INVESTMENT COMPANY INSTITUTE

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September 29, 2020

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

Re: *Reporting Threshold for Institutional Investment Managers (File No. S7-08-20)*

Dear Ms. Countryman:

The Investment Company Institute[1] recommends that the Securities and Exchange Commission (SEC or "Commission") not raise the current Form 13F reporting threshold as proposed ("Proposal").[2] While we generally support the SEC periodically reevaluating its existing regulations, the Proposal fails to adequately consider the reliance market participants and the public place on this useful, reliable, and freely available source of market data.

The SEC consistently has promoted transparency in its regulations,[3] and the 13F disclosure program is an excellent example of the benefits to the public of regulatory transparency. We urge the SEC to rethink its approach to this rulemaking, given the many benefits of Form 13F data, which market participants and the public have come to rely on over the years. If, however, the Commission believes some increase in the threshold is necessary, we recommend raising the threshold based on inflation, as measured by the Consumer Price Index (CPI). We also recommend that the Commission not, as proposed, eliminate the "omission threshold," which filers rely on today to omit reporting of certain *de minimis* holdings but, instead, increase this threshold to 50,000 shares and $1,000,000. Requiring filers

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[1] The Investment Company Institute (ICI) is the leading association representing regulated funds globally, including mutual funds, exchange-traded funds (ETFs), closed-end funds, and unit investment trusts (UITs) in the United States, and similar funds offered to investors in jurisdictions worldwide. ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. ICI's members manage total assets of US$26.0 trillion in the United States, serving more than 100 million US shareholders, and US$7.9 trillion in assets in other jurisdictions. ICI carries out its international work through ICI Global, with offices in London, Hong Kong, and Washington, DC.

[2] *See Reporting Threshold for Institutional Investment Managers*, 85 Fed. Reg. 46016 (July 31, 2020), *available at* https://www.govinfo.gov/content/pkg/FR-2020-07-31/pdf/2020-15322.pdf ("Proposing Release").

[3] Recently, SEC Chairman Clayton commented that "[i]ncreased transparency has been a focus of the Commission during my tenure." Chairman Jay Clayton, *Transparency for our Investors and at the Commission* (Aug. 5, 2020), *available at* https://www.sec.gov/news/public-statement/clayton-open-meeting-iac-20200805.

to report positions below this level would add considerable "noise" that would make it more challenging to assess the significance of an investment manager's positions.

I. Background

Section 13(f) of the Securities Exchange Act of 1934 ("Exchange Act") requires an "institutional investment manager" to file reports with the Commission if the manager exercises investment discretion with respect to accounts holding certain equity securities (referred to as "13(f) securities") having an aggregate fair market value on the last trading day of any month of the preceding year of at least $100 million. Rule 13f-1 under the Exchange Act, which implements Section 13(f), requires that an institutional investment manager file quarterly reports on Form 13F, within 45 days of the end of the calendar quarter, if the accounts over which it exercises investment discretion hold an aggregate of more than $100 million in 13(f) securities.

ICI members include US registered investment companies, such as open-end investment companies, exchange-traded funds (ETFs), and closed-end funds that are regulated under the Investment Company Act of 1940 ("registered funds"), and non-US regulated funds (together with registered funds, "regulated funds"), along with the advisers to these regulated funds. Regulated fund advisers may meet the definition of "institutional investment manager" and be subject to reporting on Form 13F. ICI's members that report on Form 13F range from smaller firms that provide investment advice with respect to a few hundred million in assets under management to very large fund complexes that provide investment advice with respect to trillions of dollars in assets under management.

The Commission proposes to raise the Form 13F reporting threshold from $100 million to $3.5 billion to reflect proportionally the same market value of US equities that $100 million represented in 1975, when Section 13(f) was enacted. The Commission explains that the new threshold would result in disclosure of over 90 percent of the dollar value of the holdings data currently reported while eliminating the Form 13F filing requirement and its attendant costs for the nearly 90 percent of filers that are smaller managers. The Commission believes that raising the Form 13F reporting threshold to $3.5 billion would recalibrate the reporting threshold in a manner consistent with the objectives of Section 13(f), while providing regulators and the public with information about the equities holdings of larger managers that "have the potential to significantly affect the securities markets."[4]

The Proposal also would eliminate the "omission threshold" for individual securities on Form 13F. Currently, Form 13F provides that an institutional investment manager may omit holdings otherwise reportable if the manager holds, on the period end date, fewer than 10,000 shares (or less than $200,000 principal amount in the case of convertible debt securities) and less than $200,000 aggregate fair market value (and option holdings to purchase only such amounts). The Commission believes that if the Form

[4] Proposing Release at 46024.

