View on our website.

GIBSON DUNN

Capital Markets | Securities Regulation & Corporate Governance Update

September 14, 2026

SEC Proposes Sweeping Modernization of Transfer Agent Rules, Including New Restrictive Legend Requirements With Significant Implications for Capital Markets Transactions

The first comprehensive overhaul of the federal transfer agent rules in four decades would align transfer agent operations with the current T+1 standard settlement cycle, accommodate electronic and blockchain-based recordkeeping, and impose new gatekeeping duties on transfer agents in unregistered securities transactions. Practical takeaways and implications for capital markets participants are set forth at the end of this update.

On September 1, 2026, the Securities and Exchange Commission (the SEC or Commission) announced the proposal of a comprehensive set of amendments to the rules and forms governing registered transfer agents (Release No. 34-106246; File No. S7-2026-30) (the Proposal). The Proposal would amend the transfer agent registration and annual reporting regime (Form TA-1 and Form TA-2 and Rule 17ac2-1 and Rule 17ac2-2), modernize nearly every substantive transfer agent rule adopted in the late 1970s and 1980s, rescind the small transfer agent exemption in Rule 17ad-4, and add two new rules: Rule 17ad-30, a mandatory compliance program requirement, and Rule 17ad-31, which governs the placement and removal of restrictive legends and prohibits transfer agents from facilitating unregistered securities transactions absent a reasonable basis to believe the transaction complies with Section 5 of the Securities Act of 1933, as amended (the Securities Act).

While the Proposal is addressed to transfer agents, its practical effects will be felt by issuers, underwriters, placement agents, selling securityholders, and their counsel. Proposed Rule 17ad-31, in particular, would formalize — and in important respects expand — the diligence that transfer agents must perform before processing unregistered issuances, legend removals, and transactions by affiliates, officers, and directors, with direct consequences for the documentation, legal opinions, and timelines associated with private placements, Rule 144 resales, and legend removal in connection with registered offerings. Comments on the Proposal are due 60 days after publication in the Federal Register.

I. BACKGROUND AND OVERVIEW

Transfer agents maintain the official record of ownership of an issuer's securities and facilitate the issuance, cancellation, and transfer of certificated and uncertificated securities. They are, in the Commission's words, a key component of the national clearance and settlement system. Yet the core federal transfer agent rules were adopted in the late 1970s and early 1980s (when paper certificates were the norm) and have not been substantively updated since. The SEC signaled its interest in modernization in a December 2015 concept release, but no rulemaking followed for more than a decade.

Announcing the Proposal on September 1, 2026, SEC Chairman Paul S. Atkins said the Proposal would streamline and modernize the Commission's rules to reflect transfer agents' current processes and operations, including the use of electronic communications and blockchain technology in connection with securities offerings and share transfers. Jamie Selway, Director of the Division of Trading and Markets, described the rulemaking as part of the Chairman's broader effort to revisit legacy rules as technology and the competitive marketplace evolve. The Proposal expressly contemplates the emergence of blockchain-native, or "onchain," transfer agents, tokenized securities, and AI-enabled operational tools, and is drafted to be technology-neutral so that it can accommodate both traditional book-entry systems and distributed ledger technology (DLT)-based recordkeeping.

II. SUMMARY OF THE PROPOSED RULES

The Proposal touches virtually every element of the transfer agent regulatory framework:

- **Registration and Reporting**. The effective date of registration under Rule 17ac2-1 would be extended from 30 to 45 days after Form TA-1 is filed. Amended Rule 17ac2-2 would require a transfer agent to file an amended Form TA-2 within 60 days of discovering that a previously filed Form TA-2 was materially inaccurate, incomplete, or misleading when filed. Form TA-1 and Form TA-2 would be substantially revised, including new disclosure regarding other regulatory registrations, control affiliates, service providers and, notably, the number of issues serviced using DLT and tokenization models.
- **Modernization of Definitions (Rule 17ad-1 and Rule 17ad-9)**. Legacy, certificate-centric terminology would be replaced with technology-neutral terms (for example, "certificate detail" would become "position detail," and master securityholder files would be required to include a unique security identifier (such as a CUSIP or FIGI) for certificated and, where applicable, uncertificated and tokenized securities).

