How to be a Good Fiduciary in Our Era of Rapid Regulatory and Technological Change

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Omid Harraf Fellow, Rock Center for Corporate Governance at Stanford Law School

November 11, 2026

Presenters



Andrew Baker

Professor

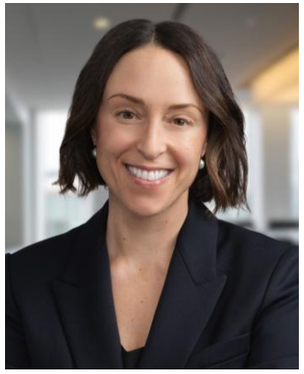
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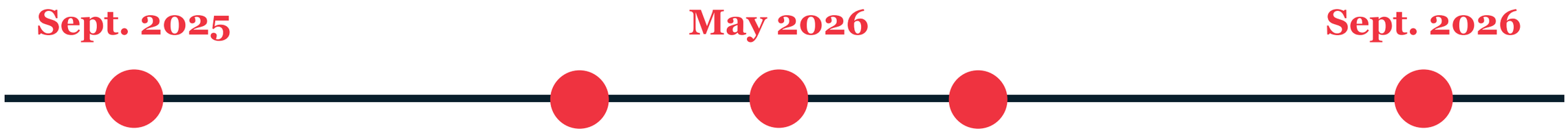
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at Stanford Law School

Deregulation and Declining Government Enforcement

The Deregulatory Agenda



Reverse longstanding policy to allow mandatory arbitration of investor claims in corporate IPO filings

Filer Status / EGCA – thinner disclosures for ~ 81% public cos; all new cos for 5 years

Proposal to make quarterly reporting optional; only require semiannual reporting

Rescission of 50-year-old "gag rule" for settling defendants in SEC enforcement actions

Rescission of Rule 14a-8 Shareholder Proposals

Elimination of Pay-to-Play Protections

Each change shifts more of the investor-protection burden from regulators to fiduciary investors…and more changes are expected.

Less Transparency, Less Accountability, Faster Access to Public Capital

THE WALL STREET JOURNAL.

MARKETS & FINANCE • REGULATION

SEC Expected to Change Quarterly Earnings Rule Despite Public Backlash

Most of the over 200,000 comments urged the agency not to make quarterly financial reports optional; Trump has long supported such a move

By Corrie Driebusch and Caitlin Ostroff
Updated July 17, 2026 1:10 pm ET

Save Aa 118 Listen (2 min)



The New York Times

Trump Order Clears Way for Crypto and Private Equity in 401(k)s

The executive order is intended to give investors more options, but experts say employers will tread carefully before adding alternative assets.



President Trump last week. On Thursday, he signed an executive order directing the Labor Department to re-evaluate guidelines for crypto, private equity and real estate

THE NATIONAL LAW JOURNAL

SEC Moves to Loosen Disclosure and Offering Rules to Boost IPOs

Critics of the SEC's approach say the decline in public companies has far less to do with SEC rules and disclosure requirements than the strength and attraction of private markets.