13F threshold is raised to $3.5 billion, as proposed, it would be less burdensome for large managers that remain subject to the 13F reporting obligation to report all of their holdings.

II. Market Participants Use Form 13F Data for a Variety of Legitimate Purposes

Section 13(f) was added to the Exchange Act in 1975 to address "gaps in information about the purchase, sale and holding of securities by major classes of institutional investors" which the Commission identified in a Congressionally-mandated study.[5] The Commission notes three primary goals of the original 13(f) disclosure program:

(1) to create a central repository of historical and current data about the investment activities of institutional investment managers;
(2) to improve the body of factual data available regarding the holdings of institutional investment managers and thus facilitate consideration of the influence and impact of institutional investment managers on the securities markets and public policy implications of that influence; and
(3) to increase investor confidence in the integrity of the US securities markets.[6]

Since the Commission adopted Form 13F in 1978, an increasingly broad cross-section of market participants, the general public, and the SEC rely on Form 13F data as a useful, reliable, and freely accessible source of key market data. The SEC recognizes in the Proposal that:

> While Form 13F was originally designed to assist regulators and the public in understanding the effects of institutional equity ownership on the markets, the pool of users of the data has expanded to include academics, market researchers, the media … and market participants (including institutional investors themselves) who use the data to enhance their ability to compete [and that] [t]he data can also assist individuals in making investment decisions, investment managers in managing assets, and corporate issuers of 13(f) securities interested in determining the beneficial holders of their publicly traded stock.[7]

The SEC fails to acknowledge, however, the benefits of Form 13F data for other market participants, including closed-end funds and ETFs. The value of Form 13F data to these and other market participants, as well as to the public more broadly, is significant, and weighs heavily in favor of

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[5] *Id.* at 46018.

[6] *Id.*

[7] *Id.* at 46023.

preserving the current reporting threshold. Our discussion below explains how registered funds use Form 13F data.

A. Closed-End Funds

Form 13F is a critical source of data for closed-end funds and their boards to obtain needed transparency into ownership of their shares, including important information about activist investors. Most closed-end fund shareholders do not purchase or redeem their shares directly from the fund, but instead buy and sell closed-end fund shares through a broker or in a brokerage account. Traditional exchange-listed closed-end fund shares trade on the secondary market.[8] As a result, closed-end funds do not have direct transparency into their shareholders.

As ICI explained to the SEC in a recent report, activist activity aimed at closed-end funds has intensified in recent years.[9] The SEC has acknowledged that closed-end funds historically have been the target of proxy contests.[10] A small and experienced group of professional activists seek to influence the management of closed-end funds with the goal of inducing a liquidity event to generate a quick profit on the fund shares they have purchased at a discount to NAV. The vast majority of these arbitrage campaigns are carried out by a small handful of activist hedge fund managers, which range significantly in size.[11] These actions by activist investors are harmful to the closed-end fund and its long-term investors. We therefore commend the SEC staff for recently increasing the tools available to closed-end funds to protect their shareholders from the harm caused by activist investors.[12]

Closed-end funds customarily look at the voting authority reported by activist investors in their Form 13F filings to ascertain these investors' activities and intentions with respect to the closed-end fund. This information is particularly valuable because the current Form 13F threshold of $100 million

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[8] Closed-end fund shares trade on the secondary market trade at a market-determined price that may be somewhat higher or lower than the fund's net asset value (NAV).

[9] *See* Investment Company Institute, Recommendations Regarding the Availability of Closed-End Fund Takeover Defenses (March 2020), at 9-10, Appendices A and B, *available at* https://www.ici.org/pdf/20_ltr_cef.pdf ("Closed-End Fund Takeover Defenses").

