NEWSLETTER

NOVEMBER–DECEMBER 2025

ROPES & GRAY

Investment Management Update

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The following summarizes recent legal developments of note affecting the investment management industry:

SEC Publishes 2026 Examination Priorities

On November 17, 2025, the SEC Division of Examinations ("EXAMS") published its annual Examination Priorities applicable to SEC-regulated entities.

EXAMS identified the following examination focus areas relevant to registered funds and their advisers:

- Examinations of registered funds will generally include the funds' compliance programs, disclosures, filings (*e.g.,* summary prospectuses), and governance practices. Examinations of fund operations will include a particular focus on (i) fund fees and expenses, including any associated waivers and reimbursements, (ii) portfolio management practices and related disclosures and marketing materials (for consistency), and (iii) compliance with amended Rule 35d-1 (the "Fund Names Rule").[1]

- EXAMS will also continue to monitor certain "developing areas of interest," including registered funds that (i) participate in mergers or similar transactions, including any associated operational and compliance challenges, (ii) use complex strategies and/or have significant holdings of less liquid or illiquid investments (*e.g.*, closed-end funds), including any associated issues regarding valuation and conflicts of interest, and (iii) employ novel strategies or investments, including funds with leverage vulnerabilities

EXAMS also identified examination focus areas that are relevant to all investment advisers, including a focus on investment products with the following strategies or characteristics: (i) alternative investments (*e.g.*, private credit and private funds with extended investment lock-up periods), (ii) complex investments (*e.g.*, ETF wrappers on less liquid underlying strategies, option-based ETFs, and leveraged and/or inverse ETFs), and (iii) higher

[1] For new open-end funds, the Fund Names Rule compliance date is June 11, 2026. For existing open-end funds, the compliance date is the effective date of a fund's first "on-cycle" annual prospectus update filed on or after June 11, 2026.

costs associated with investing (e.g., high commissions and higher investment expenses than similar products/investments). Additionally, EXAMS highlighted "Risk Areas Impacting Various Market Participants," including the following:

- Cybersecurity. As a "perennial examination priority," EXAMS "will continue to review registrant practices to prevent interruptions to mission-critical services and to protect investor information, records, and assets." EXAMS will also examine registrants' procedures and practices to assess whether they are reasonably managing information security and operational risks. EXAMS will pay particular attention to (i) firms' policies and procedures pertaining to governance practices, data loss prevention, access controls, account management, and responses and recovery to cyber-related incidents (including those related to ransomware attacks), (ii) training and security controls that firms are employing to identify and mitigate new risks associated with artificial intelligence (AI) and polymorphic malware attacks, including how they are operationalizing information from threat intelligence sources, and (iii) firms' operational resiliency.
- Regulations S-ID[2] and S-P. EXAMS will assess compliance with Regulations S-ID and S-P, with a particular focus on firms' policies and procedures, internal controls, oversight of third-party vendors, and governance practices. Regarding Regulation S-ID, EXAMS will focus on firms' development and implementation of a written identify theft prevention program that is designed to detect, prevent, and mitigate identify theft in connection with "covered accounts." Specifically, EXAMS will assess the reasonableness of the policies and procedures included in firms' programs, including whether they (i) are reasonably designed to identify and detect red flags, particularly during customer account takeovers and fraudulent transfers, and (ii) include firm training on identify theft prevention. Regarding Regulation S-P, EXAMS will engage firms during examinations about their incident response programs reasonably designed to detect, respond to, and recover from unauthorized access to or use of customer information. Moreover, EXAMS will focus on whether firms have developed, implemented, and maintained policies and procedures in accordance with Regulation S-P's new provisions (described in Ropes & Gray's June 2024 Alert) that address administrative, technical, and physical safeguards for protection of customer information.
- Emerging Financial Technology/Artificial Intelligence. EXAMS remains focused on registrants' use of emerging financial technology – such as automated investment tools, AI, trading algorithms or platforms, and alternative sources of data – and the associated risks. When examining firms that engage in such activities, EXAMS generally will assess whether (i) representations are fair and accurate, (ii) operations and controls in place are consistent with disclosures made to investors, (iii) algorithms lead to advice or recommendations consistent with investors' investment profiles or stated strategies, and (iv) controls to confirm that advice or recommendations resulting from automated tools are consistent with regulatory obligations to investors, including retail and older investors. With respect to AI, EXAMS will focus on recent advances in AI and will review for accuracy registrant representations regarding their AI capabilities or AI. In particular, EXAMS will assess whether firms have implemented adequate policies and procedures to monitor and/or supervise their use of AI technologies, including for uses related to fraud prevention and detection, back-office operations, anti-money laundering, and trading functions, as applicable. Reviews will also consider firm integration of regulatory technology to automate internal processes and optimize efficiencies.