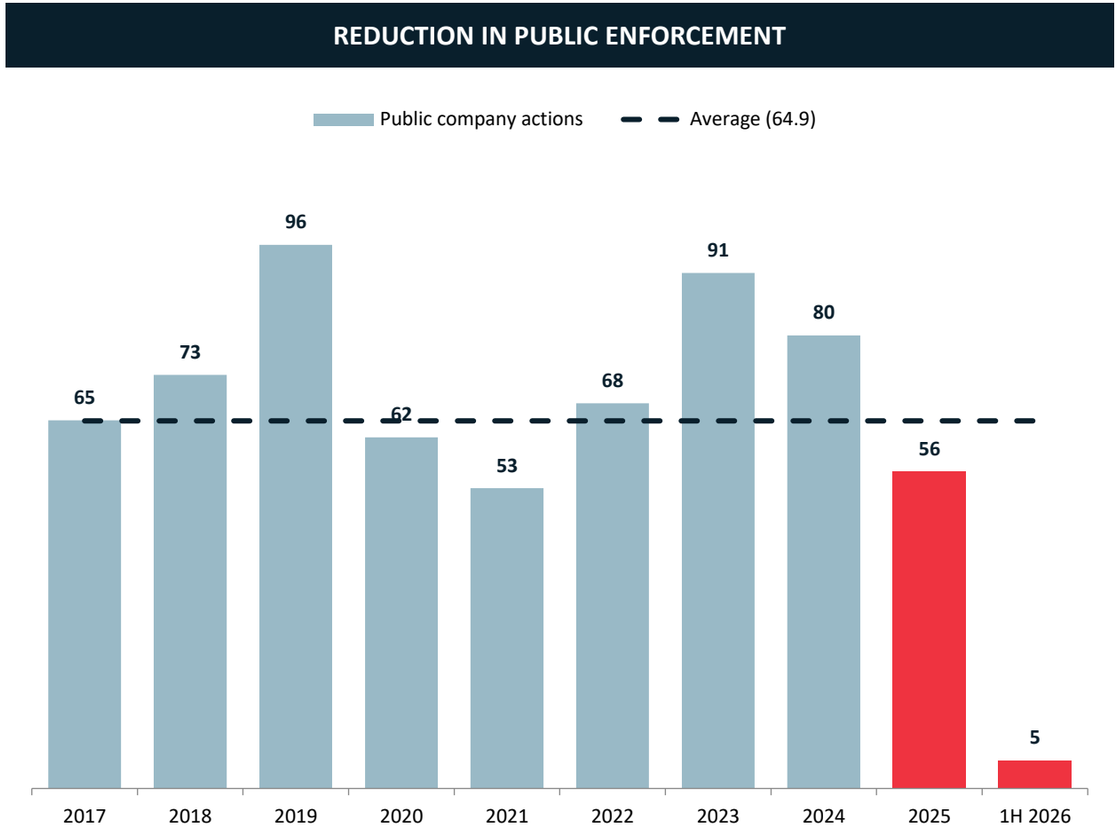
3 minute read | May 19, 2026 at 05:20 PM By Dan Novak



SEC Chairman Paul Atkins appeared before the Senate Banking in March 2025. Photo: Diego M. Radzinschi/Law.com

Fewer New Cases, Smaller Targets, Dropped Cases, Closed Investigations





Only 3 SEC actions against public companies and subsidiaries in 2H FY2025 — the lowest half-year on record.

Light-Touch Oversight Reached the Derivatives Markets



“There's been 2,500 self-certifications since this administration was taking office in January of 2025, of which none have been opposed.”

- Terry Duffy, Chairman & CEO, CME Group (leading derivatives marketplace)
CFTC Innovation Advisory Committee, Aug. 20, 2026

The CFTC reported that exchanges certified about **1,600 event contracts** in 2025 alone, compared with about 131 per year from 2021, without opposing a single one. This includes event contracts that may be susceptible to manipulation.

Under Any Administration, Private Actions Are Vital to Returning Dollars Back to Harmed Investors

2024: RECORD SEC RESULTS VS. DOLLARS TO INVESTORS

SEC Enforcement (2024)

$8.2B
record remedies ordered

$345M
distributed to harmed investors

Private Securities Litigation (2024)

$3.8B
in class settlements

$2.74B
distributed to investors after fees

~8× **more returned to investors through private actions in 2024**

~23% **of reported SEC penalties have been collected**

Historically, Private Recoveries Have Far Exceeded SEC Recoveries

LANDMARK PRIVATE RECOVERIES VS. SEC RECOVERIES

Company	Private	SEC	Multiple
Enron	$7.2B	$450M	**16×**
WorldCom	$6.1B	$750M	**8×**
Tyco	$3.2B	$50M	**64×**
AOL/Time Warner	$2.5B	$308M	**8×**
Bank of America	$2.425B	$150M	**16×**
Nortel	$2.2B	$35M	**63×**
Valeant	$1.2B	$45M	**27×**

Mandatory Arbitration Has Not Been Widely Adopted – Stay Engaged!

Sept. 17, 2025

SEC votes 3–1: arbitration clauses will no longer block an IPO from going effective

June 2026

SpaceX IPO — $75B raised at a $1.77T valuation — the first major issuer to adopt the new shareholder-arbitration policy

