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PHILADELPHIA

September 28, 2020

Ms. Vanessa Countryman  
Secretary  
U.S. Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549

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

Dear Ms. Countryman:

The undersigned individuals, who are the leadership of the Philadelphia Chapter of the National Investor Relations Institute (NIRI), are writing on behalf of our membership, to express our opposition to the Commission's proposed amendments to the Form 13F reporting rules.

We represent members who are investor relations officers and in positions with similar responsibility at publicly traded companies headquartered in Southeastern Pennsylvania and its immediate, surrounding areas. These companies, listed on the New York Stock Exchange and Nasdaq, have a combined market capitalization of approximately \$1.4 trillion. We also represent investor relations counselors who advise public companies in our area and across the country.

The Commission's proposal, which would raise the reporting threshold to \$3.5 billion, 35 times greater than the current threshold of \$100 million, would allow 89 percent of current 13F filers to go dark. This higher threshold would result in a significant loss of market transparency to our members' companies as well as other issuers in the United States. According to an IHS Markit analysis of the Russell 3000, an average company would lose visibility into 55 percent of its current 13F filers and 69 percent of the hedge funds on its 13F list.<sup>1</sup>

We do not believe that the SEC has adequately considered the potential impact of this rulemaking proposal on our members' companies and their obligation to regularly confer with their investors throughout the year. The 13F filings are the only comprehensive ownership information available to our members' companies as well as other U.S. public companies. While 13F data is not as timely or complete as it could be, it is the only data that companies have that shows which "street name" investors are buying or selling their shares each quarter. This data

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<sup>1</sup> See IHS Markit, "SEC's 13F Proposal – Issuer and Investor Analysis," August 7, 2020, available at: <https://ipreo.com/blog/secs-13f-proposal-issuer-and-investor-analysis/>.

cannot be replaced by retaining stock surveillance firms, which themselves rely on quarterly 13F data as a starting point for their research efforts.

Many of our chapter members work for (or advise) small- and mid-cap issuers, which typically have a higher percentage of shares owned by investment managers who would fall under the proposed \$3.5 billion threshold. These smaller companies also have fewer resources to devote to stock surveillance, so they would be especially impacted by the 13F proposal.

While our members agree that the SEC should modernize its ownership disclosure rules, we believe that the negative impacts of this proposed 13F rulemaking on public companies' ability to engage with their shareholders on proxy voting matters, attract new long-term investors, and monitor hedge fund activists far outweigh the minimal cost savings for investment managers.

We ask the Commission to withdraw the proposed 13F amendments and instead pursue the reforms detailed in the rulemaking petitions submitted by National Investor Relations Institute, the NYSE Group, Nasdaq, and the Society for Corporate Governance.<sup>2</sup> We believe that retail investors, investment managers, and companies all would benefit from more timely and complete disclosure through reducing the 45-day reporting period and expanding 13F disclosure to include short positions.

To achieve these objectives, we urge the Commission to convene a public roundtable to hear the views of retail shareholders, institutional investors, issuers, and other stakeholders on potential 13F reforms and other market transparency issues, including proposals to address “short and distort” abuses, the repeal of the OBO/NOBO rules, and the modernization of 13D reporting.<sup>3</sup> We believe that such a roundtable would result in more thoughtful rulemaking proposals that would increase transparency, promote engagement, protect retail investors, and foster public

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<sup>2</sup> See NYSE Group, NIRI, and Society for Corporate Governance, Request for Rulemaking Concerning Amendment of Beneficial Ownership Reporting Rules Under Section 13(f) of the Securities Exchange Act of 1934 in Order to Shorten the Reporting Deadline under Paragraph (a)(1) of Rule 13f-1, Petition No. 4-659 (February 4, 2013), available at: <https://www.sec.gov/rules/petitions/2013/petn4-659.pdf>; NYSE Group and NIRI, Petition for Rulemaking Pursuant to Sections 10 and 13(f) of the Securities Exchange Act of 1934, Petition No. 4-689 (October 7, 2015), available at: <https://www.sec.gov/rules/petitions/2015/petn4-689.pdf>; and Nasdaq, Petition for Rulemaking to Require Disclosure of Short Positions in Parity with Required Disclosure of Long Positions, Petition No. 4-691 (December 7, 2015), available at <https://www.sec.gov/rules/petitions/2015/petn4-691.pdf>.

<sup>3</sup> See Professors John C. Coffee, Jr. and Joshua Mitts *et al.*, Petition for Rulemaking on Short and Distort, Petition No. 4-758 (February 12, 2020), available at: <https://www.sec.gov/rules/petitions/2020/petn4-758.pdf>; Shareholder Communications Coalition, Letter re SEC Proxy Voting Roundtable, File No. 4-681 (April 1, 2015), available at: <https://www.sec.gov/comments/4-681/4681-9.pdf>; Wachtell, Lipton, Rosen & Katz, Petition for Rulemaking on Schedule 13D of the Securities and Exchange Act of 1934, Petition 4-624 (March 7, 2011), available at: <https://www.sec.gov/rules/petitions/2011/petn4-624.pdf>.

company capital formation.<sup>4</sup>

Sincerely,

/s/

Lisa Caperelli, President  
NIRI Philadelphia

/s/

Alex Whitelam, EVP  
NIRI Philadelphia

/s/

Christiane Pelz, VP Treasurer  
NIRI Philadelphia

/s/

Garrett Low, VP Membership  
NIRI Philadelphia

/s/

Rebecca Gardy, VP Comm & Tech.  
NIRI Philadelphia

/s/

Joe Hassett, VP Prof. Development  
NIRI Philadelphia

/s/

Mark Donohue, Advocacy Ambassador  
NIRI Philadelphia

/s/

Donna St. Germain, Board Advisory Cmt  
NIRI Philadelphia

/s/

Shawn Southard, Board Advisory Cmt  
NIRI Philadelphia

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<sup>4</sup> We also support the recommendation by the NYSE Group to convene a working group of issuers and investors to develop recommendations for modernizing the SEC's ownership disclosure rules. *See* NYSE Group, Letter re Reporting Threshold for Institutional Investment Managers; File No. S7-08-20 (September 21, 2020), available at: <https://www.sec.gov/comments/s7-08-20/s70820-7797941-223589.pdf>.