For both registered fund and adviser examinations, EXAMS will continue to prioritize never-before-examined entities, with particular emphasis on recently registered funds and advisers.

SEC Staff Opens Door to Standing Proxies under Retail Shareholder Voting Program

BACKGROUND

On September 15, 2025, the staff of the SEC Division of Corporation Finance issued a no-action letter stating that it would not recommend enforcement action to the SEC in connection with the retail shareholder voting program (the "program") proposed by Exxon Mobil Corporation ("Exxon"). The program allows retail shareholders to provide Exxon with a standing proxy to vote their shares at every shareholder meeting in a manner consistent with the voting recommendations of Exxon's board of directors.

[2] A registered investment company may be subject to Regulation S-ID (described in Ropes & Gray's December 2022 – January 2023 IM Update) if it offers or maintains "covered accounts." A "covered account" is (i) an account that a financial institution or creditor offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions; and (ii) any other account that the financial institution or creditor offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the financial institution or creditor from identity theft, including financial, operational, compliance, reputation or litigation risks. *See* 17 C.F.R. § 248.201(b)(3).

- The program is voluntary and is available at no cost to all retail investors, including any registered owner or beneficial owner (through their bank, broker, or plan administrator). The program is not available to registered investment advisers exercising voting authority with respect to client securities.
- Participants may opt out of the program at any time and may override their standing voting instruction for a particular meeting by directly casting their votes using the proxy materials they receive.
- Even after opting in to the program, participants will continue to receive all of the company's proxy materials for each meeting. Exxon also will provide participants annual reminders of their enrollment status and these opt-out and override rights.
- Exxon will fully disclose the program on its website and in each proxy statement.
- The Exxon no-action letter is described in detail in a separate Ropes & Gray Alert.

In its requesting letter to the SEC staff, Exxon highlighted that the program would promote voting by retail investors. Exxon highlighted that "at its most recent annual meeting, nearly 40% of our outstanding shares were held by retail investors, yet only a quarter of these retail shares were voted."

POTENTIAL IMPLICATIONS FOR REGISTERED FUNDS

A retail shareholder voting program like the Exxon program should similarly enhance retail shareholder participation in registered funds' shareholder meetings. In addition, such a program should make it easier for funds to satisfy applicable quorum requirements and thereby avoid the costs of resoliciting retail shareholders simply to achieve the required quorum.

- According to a December 9, 2025 article in *BoardIQ*, the Investment Company Institute "is urging the [SEC Division of Investment Management] to consider applying no-action relief recently granted for ExxonMobil."
- Separately, even if the SEC staff were to extend the Exxon no-action letter to cover registered funds' retail shareholder voting programs, each fund's voting program must satisfy restrictions or limitations, if any, in the fund's organizational documents and under state law.

Short Sale Rule and Securities Lending Rule Deferred until 2028

A prior Ropes & Gray IM Update reported that the U.S. Court of Appeals for the Fifth Circuit issued a decision regarding a challenge by industry trade groups to (i) Rule 13f-2 under the Exchange Act and related reporting requirements on Form SHO (the "Short Sale Rule") and (ii) Rule 10c-1(a) under the Exchange Act requiring certain persons to report information about securities loans (the "Securities Lending Rule"). In that decision, the Court held that the SEC had failed to justify the two rules under the Administrative Procedure Act and the Exchange Act and remanded the two rules to the SEC "to allow the agency to consider and quantify the cumulative economic impact of the Rules."

On December 3, 3025, the SEC issued an order extending the rules' compliance dates while it addresses the Court's concerns. The order extends the compliance date for (i) the Short Sale Rule until January 2, 2028, and (ii) the Securities Lending Rule until September 28, 2028.[3]

Regulatory Priorities Corner

The following items exemplify trends and areas of current focus of relevant regulatory authorities:

SEC Continues Notices of Intent to Grant ETF Share Class Relief to Applicants

On November 17, 2025, the SEC issued an order approving the amended application filed by DFA Investment Dimensions Group Inc., *et al*. ("DFA") for an exemptive order to permit registered open-end funds to offer a class of shares that operates as an ETF and one or more classes of shares that operate as a mutual fund. This long-awaited relief has the potential to transform the registered funds industry. On December 17, 2025, the SEC issued a combined notice to 30 applicants relating to their pending applications for exemptive relief substantially identical to the relief granted DFA. We expect the SEC to continue to issue notices and exemptive orders on a first-come, first-served basis to the remaining 60-or-so applicants, many of which have applied for exemptive relief substantially identical to the relief granted DFA.

