



James J. Angel, Ph.D., CFP®, CFA
Associate Professor of Finance
Georgetown University¹
McDonough School of Business
Washington DC 20057
angelj@georgetown.edu
+1 (202) 687-3765
Twitter: @GuFinProf

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Securities and Exchange Commission
100 F St. NW
Washington, DC 20549-9303
Rule-comments@sec.gov

Re: Reporting Threshold for Institutional Investors

File No. S7-08-20

Dear SEC:

In summary:

1. Raising the \$100 million threshold at which investment managers need to disclose their equity holdings to \$3.5 billion is a bad idea. Transparency of institutional investor activities is essential for market integrity.

¹ All opinions are strictly my own and do not necessarily represent those of Georgetown University or anyone else. Over the years I have served as a Visiting Academic Fellow at the NASD, served on the boards of the EDGX and EDGA exchanges, served as Chair of the Nasdaq Economic Advisory Board, and performed consulting work for brokerage firms, stock exchanges, market makers, and law firms. I've also visited over 75 stock and derivative exchanges around the world. As a finance professor, I practice what I preach in terms of diversification and own modest holdings in most public companies, including brokers, asset managers, market makers, and exchanges.

2. The proposed \$3.5 billion threshold amount is too high. Letting billion-dollar hedge funds act in the dark is a bad idea.
3. Dropping nearly 10% of assets from the light of day will harm academic studies of the impact of institutional investors.
4. The SEC should clarify that “holdings” includes short positions as well as long positions.
5. Form 13F filings should include OTC stocks as they did when Rule 13(f)-1 was first adopted.
6. The Proposing Release overstates SEC authority. The statute explicitly states “or such *lesser* amount” not “or such *other* amount.” This was a conscious amendment made to the law during the legislative process to remove the SEC’s authority to increase the threshold.
7. Congress amended the authorizing sentence in 13(f) in 2010 and chose to leave the threshold at “\$100,000,000 or such lesser amount.” Thus 2010, not 1975, would be the proper base year for any adjustment.
8. Look for other ways to reduce costs and burdens. Form NPORT-P filers should be exempt because Form 13F is mostly redundant to NPORT-P.

Introduction

In 1975, Congress passed the National Market System amendments to the Securities Exchange Act of 1934.² Among many other substantial changes, the amendments required institutional investors managing more than \$100 million to report their holdings in securities registered with the SEC.³ The SEC implemented this filing requirement with Rule 13(f)-1 that requires such institutional investors to report their equity holdings on Form 13F.⁴

² Public Law 94-29

³ As amended by Dodd-Frank in 2010, §13(f)(1) of the Securities Exchange Act of 1934 now reads:

Every institutional investment manager which uses the mails, or any means or instrumentality of interstate commerce in the course of its business as an institutional investment manager and which exercises investment discretion with respect to accounts holding equity securities of a class described in subsection (d)(1) or otherwise becomes or is deemed to become a beneficial owner of any security of a class described in subsection (d)(1) upon the purchase or sale of a security-based swap that the Commission may define by rule, having an aggregate fair market value on the last trading day in any of the preceding twelve months of at least \$100,000,000 or such lesser amount (but in no case less than \$10,000,000) as the Commission, by rule, may determine, shall file reports with the Commission in such form, for such periods, and at such times after the end of such periods as the Commission, by rule, may prescribe, but in no event shall such reports be filed for periods longer than one year or shorter than one quarter.

⁴ See SEC Release No. 34-14852, 43 FR 26700, June 22, 1978.

The SEC is proposing to raise the reporting threshold from \$100 million to \$3.5 billion, a 34,000% increase. This would release approximately 4,500 money managers, each of whom controls over \$100 million dollars in assets, from their legal obligation to report to the public what they are doing. These money managers collectively manage over \$2.3 trillion in assets, 9.2% of the assets currently reported on Form 13F.⁵

Transparency is essential to maintaining market integrity.

