



September 29, 2020

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

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

Dear Ms. Countryman,

On July 10, 2020, the Securities and Exchange Commission (the “Commission”) issued a request for public comment soliciting input on proposed rule amendments to 17 CFR 240.13f-1 (“Rule 13f-1”) and Form 13F under the Securities Exchange Act of 1934. By this letter, IAA, Inc. is providing its comments to the Commission’s proposal.

As part of the Rule 13f-1 amendments, the Commission is proposing to increase the Form 13F reporting threshold from \$100 million to \$3.5 billion, requiring an investment manager to file a quarterly Form 13F report with the Commission only if the accounts over which the manager exercises investment discretion hold an aggregate of \$3.5 billion in securities covered by Rule 13f-1. The Commission states in its proposing release that this 35 times increase in the reporting threshold would result in an approximate 89% decline in the number of investment managers required to file a Form 13F. We believe this increase in the reporting threshold will have unintended adverse consequences for many public companies, including IAA, who have come to rely on the ownership information provided by Form 13F filings.

Shareholder Transparency and Engagement

IAA, like most public companies, is owned predominantly by institutional shareholders. Based on the most recent data available, institutional shareholders currently own more than 95% of our outstanding shares. Nearly all institutional shareholders own their shares in “street name” through a bank, broker or other nominee account rather than on a registered basis. IAA depends on third party data to identify these shareholders and have visibility into their holdings, including any changes in such holdings. The current Form 13F, as adopted by the Commission in 1975, includes the following text, which acknowledges this important utility of Form 13F (emphasis added):

“The purpose of Form 13F is to provide a reporting and disclosure system to collect specific information and to disseminate such information to the public about the holdings of institutional investment managers who exercise investment discretion over certain accounts of equity securities. . . . We believe that investors will find Form 13F report information useful in tracking institutional investor holdings in their investments **and that issuers, too, will find detail as to institutional investor**

holdings useful because much of their shareholder list may reflect holdings in ‘street name’ rather than beneficial ownership.”

We use and rely on Form 13F ownership information to identify new investors in IAA and to monitor the buying, selling and holding activities of our investors. This information allows us to better understand our shareholder base and, therefore, to make more informed decisions about how to effectively engage with our shareholders and prioritize our engagement opportunities. It also allows us to focus outreach efforts on our newest or most active investors as circumstances warrant. We use Form 13F ownership information to plan our formal shareholder outreach in connection with our annual meeting of shareholders, as well as in connection with our day-to-day investor relations activities. As demonstrated by the comment letter submitted by the NYSE Group, Inc. on September 21, 2020¹, which summarizes the average percentage of shares outstanding and institutional shareholders that would be lost (based on issuer market capitalization) if the proposal is adopted by the Commission, the lost visibility that we and other public companies will encounter is not insignificant. For example, among just our top 50 institutional shareholders, representing more than approximately 85% of our outstanding shares, the Commission’s proposal would impair our ability to identify the ownership and investment activity of shareholders owning approximately 9% of our outstanding shares. This percentage increases to approximately 12% of our outstanding shares based on our current top 100 shareholders. We believe any attempt to diminish what is already an imperfect system will further weaken the market transparency that Form 13F filings currently provide.

Shareholder Activism

We also use the institutional ownership information available from Form 13F filings to help identify and monitor shareholders whose investment in our common stock may reflect short-term motivations or other activist intent. Understanding our shareholder base and movements in and out of our stock by institutional shareholders, particularly those with activist tendencies, is critical to helping us identify particular threats as well as potential “wolf pack” followers. While Form 13F filings do not allow us visibility on a real-time basis, they do help tremendously in flagging potential accumulations of our shares by activist shareholders. The lower Form 13F reporting threshold could make us and other public companies more vulnerable to stealth activist campaigns that may be costly, disruptive and not in the best interests of our shareholders.

Form 13F filings provide us an advance warning that other Commission filings do not. In particular, Schedule 13D and 13G reports are required to be filed only *after* a shareholder has acquired beneficial ownership of five percent or more of our outstanding stock. Importantly, if Schedule 13D and 13G filings were the only reports of share ownership available, we would likely miss becoming aware of many potential activists holding shares of our common stock because, in many cases, these shareholders intentionally maintain their reportable beneficial ownership below five percent to avoid Schedule 13D reporting.

¹ See <https://www.sec.gov/comments/s7-08-20/s70820-7797941-223589.pdf>.

Significantly, the increase in the reporting threshold for Form 13F filings from \$100 million to \$3.5 billion that the Commission has proposed will enable a large number of shareholder activists—including some of the most active—to accumulate company shares under the radar. According to the SharkWatch 50 table of key activists published by FactSet, only 11 of the top 50 activists would be required to file Form 13F quarterly ownership information if the Rule 13f-1 reporting threshold is increased as proposed by the Commission.

Conclusion

For the above reasons, we believe the Commission's proposal to increase the Rule 13f-1 reporting threshold fails to adequately consider or balance the adverse impact that the rule change would have on public companies. While ownership information reported on Form 13Fs is not perfect due to delayed quarterly reporting and limits in the type of information required to be reported, Form 13Fs nonetheless provide the broadest and most complete picture of share ownership by institutional holders and cannot be adequately replaced by data from other sources, such as Schedule 13D or 13G filings or N-PORT filings by registered management investment companies.

We believe there are other actions the Commission should take to improve the current reporting and disclosure system for institutional shareholder ownership and modernize the reporting framework to better reflect current market dynamics. This includes rulemaking to address shortcomings in current Section 13(d) beneficial ownership reporting, especially relating to the reporting deadline and ownership of derivative securities, and actions to improve—not weaken—the transparency of Form 13F ownership reporting in a manner that balances the interests of both investment managers and the companies in which they invest.

We appreciate the opportunity to participate in the process, and would be pleased to discuss our comments or any questions that the Commission or its staff may have, which may be directed to Sidney Peryar at (708) 492-7369.

Thank you for your consideration.

Sincerely,

Sidney Peryar
Executive Vice President, Chief Legal Officer