[3] In addition, the order defers the compliance date for certain Securities Lending Rule data dissemination requirements until March 29, 2029.

Regulation S-P Compliance Date Unaffected by Requests for Extension

A November 19, 2025 joint comment letter from various trade organizations, including the Investment Company Institute, the Securities Industry and Financial Markets Asset Management Group, and the Investment Adviser Association, requested that the SEC consider granting a six-month extension of the compliance dates for Regulation S-P amendments.

Notwithstanding the trade organizations' request, the SEC did not defer the **December 3, 2025** compliance date for the Regulation S-P amendments.[4] These amendments require broker-dealers, registered investment companies (including business development companies), and registered investment advisers to have adopted written policies and procedures creating an incident response program to deal with unauthorized access to customer information, including procedures for notifying persons affected by the incident within 30 days. The Regulation S-P amendments are summarized in a Ropes & Gray Alert.

Commissioner Uyeda Speaks on Opening 401(k)s to Private Markets

In a November 20, 2025 speech at the Investment Company Institute's Retail Alternatives and Closed-End Funds Conference in New York City, SEC Commissioner Mark T. Uyeda shared his thoughts on increasing access to private investments through 401(k) and other defined contribution plans. His remarks are summarized below.

ECONOMIC RATIONALE: THE CASE FOR DIVERSIFICATION

Commissioner Uyeda set out the economic case for increasing defined contribution plan access to private investments. He noted that "in today's market environment, diversification is increasingly difficult to achieve through public securities – whether equities or fixed income – alone" and that a "handful of large-cap technology companies now represent a disproportionate share of major stock indices." Such dominance, he stated, "raises questions about whether passive investing can deliver the kind of diversification that is optimal for long-term retirement savers."

The Commissioner highlighted that private investments, "such as private equity, private credit, venture capital, infrastructure, and real estate," when "included as part of a diversified portfolio … can enhance overall performance and reduce volatility." He cited academic studies and a few anecdotal examples, including the experience of CalPERS and other government retirement systems, in support of this argument. Commissioner Uyeda also noted that, "while some publicly traded vehicles – such as business development companies, venture capital trusts, SPACs, and closed-end funds – offer partial access to private markets, they do not fully replicate the characteristics or performance of direct private investments."

THE FALLACY OF ZERO EXPOSURE

Commissioner Uyeda rejected the notion that "everyday Americans should have zero exposure to private investments in their 401(k) plans and their individual retirement accounts," arguing that a "zero percent allocation to private investments is not a neutral default – it is a policy choice." Additionally, he underscored that a zero percent allocation based on alleged unsuitability "ignore[s] a core principle of ERISA: the duty of prudence" and that when "managed prudently, private investments can offer meaningful diversification and long-term value." The Commissioner also rejected the Biden Administration's guidance, which "strongly discouraged fiduciaries from even considering private equity in 401(k) plans," as "not protective – it was paternalistic." He emphasized that "[d]emocratizing access to alternative assets must be accompanied by fiduciary rigor rather than unsupported fearmongering."

LEGAL CLARITY AND LITIGATION REFORM

Commissioner Uyeda stated that to expand private investment opportunities, "we must address the significant litigious environment that surrounds fiduciary decision-making under ERISA for plan sponsors considering including private assets in defined-contribution plans." He called for "litigation reform that mirrors the principles of the Private Securities Litigation Reform Act (PSLRA) – a bipartisan act that recognized the significant negative impact that greedy and corrupt plaintiffs' lawyers were imposing on innovation and the American economy."

Noting that the PSLRA raised the bar for securities fraud claims by heightening plaintiffs' pleading requirements, he asserted that "retirement plan litigation should require clear, particularized allegations of fiduciary breach" and that "plaintiffs should be

[4] This is the compliance date for "larger entities," which include (i) investment companies that, together with other investment companies in the same group of related investment companies, collectively have net assets of $1 billion or more as of the end of the most recent fiscal year, (ii) any registered investment adviser with $1.5 billion or more in assets under management and (iii) all broker-dealers and transfer agents that are not "small entities" under the Exchange Act for purposes of the Regulatory Flexibility Act. For institutions that are not larger entities, the compliance date is June 3, 2026.

required to identify specific recommendations, decisions, or processes that allegedly failed to meet ERISA's standards of prudence and loyalty."