WHY IT MATTERS TO TRUSTEES

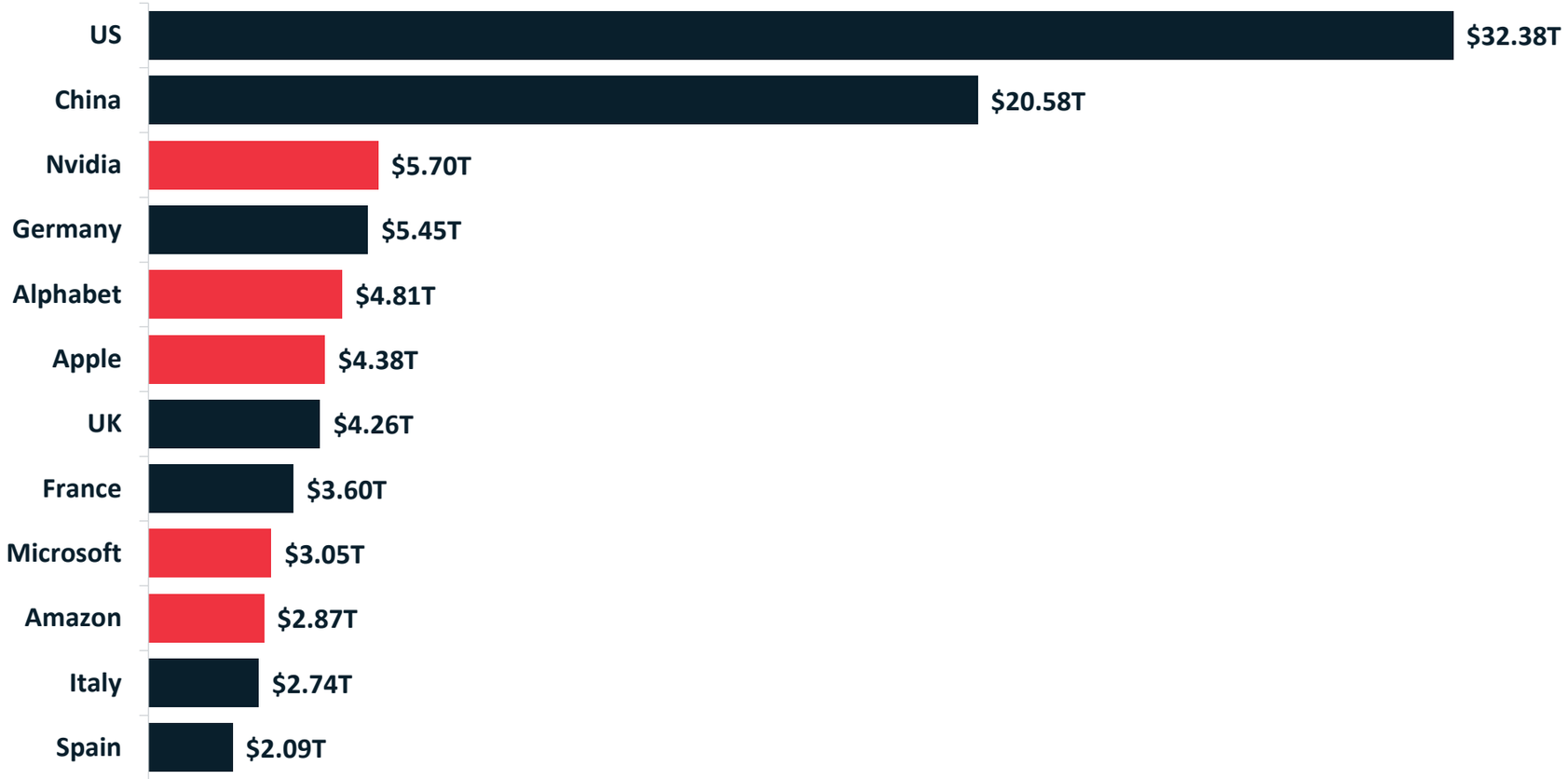
- Class action settlements returned ~10× more to investors than SEC issuer settlements in 2024 (Crenshaw dissent)
- Arbitration can mean no class actions, private proceedings and no precedent
- Delaware law now limits these clauses for Delaware companies — others may follow or diverge

Market Cap Growth and Sector Concentration

Nearly 20 U.S.-listed companies are now worth $1 trillion or more.
Before 2018, there were none.