[10] *See Fund of Funds Arrangements*, 84 Fed. Reg. 1286 (Feb. 1, 2019), at n.95. ("Since the mid-1990s, closed-end funds that have traded at a discount to NAV have been the target of proxy contests initiated by large investors in those funds, including other funds. . . .").

[11] In ICI's member survey, which was undertaken in connection with our report, 85 percent of closed-end fund shareholder proposals or proxy contests between 2015 and 2019 were from only four activist shareholders. Closed-End Fund Takeover Defenses at 36.

[12] *See* Staff Statement, Division of Investment Management, *Control Share Acquisition Statutes* (May 27, 2020), *available at* https://www.sec.gov/investment/control-share-acquisition-statutes ("Control Share Acquisition Statutes").

typically results in reporting prior to when the activist investor would be obligated to report on Schedule 13D or Schedule 13G.[13]

Closed-end funds also find Form 13F data valuable in identifying their shareholders for purposes of soliciting proxies and achieving quorum. Better knowing their shareholder base enables closed-end funds to communicate with their shareholders to more accurately predict responses to various actions, and, if necessary, further engage on those issues. It also enables closed-end funds to encourage shareholders to consider and vote on proposals to achieve minimum quorum requirements. This is especially beneficial for the vast majority of closed-end funds—exchange-listed closed-end funds—which are required to hold annual shareholder meetings and more frequently disseminate proposals to shareholders.[14]

Similarly, Form 13F also serves as an important source of data for boards of closed-end funds. Engaging with shareholders facilitates a fund board's understanding of shareholders' views and may help the board assess whether a contemplated action is consistent with the interests of the fund's shareholders. It also may facilitate timely communication with investors to discuss any potential concerns relating to the closed-end fund's discount or performance.

Based on our members' informal analysis, at the proposed $3.5 billion reporting threshold, it appears that the vast majority of current activist closed-end fund investors would likely no longer be required to file Form 13F reports, and that the number of Form 13F filers holding a typical closed-end fund would be reduced by more than 50 percent. Losing this critical transparency into their investors would not be in the best interest of closed-end funds, their long-term investors, or the public generally.

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[13] Section 13(d) of the Exchange Act requires any person who, after acquiring directly or indirectly the beneficial ownership of an equity security registered under the Exchange Act, is directly or indirectly the "beneficial owner" of more than five percent of such class of securities, to file with the SEC certain information on Schedule 13D within 10 days of such acquisition. The information provided pursuant to Schedule 13D must include any intention of the beneficial owner to influence the management or control of the issuer of the portfolio security. Section 13(g) permits certain investors that are five percent beneficial owners to file the shorter Schedule 13G instead of Schedule 13D. To be eligible to file Schedule 13G, an investment manager must have acquired the securities with no purpose or effect of changing or influencing the control of the issuer, and not in connection with or as a participant in any transaction having such purpose or effect. Rule 13d-1(b)(1) and (c) under the Exchange Act.

[14] Although the Investment Company Act and other federal and state laws do not require closed-end funds to hold annual shareholder meetings, exchange listing requirements do. *See, e.g.,* New York Stock Exchange Listed Company Manual Rule 302.00.

B. Exchange-Traded Funds

Form 13F also serves as an important source of data for ETFs. Like closed-end funds, ETFs do not have direct transparency into their share ownership because ETF shares trade intraday on stock exchanges at a market-determined price. Retail investors may buy or sell ETF shares through a broker or in a brokerage account, but cannot purchase or redeem shares directly from the ETF.[15]

ETFs utilize Form 13F data to satisfy their regulatory obligations and educate and provide other services and information to their shareholders and distributors. For example, ETFs must satisfy exchange listing requirements, which impose ongoing minimum levels of beneficial ownership, among other requirements.[16] In the absence of Form 13F data, it would be very difficult and costly for ETFs to obtain this beneficial ownership information.