INSTITUTIONAL EXPERIENCE: A ROADMAP FOR INCLUSION

The Commissioner noted that private investments "are not new nor experimental" and are a "well-established component of institutional portfolios around the world." In his view, the experience of institutional investors "demonstrates that, when managed with care and diligence, private investments can play a vital role in meeting long-term obligations." He maintained that, with "appropriate safeguards, fiduciary oversight, and thoughtful design, private assets can be responsibly integrated into retirement portfolios" and that the track record of institutional portfolios "is not a reason for exclusion; instead, it is a roadmap for inclusion."

SHAPING THE FUTURE: COLLABORATION, TRUST, AND EXPANDING OPPORTUNITY

To achieve the goals outlined in his remarks, Commissioner Uyeda stated that "there needs to be regulatory alignment between the SEC and the DOL." He said that, to improve the retirement system for all Americans, "we must create a unified framework that balances investor protection with market access under both ERISA and the federal securities laws." He added that "[b]y coordinating efforts, the SEC and DOL can ensure that fiduciaries have the tools and clarity they need to evaluate private investments responsibly" and a "harmonized approach will help avoid regulatory fragmentation, reduce compliance uncertainty, and ultimately empower plan sponsors to make decisions that serve the best interests of their participants."

Commissioner Uyeda stated that, "[o]ver the next several years, I look forward to working with my colleagues at the SEC and DOL, as well as the many other parties involved in retirement savings, to expand opportunity, uphold fiduciary standards, and ensure that the next generation of American workers has the ability to accumulate wealth over the long term."

Brian Daly Addresses the American Bar Association's Federal Regulation of Securities Committee's Private Funds Subcommittee and Investment Advisers and Investment Companies Subcommittee

INTRODUCTION

On December 2, 2025, Brian Daly, Director of the SEC Division of Investment Management, delivered a speech to two subcommittees of the American Bar Association's Federal Regulation of Securities Committee at a meeting in Washington, D.C. His remarks are summarized below.
Before describing the regulatory agenda of the Division of Investment Management (the "Division"), Director Daly emphasized that the Division is "deeply interested in what the industry has to say, how investors feel, and how the public perceives our proposals."

Regarding the Division's input to the SEC's regulatory agenda, Director Daly stated that the Division's input "falls into one (or more) of the following themes:" (i) an overall deregulatory effort, (ii) modernization initiatives, (iii) democratization of alternative asset investments, and (iv) promotion of artificial intelligence.

DEREGULATION

The Director expressed his view that "[t]houghtful and measured deregulation can unlock value." He affirmed that, in its rulemaking, oversight, and exemptive efforts over the next few years, the Division "will be receptive to suggestions on how thoughtful changes to existing rules can facilitate innovation." He added, "where we can remove restrictions that do not serve the common good, we are interested in doing so."

MODERNIZATION

Director Daly stated that the SEC needs "to modernize our rulebook," noting that many rules "were well-intentioned when adopted, with underlying policy goals that often remain valid" ... "but the requirements themselves have become outdated." He cited the recordkeeping rule under the Advisers Act as an example of a rule "written in a time when communications were physical and manual" but in need of modernization because, today, "we live in a digital, cloud-based, multi-platform environment" and

the rule "still reflects a paper-based mindset." He also cited the custody provisions within and under the 1940 Act and the Advisers Act, which "clearly did not contemplate digital assets" and acknowledged that the Division has "more catch-up work to do here."

In general, Director Daly stated, when the Division recommends changes to the SEC, "our goal will be to do so in a way that is platform-independent, technology-neutral, and future-ready."

DEMOCRATIZATION OF ALTERNATIVE ASSET INVESTMENTS

Director Daly noted the Division's efforts to expand access to alternative investments within 401(k) retirement accounts through "working closely with our colleagues at the Department of Labor to support their efforts in the context of ERISA plan options."

He stated that, outside of the retirement plan context, "democratization options for retail investors using post-tax, pre-retirement dollars fall squarely in our purview." Here, the Director posited that, rather than facilitating the retailization of alternative assets through a comprehensive rulemaking, "markets and investors may be better served by a thoughtful and incremental reconsideration of our existing regulatory framework across different access points, investment structures, and disclosure requirements." In this context, he observed that the Division is "not withdrawing from the field, but we are allowing you enough space to innovate" and that when the time is right for the Division to get involved, "we will do so, but that time is not today."