Tech Giants vs. the World's Largest Economies

Company market capitalization vs. projected 2026 national GDP (US$ trillion)



Company market cap

Country GDP (IMF 2026 projection)

$5.7T

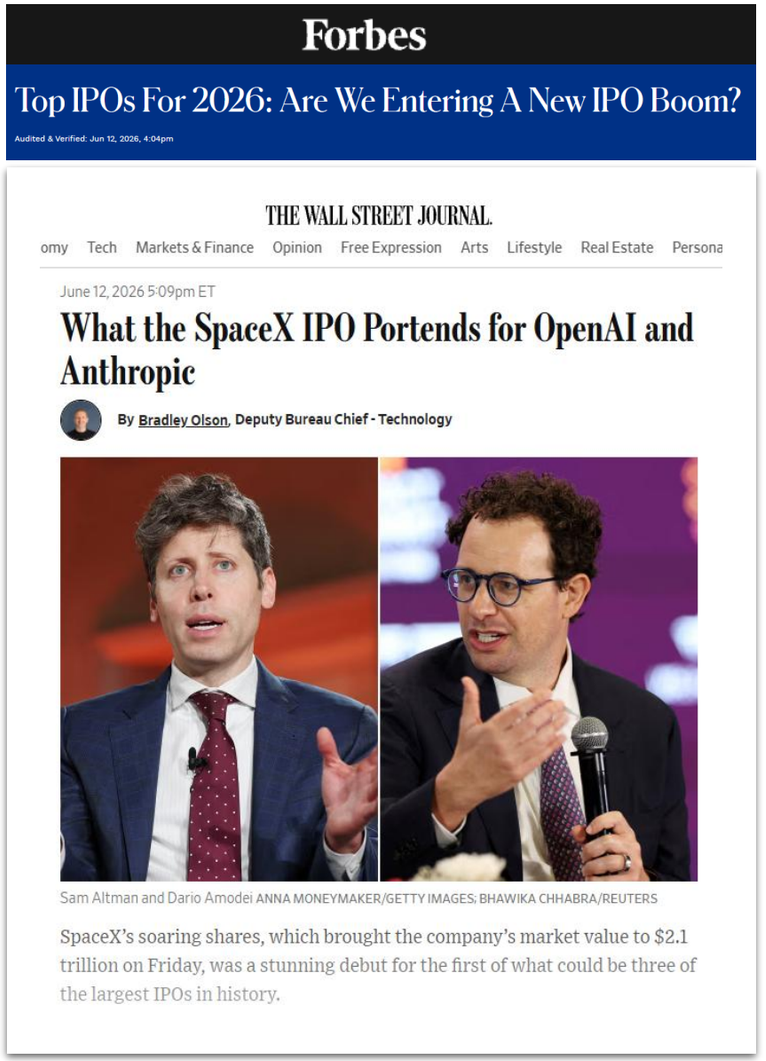
Nvidia market cap, mid-May 2026 — above Germany's $5.45T GDP

Source: Euronews (May 16, 2026); market caps from CompaniesMarketCap as of May 14, 2026; GDP from IMF 2026 projections. Alphabet, Apple, Microsoft and Amazon converted from Euronews € figures at the article's implied rate.

2026–27 IPOs Are Expected to Be Among the Largest in History

Company	IPO Year	Value
Anthropic	2026 (est.)	~$2 trillion (target)
SpaceX	2026	$1.77 trillion
Saudi Aramco	2019	$1.7 trillion
OpenAI	2027 (est.)	~$1.4T (latest round)
SK hynix*	2026 (U.S.)	~$1.2 trillion
ByteDance	Not set	$550B (Feb. 2026)
Databricks	2027 (earliest)	$190B (Aug. 2026)
Alibaba	2014	$168 billion
Facebook	2012	$104 billion
NTT Group	1998	$76 billion
SoftBank	2018	$64 billion

**Nasdaq listing of SK hynix shares already traded in Seoul (July 2026), not an IPO.*



Forbes

Top IPOs For 2026: Are We Entering A New IPO Boom?

Audited & Verified: Jun 12, 2026, 4:04pm

THE WALL STREET JOURNAL.

omy Tech Markets & Finance Opinion Free Expression Arts Lifestyle Real Estate Persona

June 12, 2026 5:09pm ET

What the SpaceX IPO Portends for OpenAI and Anthropic

By Bradley Olson, Deputy Bureau Chief - Technology

Sam Altman and Dario Amodei ANNA MONEYMAKER/GETTY IMAGES; BHAWIKA CHHABRA/REUTERS

SpaceX's soaring shares, which brought the company's market value to $2.1 trillion on Friday, was a stunning debut for the first of what could be three of the largest IPOs in history.

The AI Trade: Pressure on Fiduciary Investors, Growing Polarization

THE WALL STREET JOURNAL.