ETFs also use Form 13F data to create and offer relevant educational materials, target sales and marketing efforts, and provide fund specific information to shareholders. Further, ETFs may use Form 13F data to engage with shareholders on proxy proposals, as well as to determine how concentrated ownership is in their shares, which may be of interest to investors or distributors. According to our ETF members, Form 13F data provides valuable visibility into, and engagement with, smaller investment managers that, collectively, have investment discretion with respect to a significant portion of the ETF's shares. As the SEC acknowledges, the vast majority of these smaller managers would not be subject to Form 13F reporting at the $3.5 billion threshold.[17]

C. Registered Funds as Investors

Registered funds also may use Form 13F data for a variety of risk management purposes. These include understanding who the other investors are in an issuer and the potential impact of changing holdings, as well as whether there may be high concentration of a limited number of shareholders in an issuer, raising potential "crowding" concerns in certain trades or trading strategies.

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[15] ETF shares are created by "authorized participants" or APs—typically, large financial institutions—providing a specified basket of securities, cash, or both—often called a "creation basket"—to the ETF. In return, the AP receives a fixed amount of ETF shares, called a "creation unit." Some or all of these shares may then be sold on a stock exchange. An AP may redeem ETF shares in creation unit increments in exchange for a "redemption basket" of securities, cash, or both. For a discussion of the ETF creation and redemption process, see Investment Company Institute, "US Exchange-Traded Funds," in *2020 Investment Company Fact Book: A Review of Trends and Activities in the Investment Company Industry, available at* www.icifactbook.org/ch4/20_fb_ch4.

[16] *See, e.g.,* CBOE BZX Exchange Rule 14.11(l); Nasdaq Rule 5704; NYSE Arca Rule 5.2-E(j)(8) (an ETF must have at least 50 beneficial holders by the end of the first year of its listing on the exchange or it may be subject to delisting).

[17] *See* Proposing Release at 46021.

D. Form 13F Data in Vendor Reports

In addition to being direct consumers of Form 13F data, ICI's members also utilize reports from third-party vendors that incorporate Form 13F data as a key component. These include reports from proxy advisory firms that may be utilized by closed-end funds to facilitate investor outreach on proxy matters, and reports for closed-end fund boards. They also may include aggregation or consolidation reports from vendors providing transparency into ETF or closed-end fund ownership. These reports are a valuable source of information and analysis for market participants.

E. No Existing Substitute for Form 13F Data

In the Proposal, the SEC identifies alternative sources of holdings data that it asserts may provide overlapping or similar data to that reported on Form 13F.[18] The Commission provides, as examples, data reported on Form N-PORT[19] and data reported to the consolidated audit trail (CAT) for National Market System (NMS) securities.[20] The Proposal also mentions, as potential alternatives, data filed on Schedules 13D and 13G.[21]

While we support regulators eliminating overlapping reporting requirements and unnecessary reporting burdens, the alternative data sources the SEC mentions, while important on their own, are not a substitute for Form 13F data. Form N-PORT, for example, is filed only by registered management investment companies (other than money market funds and small business investment companies) and certain ETFs. It requires funds to prepare portfolio holdings information on a monthly basis that is filed with the SEC 60 days after the end of each fiscal quarter. Thus, although Form N-PORT requires reporting of all portfolio investments of a particular fund, it does not require reporting of non-registered fund positions over which that fund's investment adviser has investment discretion, as Form 13F does (such as those held in separately managed accounts or private funds managed by the adviser).[22] In addition, Form 13F is filed publicly 45 days from the end of the calendar quarter, while only a fund's

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[18] *Id.* at 46023.

[19] *See Investment Company Reporting Modernization,* 81 Fed. Reg. 81870 (Nov. 18, 2016).

[20] *See, e.g., Consolidated Audit Trail,* 77 Fed. Reg. 45722 (August 1, 2012) (SEC release adopting Rule 613 under the Exchange Act, which requires national securities exchanges and self-regulatory organizations to submit an NMS plan to create, implement, and maintain a consolidated order tracking system, or consolidated audit trail, with respect to the trading of NMS securities).

[21] Proposing Release at n.57.

[22] While the SEC amended Form ADV to require registered investment advisers to report aggregate information about separately managed accounts that they advise, this data also differs in key respects from that reported on Form 13F. *See Form ADV and Investment Advisers Act Rules,* 81 Fed. Reg. 60418 (Sept. 1, 2016).