PROMOTING ARTIFICIAL INTELLIGENCE

Director Daly reported that the Division sees AI "as a transformative force in the investment management industry – one that we want to enable, support, and regulate thoughtfully." He observed that the Division is constantly thinking about how AI "can transform disclosure and the investor experience" and "AI can be a boon to effective disclosure" by "taking the traditional stack of mutual fund offering documents . . . and pairing it with an investment adviser's proprietary AI Agent." As a result, he noted, AI Agents will move investors "from a linear, text-heavy disclosure model to an interactive, personalized experience – one that reflects how people actually consume information today, in the age of iPhones, TikTok, and YouTube."

Director Daly also highlighted that, while the shift to AI interfaces "has the potential to revolutionize investor engagement," it also raises the following important questions:

- Is the AI Agent's output considered marketing material?
- Is it investment advice?
- When will the AI Agent itself need to be registered?
- Who bears liability for bad advice – the adviser, the developer, or a third-party platform?

The Director noted that "these are not hypothetical concerns" but "are real regulatory questions that we want to actively explore with you."

Chairman Atkins on the SEC's Approach to Digital Assets: Inside "Project Crypto"

OVERVIEW

In a November 12, 2025 address at the Federal Reserve Bank of Philadelphia, SEC Chairman Paul S. Atkins outlined the SEC's next steps in "Project Crypto," the SEC's initiative to develop a regulatory framework for applying the federal securities laws to digital assets and related transactions. The Chairman stated that "in the coming months, I anticipate that the Commission will consider establishing a token taxonomy that is anchored in the longstanding *Howey* investment contract securities analysis, recognizing that there are limiting principles to our laws and regulations."

Chairman Atkins organized his remaining remarks around three themes (i) the importance of a clear token taxonomy, (ii) how *Howey* applies in a way that recognizes the fact that investment contracts can come to an end, and (iii) what that could mean in practice for innovators, intermediaries, and investors. His remarks are summarized below.

A DECADE OF UNCERTAINTY

Chairman Atkins acknowledged that the question – "Are crypto assets securities?" – is confounding because "crypto asset" is not a term defined in the federal securities laws. He noted that the analysis turns on the term "investment contract," an open-ended category included in the statutory definitions of the term "security" that itself is not defined by statute. He observed that the term "investment contract" "describes a relationship between

parties" and "is not an unremovable label attached to an object." He stated that investment contracts "can be performed and they can expire" and they "do not last forever simply because the object of an investment contract continues to trade on a blockchain." The Chairman rejected the view "that if a token was ever subject to an investment contract, it would forever be a security." He also acknowledged the difficulty that developers, exchanges, custodians, and investors had faced over several years "trying to navigate in a fog, without SEC guidance, but obstruction," committing the SEC to undertaking "to draw clear lines and explain them in clear terms."

HOWEY, PROMISES, AND ENDINGS

The Chairman observed that, while most crypto assets are not themselves securities, "crypto assets can be part of or subject to an investment contract" when they "are accompanied by certain representations or promises to undertake essential managerial efforts that satisfy the *Howey* test." He elaborated:

- The *Howey* test entails an investment of money in a common enterprise with a reasonable expectation of profits to be "derived from the essential managerial efforts of others." A purchaser's reasonable expectation of profits "depends on the issuer's representations or promises to engage in essential managerial efforts."
- These representations or promises "must be explicit and unambiguous as to the essential managerial efforts to be undertaken by the issuer."
- The key analytical question is "how can a non-security crypto asset separate from an investment contract?" The "simple yet profound answer: the issuer either fulfills the representations or promises, fails to satisfy them, or they otherwise terminate."

Chairman Atkins noted that Commissioner Hester Peirce "has rightly observed that while a project's token launch might initially involve an investment contract, those promises may not remain forever." That is, networks mature, code is shipped, control disperses, and the "issuer's role diminishes or disappears." At some point, he said, "purchasers are no longer relying on the issuer's essential managerial efforts, and most tokens now trade without any reasonable expectation that a particular team is still at the helm." This is the point at which a token is no longer a security.

Accordingly, Chairman Atkins stated, the SEC "will align our rules and enforcement with the economic reality that investment contracts can end and networks can stand on their own."