- **Turnaround and Processing Standards (Rule 17ad-2 and Rule 17ad-3)**. The existing three-business day turnaround period for 90% of all routine items — a standard built for paper certificates — would be replaced with a requirement to establish, maintain, and enforce written policies and procedures reasonably designed to ensure turnaround and processing for all routine items within the shorter of one business day or the time period specified by Rule 15c6-1(a), aligned with the current standard settlement cycle (presently T+1). The Proposal would eliminate the existing noon cutoff for registered transfer agent (except when acting as an outside registrar), so an item received at any point during the business day is treated as received that day, and would impose a Commission notice requirement when the transfer agent fails to meet the turnaround standard for 3% or more of routine items during a month. The threshold for imposing limitations on expansion under Rule 17ad-3 would rise from 75% to 95%.

- **Recordkeeping and Record Retention (Rule 17ad-6 and Rule 17ad-7)**. The Proposal would establish a six-year retention period for most transfer agent records (representing an increase for a number of record categories) and modernize provisions governing electronic recordkeeping systems and the use of third-party recordkeepers.

- **Prompt Posting of Securityholder Records (Rule 17ad-10)**. Posting timeframes for master securityholder files would be aligned with the modern settlement cycle, using technology-neutral terms.

- **Safeguarding Reframed as Risk Management (Rule 17ad-12)**. Rule 17ad-12 would become a comprehensive risk management rule requiring written policies and procedures to protect all funds and securities in the transfer agent's possession, control, or custody and to identify, measure, monitor, and mitigate material risks arising from the transfer agent's business. Transfer agents would be required to hold client funds in a separate account designated for the benefit of the issuer, securityholder, and third-party funds and to adopt a business continuity plan.

- **Lost and Inactive Securityholders Protection (Rule 17ad-17)**. Transfer agents and broker-dealers would be required to provide notifications to "inactive" securityholders (a new category), and the rule would be updated to reflect electronic communications and payment methods.

- **Rescission of Rule 17ad-4**. The exemptions from turnaround, processing, and certain recordkeeping requirements for small transfer agents and certain securities would be eliminated, on the theory that technology has leveled operational capacity across the industry. As a result, small transfer agents that were previously exempt under Rule 17ad-4(b) would now have to comply with the annual independent-accountant report requirement concerning internal accounting controls under Rule 17ad-13, which the SEC estimates will have an approximate $40,000 of additional annual cost per affected transfer agent.

- **New Rule 17ad-30: Compliance**. Proposed Rule 17ad-30 would require every registered transfer agent to establish, maintain, and enforce a written compliance program reasonably designed to achieve compliance with the federal securities laws, reviewed and approved by its board (or similar governing body), at least annually.

- **New Rule 17ad-31: Restrictive Legends**. Proposed Rule 17ad-31 would for the first time establish federal requirements governing transfer agents' obligations regarding restrictive legends and the facilitation of unregistered securities transactions, as discussed in more detail below.

III. KEY PROVISIONS AFFECTING ISSUERS AND UNDERWRITERS IN CAPITAL MARKETS OFFERINGS AND TRANSFERS

Although the Proposal regulates transfer agents rather than issuers or underwriters directly, several provisions would change the mechanics, documentation, and timing of capital markets transactions. Proposed Rule 17ad-31 is the most consequential.

A. Proposed Rule 17ad-31: Restrictive Legends and Unregistered Transactions

What the rule requires.

Proposed Rule 17ad-31 has four operative components:

- **Authorized representative lists (Rule 17ad-31(a))**. For each issue of securities it services, a transfer agent must obtain from the issuer, and maintain, a current list of issuer employees authorized to instruct the transfer agent on the placement and removal of restrictive legends—and must refrain from acting on instructions from anyone not on that list. This provision responds to schemes in which promoters posing as issuer agents directed unauthorized share issuances or legend removals.
- **Reasonable basis requirement (Rule 17ad-31(b))**. A transfer agent must refrain from facilitating any "unregistered securities transaction" (which includes, but it is not limited to, processing or recording (i) an original issuance of securities not registered under the Securities Act; (ii) a request to remove a restrictive legend or stop order on any security; and (iii) a purchase, sale, or transfer (including non-sale transfers) of a security by an affiliate, officer, or director of the issuer), unless it has a reasonable basis to believe the transaction does not violate, and is not part of a chain of transactions that would violate, Section 5(a) of the Securities Act.
- **Non-exclusive safe harbor (Rule 17ad-31(c))**. A transfer agent may establish the required reasonable basis by either (i) obtaining and reviewing an opinion of counsel, or (ii) making its own documented determination that a specific exemption from registration is available, in each case only if the transfer agent is not otherwise aware of circumstances ("red flags") indicating a potential Section 5 An opinion must come from counsel who is not an affiliate, officer, director, or employee of the issuer or the selling holder; must identify the documents and information reviewed; and must analyze the applicability and validity of a specific exemption and opine that the specific transaction may be conducted under that exemption. Conclusory "blanket" opinions would not suffice.
- **Documentation of internal determinations (Rule 17ad-31(d))**. Where a transfer agent relies on its own analysis rather than an opinion of counsel, the determination must be supported by written documentation, reviewed and approved by the transfer agent's management, identifying the specific exemption, the materials reviewed, and the facts supporting the conclusion.