Form N-PORT for each third month is made publicly available 60 days after the end of the fund's fiscal quarter.[23]

As noted above, Schedules 13D and 13G are required to be filed only once a person becomes a five percent beneficial owner of a class of certain publicly traded equity securities, and the filing relates solely to the owner's beneficial interest in that issuer's securities. Although Schedule 13D and Schedule 13G data is public upon filing, which is required within 10 days of acquisition of the five percent position, the forms are not filed on a regular, periodic basis. Most importantly, for the reasons explained above, ICI's closed-end fund and ETF members have a strong interest in understanding ownership of their funds below the five percent threshold. That interest is shared by funds investing in corporate issuers that wish to understand who their fellow investors are in that issuer for risk management and other purposes.

Finally, CAT data differs significantly from Form 13F data in its purpose, scope and accessibility. The CAT is intended to better facilitate market surveillance and investigations, as well as improve regulator analysis of market events. Consistent with these purposes, the data submitted to the CAT contains not only highly detailed trade information on each NMS quote and order, including originations, modifications, cancellations, routing, and execution, but also sensitive customer identifying information. Access to this information, accordingly, is restricted to SEC staff and designated "regulatory staff" of each exchange and is not publicly available.[24] ICI has been strongly supportive of measures to maintain the information security of this highly sensitive trading data.[25]

III. The SEC Should Not Raise the Reporting Threshold

For all of these reasons, the SEC should not raise the current Form 13F reporting threshold. While current uses of Form 13F data are broader than those originally contemplated by Congress and the Commission in adopting the reporting requirement, Form 13F serves as a useful, reliable, and freely available source of market data that has been widely utilized for many years by market participants,

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[23] A registered fund's fiscal quarter may differ from the calendar quarter, and typically varies by fund, resulting in funds reporting on a staggered basis on Form N-PORT. Accordingly, Form N-PORT data cannot be aggregated across all the funds in a complex to provide comprehensive holdings as of any particular point in time.

[24] We note that the SEC recently proposed amendments to the CAT NMS plan related to data security that would further clarify which exchange staff members are allowed to access the CAT. *See Amendments to the National Market System Plan Governing the Consolidated Audit Trail to Enhance Data Security*, Exchange Act Release No. 34-89632 (Aug. 21, 2020) (proposing a definition of "Regulatory Staff" intended to prevent inappropriate access to and use of CAT data for commercial purposes).

[25] *See, e.g.,* Letter to Brent J. Fields, Secretary, US Securities and Exchange Commission, from David W. Blass, General Counsel, Investment Company Institute, dated July 18, 2016, *available at* https://www.ici.org/pdf/30042.pdf.

members of the public, and the SEC. The SEC should encourage and support the transparency and accessibility of this data, rather than limiting it.

We understand that the SEC is concerned that the reporting threshold has not been revised since Section 13(f) was enacted in 1975, and that the stock market has grown exponentially since that time, resulting in a larger percentage of smaller managers being subject to the Form 13F reporting requirement. We submit, however, that based on the purposes for which Form 13F data is used, capturing the same percentage of the US equities market and reporting managers as in 1975 should not be the Commission's goal. Rather, its goal should be preserving the utility of Form 13F reporting, while making improvements to the reporting process that will further facilitate reporting and reduce unnecessary burdens.

Furthermore, the public availability of Form 13F data benefits regulated fund shareholders. As described above, funds use this data for important purposes that benefit their long-term shareholders. If the SEC significantly raises the reporting threshold, funds that currently utilize this publicly available source of data may instead need to pay to obtain data that may not be as comprehensive or reliable as the Form 13F data they currently obtain for free. Our members believe that this outcome would not be in the best interest of fund shareholders.

We appreciate the Commission's concern regarding the potential burdens that Form 13F reporting may place on smaller managers, as we are acutely sensitive to unnecessary burdens imposed on ICI's smaller fund members. Certain of our smaller members have reported that, although filing Form 13F is not a substantial burden, they would welcome increasing the filing or omission thresholds. These smaller members acknowledge that, while on its own, the obligation to file Form 13F imposes only a modest compliance burden, it is one of many compliance obligations to which they are subject that, in the aggregate, impose substantial costs on them. We therefore encourage the SEC to continue to seek out opportunities to reduce or eliminate burdens that may be more impactful to small advisers, and urge the Commission to address concerns about reporting burdens relating to Form 13F by considering our recommendations below to raise the omission threshold and further facilitate and improve the reporting process.

