and shortening the minimum broker search period before the record date from 20 business days to five business days. The proposal would also revise proxy statement disclosure requirements and eliminate the stock performance graph requirement for most registrants other than regulated funds.

Comments are due November 20, 2026.

For further discussion of the proposal, including key takeaways and implications, please refer to our publication here.

SEC Proposes Rescission of Pay-to-Play Rule for Investment Advisers. On September 3, the SEC proposed rescinding Rule 206(4)-5 under the Advisers Act, which generally restricts investment advisers from providing compensated advisory services to government entities for two years following certain political contributions and prohibits certain third-party solicitation arrangements. The proposal would also eliminate certain related recordkeeping requirements. Comments are due by November 9, 2026.

SEC Proposes to Modernize Rules for Registered Transfer Agents. On September 1, the SEC proposed amendments to rules and forms governing

registered transfer agents under the Exchange Act, including to accommodate technological developments such as blockchain-based recordkeeping. Among other things, the proposal would:

- *Definitions*. Introduce technology-neutral terminology and permit "master securityholder files" to be maintained across multiple linked systems, including blockchain, subject to specific control and recordkeeping requirements.
- *Processing Standards*. Require written policies and procedures reasonably designed to ensure timely turnaround and processing, align turnaround requirements with the settlement cycle and raise the performance threshold triggering limitations on expansion from 75% to 95%.
- *Recordkeeping*. Establish a uniform retention period for most transfer agent records and modernize provisions governing the use of electronic systems and third parties for recordkeeping.

Comments are due by November 3, 2026.

SEC and CFTC Further Extend Compliance Date for February 2024 Form PF Amendments. On August 31, the SEC and CFTC jointly announced a further extension of the compliance date for the amendments to Form PF adopted on February 8, 2024. The compliance date, which was previously extended to October 1, 2026, has now been further extended to July 1, 2027. The extension will allow "Form PF filers to avoid certain potentially significant costs associated with implementing the Form PF Amendments" and "will provide the Commissions time to fully consider comments received on the April 2026 rule proposal."

SEC Proposes Regulation Crypto Assets. On August 18, the SEC proposed Regulation Crypto Assets, an offering and disclosure framework for certain investment contracts involving crypto assets that are not themselves securities ("covered investment contracts").

The proposed rule would create two exemptions from registration under the Securities Act: (i) a one-time "startup exemption" permitting offerings of up to $5 million over a period of up to four years and (ii) a "fundraising exemption," modeled on Regulation A, permitting offerings of up to $20 million (Tier 1) or $75 million (Tier 2) in each 12-month period.

The proposal would also create a conditional, non-exclusive "investment contract safe harbor," with specific conditions under which a covered investment contract

would cease to exist, and the crypto asset would be deemed no longer subject to that investment contract. Finally, the proposed rule would also preempt state securities law registration and qualification requirements for covered investment contracts offered or sold under Regulation Crypto Assets or in certain secondary market transactions. Public comments were due on October 20. For more information on the proposed rule, including key takeaways and implications, please refer to our publication here.

CFTC Proposes CPO and CTA Registration Exemptions for SEC-Registered Investment Advisers. On August 18, the CFTC proposed new exemptions from commodity pool operator ("CPO") and commodity trading advisor ("CTA") registration for SEC-registered investment advisers operating privately offered pools limited to certain sophisticated investors. The proposal would largely codify existing CFTC staff no-action relief, subject to conditions relating to investor eligibility, private offering requirements and Form PF reporting. The proposal would also increase the capital contribution threshold for the CPO registration exemption for small commodity pools from $400,000 to $800,000. Comments were due October 5, 2026.

SEC Adopts Technical Amendments to Fund Governance Requirements. On August 4, the SEC adopted technical amendments to Rule 0-1(a)(7) under the Investment Company Act, removing requirements that (i) at least 75% of a fund's directors be independent and (ii) its board chair be disinterested. The amendments reflect a 2006 D.C. Circuit decision vacating those requirements and restoring the prior standard requiring a majority of directors to be disinterested. The amendments became effective August 6, 2026.

Recent Guidance and No-Action Letters

SEC Staff Publishes FAQs on the Innovation Exemption. On October 20, the staff of the SEC's Division of Trading and Markets published frequently asked questions ("FAQs") concerning the SEC's September 17, 2026 Innovation Exemption for tokenized national market system ("NMS") stock, described earlier in the newsletter. In the first FAQ, the staff stated that a Tokenized Securities Venue ("TSV") should publish required public notices prominently on its website after its operations and access standards are established and ready for production, and must publish such notices at least 30 calendar days before commencing operations.