The Proposal also catalogs illustrative red flags — trading suspensions, concentrated ownership of the float, large reverse stock splits, shell company acquisitions, delinquent or nonexistent SEC filings, sudden demand spikes in thinly traded securities, altered or inconsistent documents, serial issuer name changes, and recurring involvement of the same attorney across issuers — that would require further inquiry before a transfer agent may proceed.

How this departs from current practice.

No current SEC rule expressly governs transfer agents' handling of restrictive legends. Today, transfer agent diligence on legend removals is driven by state law (including UCC Article 8 protections), contractual arrangements, industry custom, and the in terrorem effect of SEC enforcement actions premised on Section 5 (such as *In the Matter of Manhattan Transfer Registrar Company and John C. Ahearn*, Exchange Act Release No. 83267 (May 17, 2018), settled action cited in the release). Practices vary widely: some transfer agents insist on robust Rule 144 opinions; others have historically been more permissive. Proposed Rule 17ad-31 would convert prevailing best practice into a uniform federal mandate, backed by examination and enforcement, and would extend that mandate beyond legend removals to original unregistered issuances and to any purchase, sale, or transfer by an affiliate, officer, or director (categories broader than the fact patterns that historically drew scrutiny). Notably, the burden of establishing an exemption in an unregistered resale would remain with the seller; the rule adds a parallel gatekeeping obligation on the transfer agent rather than shifting that burden.

Implications for registered and unregistered offerings.

- **Rule 144 resales and legend removals.** Legend removal requests (including the customary de-legending of restricted shares once a resale registration statement is effective or Rule 144 conditions are satisfied) would be subject to the reasonable basis requirement. The safe harbor's opinion criteria are more prescriptive and burdensome than many opinions delivered today: the opinion must identify the documents reviewed, provide an analysis of the specific facts, including the documents and information that establish and support such facts, and reach a transaction-specific conclusion. Counsel to selling stockholders and issuers should anticipate more exacting opinion requests, and the independence requirement means opinions from issuer employees (*g.*, in-house counsel) or counsel that is itself an affiliate of the issuer or selling holder would not qualify for the safe harbor. Notably, the safe harbor's prescriptive, exemption-specific opinion requirements apply only to transactions that rely on an exemption from registration. Legend removals following the effectiveness of a resale registration statement do not rely on an exemption, so the safe harbor offers no obvious path for this common fact pattern. Because the safe harbor is non-exclusive, a transfer agent could still satisfy the general reasonable-basis requirement in these cases, but the final rule could expressly address this apparent gap in the proposed rule text.
- **Private placements, PIPEs, and other exempt offerings.** Because an original issuance of unregistered securities is expressly an "unregistered securities transaction," transfer agents would need a reasonable basis before recording new shares issued in a Section 4(a)(2) of the Securities Act, Regulation D, Regulation S, or similar exempt transaction. Although a legal opinion required under the non-exclusive safe harbor is only one way to satisfy the reasonable basis requirement, in practice issuers should expect transfer agents to treat a transfer agent-facing opinion or exemption package as a standard closing deliverable. This would apply across private placements, PIPEs, convertible note conversions, warrant exercises, and equity compensation issuances of unregistered shares. The Proposal specifically asks whether categories of original issuances should be excluded (Comment Request 132), an issue on which issuers with high-volume programs (*g.*, employee equity plans) may wish to comment.

- **IPOs and follow-on offerings.** Registered offerings themselves are not "unregistered securities transactions," but they routinely occur alongside covered events: pre-IPO reorganizations and share exchanges, directed share issuances, conversion of preferred stock, secondary sales by affiliates, and mass legend removals at effectiveness or lock-up expiration. Each of these touchpoints would now run through the transfer agent's Rule 17ad-31 In addition, the Proposal appears broad enough to reach any purchase, sale, or transfer of a security by an affiliate, officer, or director (including gifts, estate-planning transfers, and 10b5-1 plan sales settled through the transfer agent) to trigger the reasonable basis requirement, even where the shares are unrestricted.

Impact on transfer and settlement mechanics and timing.