Given the passage of time, if the SEC believes it is absolutely necessary to raise the reporting threshold, we urge the Commission to raise it only a modest amount, and thereby preserve much of the utility of this dataset. If the Commission pursues this alternative, we would recommend an increase to $453 million based on the adjustment to the consumer price index (CPI) inflation standard from 1976 through 2019. As the Commission recognizes, at this threshold, 57 percent of current filers would be below the filing threshold, and the threshold would result in over 98 percent of the dollar value of currently reported assets continuing to be reported.[26] We understand from our closed-end fund and

[26] Proposing Release at 46021.

ETF members that, while they strongly prefer that the Commission not raise the current reporting threshold, an increase in the threshold to $453 million would still provide significantly more visibility into their shareholder base than raising the threshold to $3.5 billion, as proposed.

IV. The SEC Should Increase the Omission Threshold

In conjunction with its proposal to raise the reporting threshold to $3.5 billion, the Commission proposes to eliminate the omission threshold, reasoning that if the reporting threshold is substantially increased, the omission threshold would no longer be necessary or appropriate. We recommend that the Commission not eliminate the omission threshold but, instead, increase the threshold to 50,000 shares and $1,000,000. Eliminating the omission threshold, especially at the $100 million reporting threshold, would result in reporting of significantly more *de minimis* positions that, as the Commission recognizes, are "unlikely to have the potential to materially impact the market."[27]

The Commission asks whether, instead of eliminating the omission threshold, it should raise it, perhaps to increase the share limit to 50,000 and the value limit to $1,000,000. We support such an increase. Our members believe reporting of positions below these amounts would not be of much interest to market participants and, instead, would add considerable unhelpful "noise" that would make it more difficult to readily assess whether a Form 13F filer holds a meaningful position in a closed-end fund, ETF, or other issuer. At the same time, raising the omission threshold to 50,000 shares and $1,000,000 would alleviate the need for some smaller managers to report holdings on Form 13F that are too small to be of interest to market participants.

V. Recommendations to Further Improve the Efficiency of the 13F Reporting Process

The SEC asks in the Proposal whether it should make any other amendments to streamline Form 13F or simplify its instructions. We recommend several enhancements, discussed below, that would facilitate and streamline Form 13F reporting.

First, the Commission should make two simple enhancements to the 13(f) security list that it posts on its website. These changes would further improve efficiency and accuracy in the filing process, and reduce burdens on filers. We recommend that the Commission:

- Publish the 13(f) security list in the form of a table or spreadsheet, rather than the PDF list, alphabetized by issuer, that it currently posts. This would allow filers to sort and search the security data in the list more efficiently and compare it to data in their internal systems.
- Provide the International Securities Identification Number (ISIN) for each security included on the 13(f) security list. Including the ISIN for each security would also enhance filers' ability

[27] *Id.* at 46025.

to search and sort the data in 13(f) security list more efficiently and better enable comparison to their internal systems.

Second, the Commission should add a bulk upload feature in the EDGAR filing system for Form 13F-NT. Currently, EDGAR only permits Form 13F-NT to be filed on an individual basis. For filers that file a large number of Forms 13F-NT,[28] filing each form individually is very time consuming. A bulk upload feature would streamline the upload process for filers with multiple Form 13F-NT submissions.

Third, the Commission should eliminate Form 13F's requirement for a manual signature, which may be burdensome for global asset managers and difficult to obtain under extenuating circumstances, as demonstrated recently during the COVID-19 pandemic.[29] We appreciate the SEC staff's recent temporary relief acknowledging the challenges of satisfying the manual signature requirement for electronically filed forms during the pandemic.[30] We urge the Commission, however, to rethink this requirement more broadly, not just in Form 13F, but in its other electronically filed forms as well. Electronic signatures are utilized and well-accepted in a wide variety of legal and commercial contexts, consistent with the Electronic Signatures in Global and National Commerce Act ("E-Sign Act").[31]