In the second FAQ, the staff explained that a TSV may identify third-party tokenized NMS stock in its public notice while the issuer's separate 30-calendar-day objection period for issuer notice remains pending, provided that the TSV lists in its public notice the tokenized NMS stocks for which it has provided notice and indicates that

the objection period is pending. Trading may begin only after both the 30-day notice and 30-day objection periods have elapsed without a timely issuer objection, and the TSV must update its public notice to reflect the outcome.

In the third and fourth FAQs, the staff respectively linked to a list of persons that have notified the SEC of their intention to operate under the TSV exemption and provided contact information and submission instructions for questions and comments on the order and notices of reliance on the TSV exemption and the dealer exemption for certain liquidity providers.

SEC Staff Provides Relief for Voluntary Retail Voting Programs. On September 29, the SEC's Division of Corporation Finance issued a no-action letter concerning Tesla's proposed issuer voluntary retail voting program ("IVRVP") under the federal proxy rules, which may serve as a framework for other issuers developing IVRVPs. IVRVPs are intended to offer retail investors practical means to exercise their voting rights by empowering them to provide a standing instruction to vote their shares in alignment with board recommendations. Tesla sought additional clarity regarding the application of the federal proxy rules to IVRVPs to facilitate the evolution and broader issuer adoption of IVRVPs. In addition, the SEC staff's no-action letter addresses market and technological developments since 2025 (when the SEC staff issued its first no-action letter on a retail voting program), including those resulting from Tesla's work with providers of shareholder communication services to establish a user-friendly option for retail investors to opt into the IVRVPs of all issuers offering such programs. In response to a request by Tesla, the staff of the Division of Corporation Finance confirmed that other issuers may rely on the relief in operating an IVRVP in the manner described in Tesla's request letter.

For further discussion of the SEC staff's no-action letter, including key features of the IVRVPs covered by the SEC staff's no-action letter, please refer to our publication here.

Department of the Treasury and IRS Issue Guidance Targeting Section 351 Conversion and Other Potentially Abusive Transactions. On September 28, the Department of the Treasury ("Treasury") issued Notice 2026-62 (the "Notice"), and the Internal Revenue Service (the "IRS") issued Revenue Ruling 2026-20 (the "Ruling"), addressing several investment strategies the government views as potentially inconsistent with the intent of Congress.

The Notice describes certain "tax-aware" trading strategies involving ETFs, investment partnerships and separately managed accounts. The Ruling applies the general approach outlined in the Notice to a particular transaction, known as a

"Section 351 conversion transaction," that would purport to allow an investor to exchange a substantially appreciated portfolio of securities for exposure to other assets without recognizing gain. The Ruling concludes that the contributing investor is treated as engaging in a taxable exchange to the extent the contributed securities are used in a planned redemption of an authorized participant's shares.

Treasury and the IRS are considering additional guidance or other action, potentially including identifying certain transactions as listed transactions or transactions of interest. Comments were requested by October 28, 2026. For further discussion, please refer to our publication here.

SEC Staff Issues FAQs on Application of Federal Securities Laws to Crypto Assets. On September 25, the staff of the SEC's Division of Corporation Finance released FAQs clarifying the SEC's March 17, 2026 interpretive release on the application of federal securities laws to crypto assets.

The FAQs address the classification of staking receipt tokens and other crypto asset receipts, including circumstances in which such tokens may be classified as digital commodities or digital tools. The FAQs also clarify when issuer statements, promotional activities, ongoing development efforts and token buyback programs may constitute representations or promises of essential managerial efforts relevant to determining whether a crypto asset is subject to an investment contract. The FAQs further address the circumstances in which a secondary market trading platform may be considered a promoter under the federal securities laws.

SEC Grants Novel Exemptive Relief Permitting Exchange-Listed and Tokenized Interval Fund Share Classes. On September 21, the SEC granted exemptive relief to ARK Venture Fund and ARK Investment Management LLC, the fund's investment adviser, permitting certain interval funds and tender offer funds to offer within the same fund exchange-listed and tokenized share classes alongside traditional share classes.

The relief permits the covered funds to offer exchange-listed and tokenized share classes with secondary trading, subject to specified conditions, including daily website disclosure of the fund's net asset value per share and restrictions on early withdrawal charges on exchange-listed or tokenized class shares. The relief is limited to funds advised by ARK Investment Management LLC or its eligible affiliates and successors and is not available to other fund sponsors.

SEC Staff Provides Self-Custody No-Action Relief for Franklin Templeton Funds' Investments in Blockchain-Recorded Money Market Fund Shares. On August 12,

the staff of the SEC's Division of Investment Management granted no-action relief to Franklin Templeton, stating that it would not recommend enforcement action if certain Franklin Templeton registered funds allowed their affiliated transfer agent to custody shares of the Franklin OnChain U.S. Government Money Fund, a blockchain-recorded money market fund, notwithstanding certain requirements of Rule 17f-2 under the Investment Company Act.