The reasonable basis requirement inserts a substantive diligence step (and, where red flags surface, a mandatory inquiry) into processes that must nonetheless keep pace with the T+1 turnaround standard the Proposal would otherwise impose. Parties should plan for legend removal and affiliate transfer requests to be front-loaded well before pricing, closing, or settlement dates, particularly for microcap and OTC issuers whose profiles may present red flags. Deals that historically treated de-legending as a same-day ministerial task (for example, in block trades by affiliates or synthetic secondary transactions) should build in additional lead time for opinion delivery and transfer agent review. The authorized representative list requirement also means that deal counsel, underwriters, and paying agents become categorically ineligible for the list because they are not issuer employees. As a result, the common practices for closing mechanics and escrow instructions could require changes, particularly where outside counsel transmits legend instructions on the issuer's behalf. Notably, this restriction applies only to instructions regarding the placement and removal of restrictive legends; it would not affect other closing instructions that transfer agents receive from outside parties.

Compliance obligations for issuers, their counsel, and underwriters.

- **Issuers** would need to designate and keep current the list of employees authorized to instruct the transfer agent on legends, institute internal controls over changes to that list, and coordinate opinion delivery for exempt issuances and legend removals. Issuers should also expect transfer agents to pass through increased compliance costs and to renegotiate transfer agency agreements to allocate diligence responsibilities.

- **Issuer's and holders' counsel** would face standardized, more demanding opinion requirements (transaction-specific, exemption-specific, analysis of specific facts, including the documents and information that establish and support such facts) and should anticipate that transfer agents will scrutinize counsel's independence and qualifications (the Proposal notes that transfer agents should consider whether opining counsel is licensed, in good standing, and not on market-center prohibited-provider lists). The rule is "designed to ensure that the opinion provides a substantive legal analysis of why a specific exemption applies to the specific transaction, rather than simply providing a conclusory statement that the transaction is exempt."

- **Underwriters and placement agents** should verify early in due diligence that the issuer's transfer agent arrangements, authorized representative lists, and legend removal workflows can support the deal timetable; confirm that any affiliate secondary component is supported by an opinion or exemption analysis acceptable to the transfer agent; and consider representations and closing conditions addressing transfer agent cooperation.

Coordination among transfer agents, issuers, underwriters, and broker-dealers.

The Proposal envisions tighter information flows across the settlement chain: transfer agents must obtain authorized representative lists from issuers; opinions must flow from independent counsel to transfer agents; and broker-dealers submitting deposit or transfer requests on behalf of customers (particularly for restricted or affiliate-held positions) will need to supply supporting documentation sufficient for the transfer agent's reasonable basis determination. The Commission has also asked (Comment Request 139) whether transfer agents should be required to make issuance, ownership, and transfer history information available to broker-dealers and investors—an expansion that, if adopted, could materially assist broker-dealers' own Section 5 diligence under existing guidance but would raise confidentiality and operational questions for issuers.

B. Other Provisions Relevant to Capital Markets Participants

- **T+1 aligned turnaround and posting (Rule 17ad-2 and Rule 17ad-10).** Anchoring transfer agent turnaround and master file posting to the standard settlement cycle supports same-cycle settlement for registered holders and should reduce friction in DRS transfers, DWAC/DRS movements at closing, and post-closing share deliveries—benefiting offering logistics generally.
- **Risk management, segregated accounts, and business continuity (Rule 17ad-12).** Issuers that rely on transfer agents as paying agents for dividends, interest, and corporate actions gain protections from the required segregation of issuer and securityholder funds and mandatory business continuity planning. Issuers should nonetheless review how their funds are held and documented under existing transfer agency and paying agent agreements.
- **Compliance (Rule 17ad-30).** The board-approved requirement (analogues to Rule 206(4)-7 under the Investment Advisers Act of 1940 and Rule 38a-1 under the Investment Company Act of 1940) to establish, maintain, and enforce written policies and procedures should raise baseline reliability across the industry, but smaller transfer agents may consolidate or raise fees; issuers using boutique agents should monitor service continuity.
- **Form TA-2 transparency; DLT and tokenization reporting.** New disclosures about turnaround performance, service providers, and tokenized issues will give issuers and underwriters better data for selecting and diligencing transfer agents, including for issuers exploring tokenized share classes.
- **Inactive securityholder outreach (Rule 17ad-17).** New notification duties for transfer agents and broker-dealers regarding inactive securityholders will interact with state escheatment regimes and may modestly increase issuer-borne servicing costs.