This proposal would let billion-dollar hedge funds avoid disclosure. As reported in Bloomberg, this means that funds run by people such as George Soros and other controversial hedge fund managers would avoid disclosure.⁶

By reducing transparency for smaller funds, this proposal makes it harder for potential investors to do their due diligence on smaller institutional investors.⁷ By examining 13F filings, potential investors can see whether the actual investment history of a manager is consistent with its marketing material. Eliminating 13F transparency for 4,500 investment managers will also make it harder for potential investors to detect fraud by investment managers.⁸

Issuers depend upon 13F filings as the only way that they can find out who their street name shareholders are. One small company estimated that 46% of its 13F-disclosed shareholders would avoid disclosure under the proposed rule.⁹ Issuers state that 13F data are essential for their shareholder engagement.¹⁰

The reduction in reporting of institutional positions will also make it harder for analysts to track “crowded trades” in which too many institutions have piled into a single idea.¹¹ Crowded trades often end badly when too many investors run for the exit at the same time, so identifying crowded trades is important for alerting investors of the risk.

⁵ The Proposing Release can be found at <https://www.sec.gov/rules/proposed/2020/34-89290.pdf>

⁶ <https://www.bloomberg.com/news/articles/2020-07-14/tepper-einhorn-soros-stock-holdings-would-go-dark-in-sec-plan>

⁷ See the comment letter from Sarah Metzgar at Talson Capital Management, <https://www.sec.gov/comments/s7-08-20/s70820-7415009-219283.htm>

⁸ See the comment letter from Doron Cohen at <https://www.sec.gov/comments/s7-08-20/s70820-7415172-219344.htm>

⁹ <https://www.sec.gov/comments/s7-08-20/s70820-7644287-222350.pdf>

¹⁰ <https://www.sec.gov/comments/s7-08-20/s70820-7741257-223138.pdf>

¹¹ See <https://www.bloomberg.com/news/articles/2020-07-20/goldman-warns-sec-proposal-could-shroud-hedge-fund-crowding>

13F filings provide great amounts of useful information. For example, 13F data are now demonstrating which institutional investors are investing in bitcoin, data that may soon disappear if the proposed rule is adopted.¹²

The instantaneous outpouring of opposition to this proposal expressed in the comment letters is strong evidence that the public interest is to increase, not decrease, transparency into the activities of institutional investors.

As one commentator has already pointed out:

“When Congress first adopted Section 13(f) it did so to stimulate a higher degree of confidence among all investors in the integrity of securities markets. Taking this data away will have the opposite effect. Transparency is what gives investors confidence in US markets. If only they had the same confidence in US regulators.”¹³

13F filings are not unduly burdensome on smaller asset managers.

All 13F requires is a list of assets. Such lists are at the fingertips of every asset manager, no matter how large or small. As RockCreek Group noted, “However, it is worth pointing out that over the nearly two decades that we have been in existence, not once has any of our smaller managers raised the 13F filing requirements as burdensome with the potential to stifle future growth — including new managers with as little as \$250 million under management.”¹⁴

The proposed threshold is too high and the logic is nonsensical.

The real question is “At what size threshold do the benefits to society of better disclosure outweigh the costs?” The Proposing Release makes no attempt to figure this out. There is some bleating that disclosing holdings is somehow costly to managers, as well as some conveniently expanded estimates of compliance costs. Let us examine these two factors.

First, the Proposing Release states that disclosure may be costly to the funds as other investors could guess what the fund would do in the future and “front run” them, pushing up the cost of doing trades in

¹² <https://www.forbes.com/sites/michaeldelcastillo/2020/08/06/valuable-sec-data-on-20-institutional-bitcoin-investors-could-soon-disappear>

¹³ Comment letter of Daniel Farao, <https://www.sec.gov/comments/s7-08-20/s70820-7415705-219424.htm>

¹⁴ <https://www.sec.gov/comments/s7-08-20/s70820-7787361-223531.pdf>

the future. The proposition that the information revealed in Form 13F harms filers due to front running is quite weak. The 45-day time lag between the end of the quarter and the required filing date is more than enough time to complete most institutional trades, eliminating the risk of front running. Even large orders relative to the average daily volume can usually be executed within a week or two, so 45 days is more than enough time for a manager to complete a trade. The SEC could easily reduce this window without causing substantial harm to filers.