The relief addresses an arrangement in which the transfer agent maintains official share ownership records through an internal book-entry system and blockchain technology. The staff's position was based in part on representations that the transfer agent retains unilateral control over the official ownership records, including the ability to correct or restore them. The relief is subject to safeguards, including fund board approval and annual review, separate accounts and wallets for each fund and periodic verification by independent public accountants.

SEC Staff Provides Relief for ETF Creation Baskets During Passive Concentration Exceedances. On July 27, the staff of the SEC's Division of Investment Management issued a no-action letter to the Investment Company Institute addressing creation basket transactions by exchange-traded funds ("ETFs") that have passively exceeded their disclosed industry concentration policies. The relief applies to actively managed and index-based ETFs.

The relief permits ETFs experiencing such exceedances to accept pro rata creation baskets containing securities in the relevant industry, use cash received in lieu of those securities to purchase them in amounts consistent with a pro rata basket or accept non-pro rata baskets with the same industry weighting as a pro rata basket. The relief is intended to allow ETFs to process creation transactions without increasing their proportional exposure to the industry in which they have exceeded their concentration limits.

Enforcement and Litigation

SEC Division of Examinations ("EXAMS") Releases Its 2027 Examination Priorities. On October 23, EXAMS released its 2027 examination priorities (the "Examination Priorities"). While largely consistent with prior years, the Examination Priorities place emphasis on investment advice involving illiquid assets, economic conflicts of interest and emerging financial technologies. EXAMS also highlighted efforts to make the examination process more transparent to registrants.

For investment advisers, EXAMS continues to focus on fiduciary duties and compliance programs, with particular attention to economic conflicts of interest, including fee rebates, cash management arrangements and fee and expense calculations, consistent with observations in its June 2026 Risk Alert. For private

fund advisers, areas of focus include investment-related risk disclosures and controls addressing fund- and investment-level risks, including risks associated with financing arrangements, affiliated service providers and investment allocations. EXAMS will also assess whether advisers have adapted their compliance programs to changes in their businesses, including acquisitions, new investment strategies and expanded operations.

For registered investment companies, EXAMS highlights private credit investments and associated valuation, redemption and disclosure issues as areas of focus. The Examination Priorities also highlight funds with leverage vulnerabilities, including BDCs and inverse and leveraged ETFs, and funds relying on exemptive orders, including their implementation of and compliance with those orders.

The Examination Priorities also introduce a specific focus on advisers' reliance on proxy advisory firms, including their evaluation of recommendations and potential conflicts of interest, while continuing to emphasize reporting obligations associated with activist engagement. In addition, EXAMS emphasizes information security and operational resiliency, including implementation of the amended Regulation S-P requirements, cybersecurity risks involving third-party service providers and emerging threats involving super intelligence, including phishing and deepfake impersonation. EXAMS will continue to review firms' use of automated investment tools and emerging technologies in advisory, trading and compliance functions.

SEC Issues 21(a) Report Addressing Group Formation and Beneficial Ownership Reporting in Investor Coalitions. On October 7, the SEC issued a report of investigation under Section 21(a) of the Exchange Act addressing the implications of coordinated activities among institutional investors, including through investor coalitions and other intermediaries, for beneficial ownership reporting and proxy solicitation requirements. The report examines activities involving Climate Action 100+, including the 2021 proxy contest at ExxonMobil. Although the SEC determined not to pursue enforcement action, it expressed serious concerns regarding certain coordinated investor activities.

The report highlights circumstances in which coordinated shareholder engagement, including through investor organizations and other intermediaries, may result in group formation under Section 13(d) and trigger beneficial ownership reporting or proxy solicitation disclosure obligations. The report also addresses how participation in coordinated shareholder initiatives, particularly those seeking to influence an issuer's board composition, management or policies, may affect eligibility to report beneficial ownership on Schedule 13G, even absent group

formation. The report distinguishes independent shareholder engagement from coordinated activities, emphasizing that membership in an investor organization or parallel voting decisions do not, without more, establish group status, while express disclaimers of coordination are not dispositive.

For further discussion of the SEC's Section 21(a) report, including key takeaways and implications for asset managers, institutional investors and public companies, please refer to our publication here.

SEC Settles Fiduciary Duty Charges Over Failed Fund Liquidation. On September 18, the SEC issued an order settling charges against Hatteras Investment Partners, LP ("Hatteras") and its principal, David B. Perkins, for breaching their fiduciary duties in recommending a high-risk liquidation transaction to several registered funds. The action is notable for the SEC's application of advisers' fiduciary duties to the investment decision-making process itself, focusing on inadequate due diligence rather than conflicts of interest or disclosure failures.