IV. COMMISSIONER STATEMENTS

Commissioner Hester M. Peirce supported the Proposal, expressing satisfaction that the long-delayed rulemaking (first urged by Commissioners Aguilar and Gallagher in 2015) was issued before her departure from the Commission. She emphasized that the rules must reflect a market in which few paper certificates remain and in which many shares may soon be tokenized, and she endorsed the restrictive legend provisions as a balanced tool for combatting microcap fraud that requires a reasonable basis without pushing transfer agents outside their mandate. Her questions for commenters focus on how the rules should adapt as securities move onchain (including whether digital wallet or email addresses should be permitted in lieu of physical addresses), whether the Rule 17ad-17 amendments are calibrated to state escheatment standards and electronic communications, and whether new Form TA-2 service provider disclosures are appropriate. Her statement signals that the Commission expects comments addressing tokenization and DLT accommodation.

Commissioner Mark T. Uyeda likewise supported the Proposal, framing it as a return to durable, notice-and-comment rulemaking after what he characterized as a decade of "regulation-by-enforcement" that provided neither clarity nor predictability. He highlighted the accelerating impact of DLT and tokenization since the 2015 concept release, the value of enhanced Form TA-2 transparency into funds handling and turnaround performance, and the Proposal's recognition that securities transactions today are electronic and settle at T+1 or faster. His statement underscores that the Commission views enforcement-driven standards for legend removal as an unsatisfactory substitute for clear rules, suggesting receptivity to comments seeking clearer safe harbors and defined obligations.

V. PRACTICAL TAKEAWAYS

- **Calendar the comment deadline**. Comments are due 60 days after publication in the Federal Register (File No. S7-2026-30). Issuers with active shelf programs, high-volume exempt issuance activity, or significant affiliate holders (and underwriters active in the microcap and PIPE markets) should consider commenting, individually or through industry groups, particularly on the scope of "unregistered securities transaction," possible carve-outs for routine issuances, and the opinion criteria in the safe harbor.

- **Audit legend removal and issuance workflows now**. Map current processes for exempt issuances, Rule 144 de-legending, and affiliate transfers against the proposed safe harbor; identify where existing opinions would fall short of the transaction-specific, exemption-specific, substantive analysis standard; and assess timing exposure in live and anticipated deals.

- **Prepare authorized representative governance**. Identify the issuer employees who will be designated to instruct the transfer agent, adopt controls for maintaining the list, and align closing mechanics so that instructions are delivered by listed personnel.

- **Revisit transfer agency agreements and deal documentation**. Expect transfer agents to seek revised indemnities, fee increases, and documentation covenants. Underwriting agreements, placement agency agreements, and registration rights agreements may warrant updated covenants and closing conditions addressing transfer agent cooperation, opinion delivery, and de-legending timelines.

- **Build lead time into settlement-sensitive transactions**. For affiliate block trades, lock-up releases, warrant and convertible settlements, and tokenized or DLT-recorded issuances, assume transfer agent diligence will no longer be same-day and sequence opinion delivery accordingly.
- **Monitor the tokenization dimension**. The technology-neutral drafting, new Form TA-2 tokenization reporting, and Commissioner Peirce's questions indicate the SEC is laying regulatory groundwork for onchain transfer agency. Issuers considering tokenized securities should track this rulemaking closely and consider engaging in the comment process.

The following Gibson Dunn lawyers prepared this update: Hillary H. Holmes, Thomas J. Kim, Stewart L. McDowell, Harrison Tucker, and Rodrigo Surcan.

Please view additional information on Gibson Dunn's Securities Regulation & Corporate Governance Monitor.

Gibson Dunn's lawyers are available to assist with any questions you may have regarding the SEC's announcement, or federal securities laws and regulations more generally. Please contact the Gibson Dunn lawyer with whom you usually work, the authors, or any leader or member of the firm's Capital Markets or Securities Regulation & Corporate Governance practice groups:

Capital Markets:
Andrew L. Fabens – New York (+1 212.351.4034, afabens@gibsondunn.com)
Hillary H. Holmes – Houston (+1 346.718.6602, hholmes@gibsondunn.com)
Stewart L. McDowell – San Francisco (+1 415.393.8322, smcdowell@gibsondunn.com)
Peter W. Wardle – Los Angeles (+1 213.229.7242, pwardle@gibsondunn.com)

Securities Regulation & Corporate Governance:
Elizabeth Ising – Washington, D.C. (+1 202.955.8287, eising@gibsondunn.com)
Thomas J. Kim – Washington, D.C. (+1 202.887.3550, tkim@gibsondunn.com)
Lori Zyskowski – New York (+1 212.351.2309, lzyskowski@gibsondunn.com)