As documented in Christoffersen et al (2018), managers make use of the 45 day lag and wait an average of 37 days to file.¹⁵ Their paper documents that smaller funds actually take less time to file than larger funds, indicating that they may be less concerned about front running or copycatting than larger funds.

Indeed, the notion that a manager's forthcoming trades are so large that they could move the market is a strong argument that the manager is large enough that disclosure should be required. The whole reason for the various §13 disclosure requirements stems from the large power of institutional investors and the need for transparency to spotlight any abuses.

Moreover, if a manager does believe that they will be harmed by the disclosure, there is a process for requesting confidential treatment.

Second, the notion that Form 13F is burdensome is a critique of its implementation by the SEC. In theory, complying with the §13(f) disclosure requirements should be simple. Every asset manager must produce position reports for its internal purposes including risk management, as well as position reports for its investors. This can usually be done at the touch of a button. Often these reports can be generated in real-time during the trading day. There is no reason why submitting such a report to the SEC as well as to fund management should be a difficult or burdensome endeavor. Managers already have the data at their fingertips. The only thing that could be burdensome is the SEC's form. If compliance costs are an issue, the SEC should examine ways of streamlining the filing process.

The logic in the proposing release is that the total market capitalization of U.S. public companies has purportedly grown by a factor of approximately 35 since 1975, so the threshold should increase by the same amount. That makes no sense. The real question is "How big does a manager have to be before their trading can have a major impact on the market?" Institutional investors with \$100 million under management can still have a major impact on companies with their trading, especially on smaller and midcap companies.

¹⁵ This excellent paper was cited in the Proposing Release. See Susan E.K. Christoffersen, Erfan Danesh, and David Musto, *Why Do Institutions Delay Their Shareholdings? Evidence from Form 13F*, (Working Paper, June 11, 2018) ("Christoffersen, Danesh and Musto"), available at https://www.bwl.uni-mannheim.de/media/Lehrstuehle/bwl/Area_Finance/Finance_Area_Seminar/HWS2018/Christoffersen_Paper.pdf It should be noted that this paper does not document any quantitative harm from front running or copycatting, only that managers make use of the time available for filing.

Dropping almost 10% of assets will harm studies of the impact of institutional investors.

13(f) data are widely used in academic studies on a variety of topics. Such data are essential for empirical studies that need to control for the extent of institutional ownership. The proposed increase in the threshold, by the SEC's own data, remove from public eye ownership data on almost 9.2% of the existing data.¹⁶

A brief search of the Social Science Research Network (SSRN) identifies over 1,400 academic papers that refer to 13(f) data.¹⁷ A Google Scholar search on "SEC 13(f) institutional holdings" yields "about 195,000 results."¹⁸

The SEC proposal is out of step with global trends in disclosure. The SEC is proposing to increase the threshold for disclosure by 34,000%. This ignores the global trend in other countries to decrease, not increase, the disclosure threshold.¹⁹

OTC stocks should be included in the list of 13F securities.

One thing that puzzles me is why the official list of Section 13F securities leaves out OTC stocks. The statutory definition of the required securities specified in 13(d)(1) includes "any equity security of a class which is registered pursuant to section 12 of this title." There are many companies that are SEC registrants under Section 12 and which should be in the official 13F list but are not, as they are traded OTC and not listed on exchanges.

The explanation lies in the obsolete language of SEC Rule 13f-1. Rule 13f-1 specifies that securities "quoted on the automated quotation system of a registered securities association" should be included on the 13F list.²⁰ This wording goes back to the original promulgation of the rule back in 1978.²¹ That meant that NASDAQ-listed securities were on the list. In those days, NASDAQ was not an exchange but a registered securities association that provided quotes for the OTC market.²² Thus, the 13F list originally covered virtually all equities traded in the United States, both exchange-listed and OTC.

