Via E-Mail (rule-comments@sec.gov)

September 15, 2020

Vanessa A. Countryman, Esq.
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Reporting Threshold for Institutional Investment Managers, Release No. 34-89290; File No. S7-08-20

Dear Ms. Countryman:

Thank you for the opportunity to comment on the proposed rule.

EEI is the association that represents all U.S. investor-owned electric companies. Our members provide electricity for 220 million Americans and operate in all 50 states and the District of Columbia. As a whole, the electric power industry supports more than 7 million jobs in communities across the United States. In addition to our U.S. members, EEI has more than 60 international electric companies as International Members, and hundreds of industry suppliers and related organizations as Associate Members. Organized in 1933, EEI provides public policy leadership, strategic business intelligence, and essential conferences and forums.

AGA, founded in 1918, represents 202 local energy companies that deliver clean natural gas throughout the United States. There are more than 70 million residential, commercial and industrial natural gas customers in the U.S., of which almost 93 percent – more than 65 million customers – receive their gas from AGA members. AGA is an advocate for natural gas utility companies and their customers and provides a broad range of programs and services for member natural gas pipelines, marketers, gatherers, international gas companies and industry associates. Today, natural gas meets almost one-fourth of the United States' energy needs.

The hallmark principle of U.S. securities laws is transparency. Whether in the requirements governing a corporate registrant's disclosure regarding its business and results of operations, an investment advisor's disclosure of its performance record, or a broker-dealer's disclosure of its financial capacity, the statutes and rules are designed to provide investors and the SEC with the disclosures that they need in order to make informed decisions. The same is true with respect to the institutional investor disclosures required under Section 13 of the Exchange Act, in particular Sections 13(d), 13(f) and 13(g). The members of EEI and AGA strongly support transparency.

While we appreciate that Rule 13f-1 requires filings by many more institutional investors than it did in 1975 when it first was adopted, the markets, and the activities of institutional investors, have changed significantly during that period as well. For example, high-speed trading did not exist in 1975, so there was no need to identify for the benefit of investors the identity of the institutional investors who participated in that practice or of their holdings. Similarly, the phrase "activist investor," if it existed at all in 1975, certainly was not well-known, and "corporate raider" was almost as obscure. And, in 1975, the euphemistically named "hedge funds" actually were "hedge" funds focused on hedging against general market risk, so transparency was less relevant to other investors. Today investors need to know about the activities of these institutional investors – they are almost per se material – even if they are conducted through smaller funds. This transparency also helps with timely outreach to and engagement with investors by issuer companies, which has been impacted by the Covid-19 pandemic.

While we appreciate that the proposed amendment to Rule 13f-1 returns its scope, in terms of the number of filers, closer to its level at the time of its original adoption, we do not believe that should be the goal of the rule today. Rather, we believe that the rule should reflect current marketplace realities and continue to cover "smaller" institutional investors with portfolios in excess of $100 million. It is, most often, smaller institutional investors that are most active in trying to influence the behavior of individual corporations, and thereby important to other investors. Larger institutional investors rarely engage in individual corporate campaigns.

We also believe that the estimate of the compliance burden on filers is exaggerated. We are told that an app could be developed by the investment industry for a minimal amount that could map data from the most common securities trading platforms into an SEC filing, and the cost of running that app at the end of each quarter to prepare the SEC filing would be insignificant. Where the required information in the filing is entirely objective and easily obtained from required records, we simply do not see how the compliance cost is projected to be between $15,000 and $30,000 annually.

We also are not sympathetic to the concern that the returns of hedge funds are negatively impacted by front running and the other consequences of their disclosures. Remember, the business model of hedge funds is to utilize their greater knowledge to extract profits from other investors who are not as well-informed. That is not a strategy that warrants special protection. In fact, we would support increasing the frequency of the Rule 13f-1 filings to monthly, reducing the filing period from 45 days to 5 days, and requiring full disclosure of derivative positions. It is well-established in the Section 16 realm that reporting, by a significantly larger group of less sophisticated reporting persons, within two business days is achievable.

As noted above, we recommend that the Commission maintain the current $100 million reporting threshold. To the extent that the Commission increases the threshold, we believe that it should increase the threshold only by a modest amount, say to $200 or $300 million, more in line with the inflation-adjusted value. To the extent that the Commission increases the threshold to a higher level, we would encourage a two-tiered threshold with a lower threshold – the existing $100 million threshold – applicable to any institutional investor that within the past five years has proposed, or in the future reasonably could be expected to, propose to an issuer any

extraordinary transaction, any transfer of a material amount of assets, any change in its board of directors, any material change in its capitalization or dividends, any other material change to the business or corporate structure, or any change in charter or bylaws. This list of purposes is derived from Item 4 of Schedule 13D and would be well-understood by institutional investors and not impose an additional compliance burden.

Ultimately, EEI and AGA strongly support transparency in the securities marketplace, and we are concerned that the proposed rule would reduce that transparency.

Respectfully submitted,

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