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[28] Form 13F-NT is a notice filing in the EDGAR system. The SEC permits an institutional investment manager to file Form 13F-NT if all of the securities with respect to which the manager has investment discretion are reported on Form 13F by another manager or managers. *See* Special Instruction 6 to Form 13F. In the case of some large firms, one institutional investment manager may file a single Form 13F-HR (the Form 13F holdings report) on behalf of affiliated institutional investment managers under its control, while those affiliated institutional investment managers file Form 13F-NT. *See, e.g.,* Exchange Act Release No. 15292 (Nov. 2, 1978). An institutional investment manager also may file Form 13F-NT when it serves as manager of certain multi-managed or sub-advised funds, and the securities with respect to which the manager has shared investment discretion are reported on Form 13F-HR by another manager or managers.

[29] Rule 302(b) of Regulation S-T under the Securities Act of 1933 requires that each signatory to documents electronically filed with the Commission under the federal securities laws "manually sign a signature page or other document authenticating, acknowledging or otherwise adopting his or her signature that appears in typed form within the electronic filing." Such documents must be executed before or at the time the electronic filing is made. Further, electronic filers must retain such documents for a period of five years and furnish copies to the Commission or its staff upon request.

[30] The staff provided temporary no-action relief from the requirements of Rule 302(b), provided that: (i) a signatory retains a manually signed signature page or other document authenticating, acknowledging, or otherwise adopting his or her signature that appears in typed form within the electronic filing and provides such document, as promptly as reasonably practicable, to the filer for retention in the ordinary course pursuant to Rule 302(b); (ii) such document indicates the date and time when the signature was executed; and (iii) the filer establishes and maintains policies and procedures governing this process. The staff noted that the signatory may also provide to the filer an electronic record (such as a photograph or PDF) of such document when it is signed. The staff's position remains in effect until it provides public notice that it no longer will be in effect (which will be published at least two weeks before the announced termination date). *See Staff Statement Regarding Rule 302(b) of Regulation S-T in Light of COVID-19 Concerns* (June 25, 2020), *available at* https://www.sec.gov/corpfin/announcement/rule-302b-regulation-s-t-covid-19-update.

[31] Pub.L. 106–229, 114 Stat. 464 (June 30, 2000). *See, e.g.,* FINRA Rule 4512(a)(3), which was amended in 2019 to permit electronic signatures for discretionary accounts. FINRA Regulatory Notice 19-13 (April 16, 2019), *available at* https://www.finra.org/sites/default/files/2019-09/Regulatory-Notice-19-13_0.pdf.

Permitting electronic signatures for SEC forms that are filed electronically would be efficient and consistent with the Commission's focus on modernizing its disclosure and reporting requirements.[32]

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Thank you for the opportunity to provide comments on the Proposal. We appreciate the Commission's re-evaluation of the Form 13F reporting requirement, but urge the Commission to retain the current reporting $100 million reporting threshold, which results in transparency and valuable data that is useful to a broad variety of market participants, the public, and the SEC itself. If you have any questions on our comment letter, please feel free to contact Susan Olson at (202) 326-5813 or Sarah Bessin at (202) 326-5835.

Sincerely,

/s/ Susan Olson

Susan Olson
General Counsel

/s/ Sarah A. Bessin

Sarah A. Bessin
Associate General Counsel

cc: The Honorable Jay Clayton
The Honorable Hester M. Peirce
The Honorable Elad L. Roisman
The Honorable Allison Herren Lee
The Honorable Caroline Crenshaw

Dalia O. Blass, Director
Brian McLaughlin Johnson, Assistant Director
Mark T. Uyeda, Senior Special Counsel
Zeena Abdul-Rahman, Senior Counsel
Division of Investment Management
Securities and Exchange Commission

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[32] *See, e.g., Tailored Shareholder Reports, Treatment of Annual Prospectus Updates for Existing Investors, and Improved Fee and Risk Disclosure for Mutual Funds and Exchange-Traded Funds; Fee Information in Investment Company Advertisements*, Securities Act Release No. 33-10814 (Aug. 5, 2020); *Investment Company Reporting Modernization,* 81 Fed. Reg. 81870 (Nov. 18, 2016).