According to the order, Hatteras recommended exchanging the funds' portfolio of illiquid alternative assets for preferred shares of Beneficient, then a private financial services company. The funds intended to sell the shares received after Beneficient's public listing and distribute the proceeds to shareholders. The SEC found that Hatteras and Perkins failed to investigate significant red flags about Beneficient's financial condition, operating history and share liquidity and proceeded with the transaction despite objections from Hatteras's chief financial officer. The transaction ultimately resulted in approximately $300 million in fund losses and failed to achieve the funds' liquidity objectives.

The SEC concluded that Hatteras and Perkins lacked a reasonable basis to determine that the transaction was in the funds' best interest, in violation of Section 206(2) of the Advisers Act. Without admitting the findings, both respondents agreed to censures and a cease-and-desist order. Perkins also agreed to a $250,000 civil penalty.

Director Woodcock Outlines Enforcement Priorities and New Enforcement Initiatives. On September 18, David Woodcock, Director of the SEC's Division of Enforcement, delivered remarks at the 12th Annual Government Enforcement Institute, outlining the Division's priorities and introducing new initiatives to strengthen enforcement.

Director Woodcock emphasized the Division's focus on fraud, insider trading, accounting fraud, compliance failures, investment adviser conflicts and

misrepresentations. Director Woodcock described a shift away from numerical enforcement metrics toward evaluating the quality and impact of enforcement actions, noting the Division had reviewed its investigative docket and closed matters inconsistent with its priorities.

Director Woodcock also announced the launch of a Financial Reporting and Accounting Unit focused on financial reporting fraud, accounting misconduct and auditor violations, and a Retail Fraud Working Group focused on pursuing retail fraud, including fraud involving artificial intelligence and emerging technologies. Director Woodcock emphasized efforts to accelerate investigations, including taking testimony before document productions are complete and pursuing subpoena enforcement actions more promptly in response to noncompliance.

EXAMS Issues Risk Alert Regarding Investment Adviser Annual Compliance Reviews. On September 14, the staff of EXAMS issued a Risk Alert summarizing deficiencies observed in its examinations of SEC-registered investment advisers' annual reviews required by Rule 206(4)-7 under the Advisers Act. The rule requires advisers to review, at least annually, the adequacy of their compliance policies and procedures and the effectiveness of their implementation.

The staff identified deficiencies in the following areas:

- *Conducting timely annual reviews*. Advisers failed to conduct timely annual reviews, including by going more than 12 months without a review. Some substituted compliance training or employee attestations for reviews.
- *Written procedures*. Advisers lacked adequate procedures for conducting annual reviews, including policies regarding the scope of review, testing and documentation.
- *Conducting annual reviews consistent with written procedures*. The staff observed advisers that did not follow their own procedures, such as those requiring them to cover a defined review period or scope, use specified workpapers or perform specific tests.
- *Consistency with actual practices*. Reviews failed to identify gaps in compliance policies or inconsistencies with actual practices, such as fee billing practices that differed from policies or client disclosures.
- *Documentation*. Advisers failed to retain records of reviews or prepare written reports required by their policies.

- *Corrective actions*. Advisers failed to implement changes recommended in their annual reviews, including instances where review reports indicated that changes had been made.

Other Recent Key Updates

SEC Commissioner Hester Peirce Resigns. On October 2, Hester Peirce left her role as commissioner, leaving the SEC with two Republican commissioners. President Trump has yet to nominate replacements for the two seats vacated before Commissioner Peirce's departure. On September 30, the SEC adopted amendments to its quorum rule, effective October 2, permitting a single commissioner to constitute a quorum for a particular matter when all other commissioners holding office are disqualified from participating.

Chairman Atkins Addresses AI and Regulation NMS Reform at Investor Advisory Committee Meeting. On September 10, SEC Chairman Paul Atkins delivered remarks at a meeting of the SEC Investor Advisory Committee, addressing the Committee's panels on artificial intelligence ("AI") and potential reforms to Regulation NMS.

On AI's role in corporate disclosure, Chairman Atkins described AI as "a complement to — not a substitute for — human judgment," and identified risks including model opacity, errors cascading across the market from widespread reliance on similar tools and misuse. He stressed that the SEC would not prescribe firms' specific AI models nor depart from its longstanding materiality principles when establishing disclosure requirements.

On Regulation NMS, Chairman Atkins described Rule 611 as a policy misstep that contributed to the proliferation of trading venues and fragmentation of liquidity. Chairman Atkins noted that the SEC had proposed rescinding Rules 611 and 610(e) in June 2026 and that staff was reviewing public comments on the proposal.