MARKETS & FINANCE • INVESTING

Politicians Are Turning Against AI, but Your Pension Is Riding on It

AI-linked stocks drove $138 billion in gains across 13 public-pension funds since 2022, helping them dig out of losses from the last financial crisis

By David Uberti and Heather Gillers
Oct. 22, 2026 8:00 pm ET

Save Aa Listen (2 min)



Demonstrators opposed to data centers rallying in early October at the Pennsylvania Capitol in Harrisburg. MARC LEVY/AP

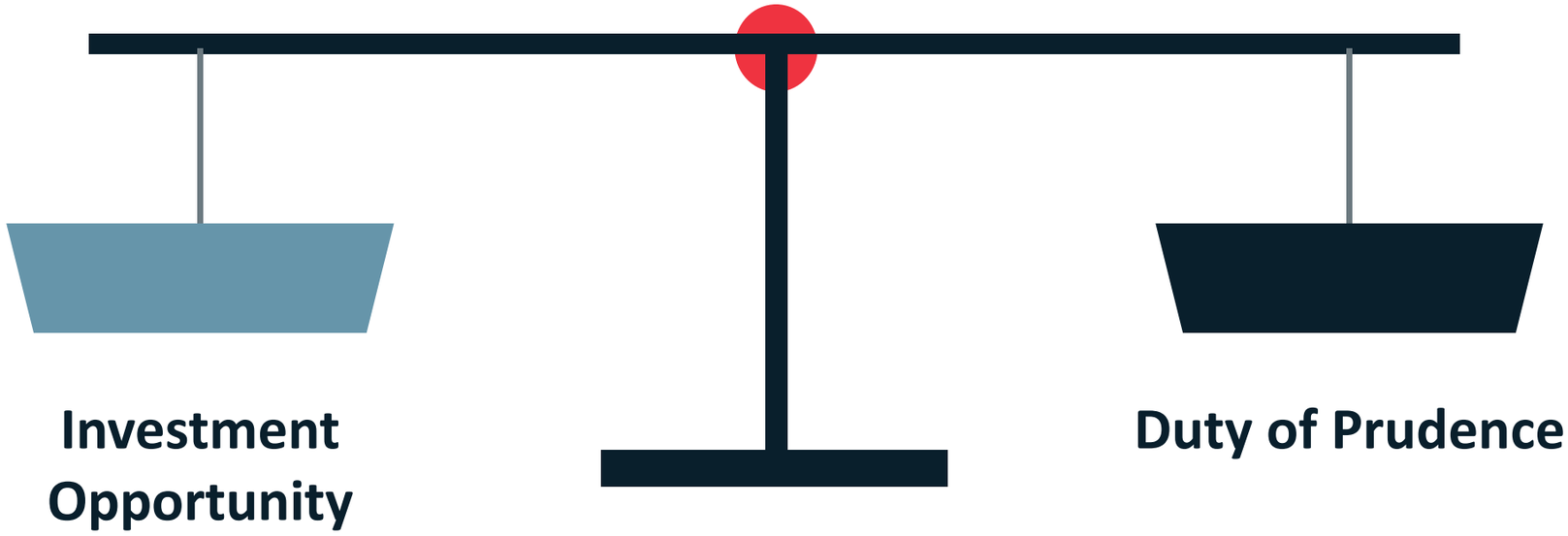
"What distinguishes the current debate is the enormous scale of public pension assets, their substantial exposure to public equities, and the increasingly polarized debate over what constitutes an appropriate investment."

- **Olivia Mitchell**
Executive Director, Pension Research Council (Wharton)

"It should not be treated lightly or simply for a pension fund to wade in if they want to change how they're investing their money, because they're choosing a side."

- **Anthony Randazzo**
Executive Director, Equable Institute

What Does This Mean for Fiduciaries?



What Can Investors Do (Outside of Court)?

Ask

- Due diligence
- Stockholder Inspection Demands ("Sec. 220")

Vote

- Shareholder Proposals?
- Board Votes

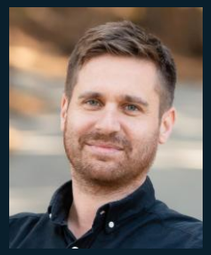
Tell

- Formal Public Comment
- Informal Public Advocacy

Sell

- Sell Shares
- Decline to invest in IPO

Questions?



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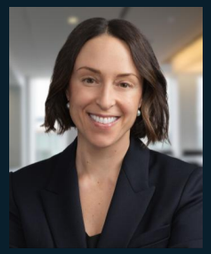
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