REGULATION CRYPTO

The Chairman observed that, in the coming months, "as contemplated in legislation currently before Congress, I hope that the Commission will also consider a package of exemptions to create a tailored offering regime for crypto assets that are part of or subject to an investment contract." He added that he had asked the SEC staff to prepare recommendations for the SEC's consideration that "facilitate capital formation and accommodate innovation while, at the same time, ensuring investors are protected." Additionally, he noted:

- The SEC Crypto Task Force and the Division of Investment Management staff have already "convened multiple roundtables and reviewed a vast body of written input. We will need more." He invited additional feedback "from investors, from builders worried about shipping code, and from traditional financial institutions eager to participate in on-chain markets without running afoul of rules written for a paper-based era."
- The SEC will continue to support congressional efforts "to codify a sound market structure framework into statute" to mitigate the "risk that a future Commission could reverse course."

Additional Ropes & Gray Alerts and Podcasts Since Our September–October IM Update

CFTC PROVIDES INTERIM RELIEF FROM COMMODITY POOL OPERATOR REGISTRATION TO REGISTERED INVESTMENT ADVISERS OF PRIVATE FUNDS

December 22, 2025

On December 19, 2025, the Market Participants Division of the Commodity Futures Trading Commission ("CFTC") issued relief (*see* CFTC Letter No. 25-50) on an interim basis permitting certain commodity pool operators ("CPOs") registered with the SEC as investment advisers to claim relief from CPO and commodity trading advisor registration while the CFTC considers further rulemaking.

PODCAST: EMBRACING AI – DRIVING LEGAL INNOVATION

December 17, 2025

On this Ropes & Gray podcast, asset management partner Sarah Davidoff was joined by colleagues Ty Owen, Olivia Yoon, and Doug Ballanco to discuss the transformative impact of AI on legal practice. The episode highlighted how AI is streamlining

document compilation, side letter negotiations, and market data analysis, leading to significant workflow improvements and time savings. The team also discussed the TrAIlblazer program, which empowers first-year associates to learn and collaborate on AI-driven projects, accelerating their development and enabling them to focus on more substantive legal work earlier in their careers. The conversation emphasized a culture of innovation, collaboration, and continuous learning, with associates actively piloting new technologies and sharing best practices to deliver better results for clients.

PODCAST: DECODING SFDR 2.0 – NAVIGATING THE EUROPEAN COMMISSION'S PROPOSED ESG REFORMS

November 26, 2025

On this Ropes & Gray podcast, Michael Littenberg, corporate partner and global head of the firm's ESG, CSR & Business and Human Rights compliance practice, and asset management partner Eve Ellis broke down the European Commission's proposed SFDR 2.0 revisions. They discussed new product labels, streamlined disclosure requirements, and the removal of certain compliance pain points. The episode explored operational implications for asset managers, cross-border challenges, and the impact on fund strategies, offering practical advice for navigating the evolving EU ESG regulatory landscape and preparing for upcoming changes.

DISTRESSED DEBT LEGAL INSIGHTS – FOSSIL GROUP'S UK RESTRUCTURING PLAN

November 14, 2025

This is *Distressed Debt Legal Insights*, Ropes & Gray's new source of timely insights for professionals navigating the complex world of liability management and special situations finance. This issue addressed Fossil Group's foray into the world of UK restructuring, implementing a refinancing and recapitalization transaction using an innovative cross-border solution structured in part by Ropes & Gray attorneys.

ROPES & GRAY ADVISES INDEPENDENT DIRECTORS COUNCIL ON ETF PUBLICATIONS

November 12, 2025

The Independent Directors Council (the "IDC"), a leading organization representing independent directors/trustees who serve on the boards of registered investment companies, engaged Ropes & Gray to advise on the recent publication of two papers relating to ETFs.

On November 7, 2025, the IDC published a paper titled "ETF Share Class Relief: An Overview for Fund Directors." The paper outlines various aspects of ETF share class relief and provides some practical questions independent directors may wish to consider when evaluating a proposal for and providing ongoing oversight of a mutual fund or ETF that relies on the relief. On September 2, 2025, the IDC published a paper titled "ETF Primer for Fund Directors," which discusses ETFs in general and similarly includes practical questions for directors to consider as they perform their oversight responsibilities or seek to become more familiar with ETFs.

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If you would like to learn more about the issues in this IM Update, please contact your usual Ropes & Gray attorney contacts.