¹⁶ See the table on page 17 of the Proposing Release.

¹⁷ www.ssrn.com

¹⁸ https://scholar.google.com/scholar?hl=en&as_sdt=0%2C47&q=SEC+13%28f%29+institutional+holdings&btnG=

¹⁹ See Schouten, Michael C., and Mathias M. Siems. "The evolution of ownership disclosure rules across countries." *Journal of Corporate Law Studies* 10.2 (2010): 451-483.

²⁰ 17 CFR § 240.13f-1

²¹ 43 FR 26705

²² At the time, NASDAQ was an acronym for National Association of Securities Dealers Automated Quotation system. Today, Nasdaq is not an acronym and the Nasdaq Stock Market, Inc., is no longer owned by the National Association of Securities Dealers (now FINRA).

Gradually, our markets evolved. Today, Nasdaq is a national stock exchange with high listing standards. Over the years it raised its listing standards multiple times, shedding many companies along the way.²³ The over-the-counter markets have evolved and now entities such as OTC Markets perform the same function that NASDAQ did in 1978. OTC stocks are now quoted on the OTC Market, which is not a registered securities association. Thus, many OTC-quoted SEC registrants are not included in this list, despite the clear statutory requirement that they should be.

The SEC should fix this omission and follow the law. As the original rule had anything quoted on a national securities association, the rule should be updated to include any equity security issued a ticker symbol by a registered securities association (i.e. FINRA.) Here is a suggestion for updating Rule 13(f)-1 with additions underlined and deletions ~~struck out~~:

(c) For purposes of this rule "section 13(f) securities" shall mean equity securities of a class described in section 13(d)(1) of the Act that are admitted to trading on a national securities exchange or have a ticker symbol issued by ~~quoted on the automated quotation system of~~ a registered securities association.

Including OTC stocks on the 13F list will bring increased transparency into the ownership of these companies. This will help the issuers in this segment have a better understanding of who their shareholders are, and it will help investors to know who their co-investors are. It will also increase institutional ownership in this segment by highlighting the institutional ownership of other investors, and thus increase investment in small-cap companies quoted on the OTC market. It is thus in the public interest to increase such transparency into the ownership of OTC-traded companies.

Modernizing 13F in this way will simplify the creation of the 13F list: If it has a ticker symbol, it's on the list and holdings need to be disclosed. This could actually reduce compliance costs. There will be no need to sift through all of the OTC-traded stocks to figure out which ones are or are not on the list. This will also simplify compliance by money managers with an easily understood criteria for the 13F list.

While we are on the topic of 13F ...

13F filings should include short as well as long holdings.

The SEC's current FAQ guidance for Form 13F contain explicit instructions to NOT report short positions in equities or options.²⁴ This is a mistake that should be corrected. There is no reason the transparency requirements in 13(f) should not apply equally to short as well as long holdings. The same public interest concerns about the activities of institutional investors apply equally to the short side as the long side of their holdings. Indeed, given the potential for manipulative short selling, the public interest

²³ Most notably in 1990 (56 FR 44108) and 1997 (62 FR 45895)

²⁴ See questions 41 and 43 of the FAQ at <https://www.sec.gov/divisions/investment/13ffaq.htm>.

concerns are even stronger for short positions. In addition to price manipulation, short selling can also be used to manipulate corporate governance through “empty voting” in shareholder votes.²⁵ Better disclosure of short positions would make it easier to detect such behavior, which currently is extremely difficult to detect.

It should be noted that the European Union has a lower threshold for reporting short positions than long positions.²⁶

Nevertheless, the Commission has repeatedly turned a deaf ear to the repeated pleas of issuers, exchanges, and investors for better transparency around short selling.²⁷ The SEC should amend its Form 13F FAQ guidance to clarify that holdings includes short holdings as well as long holdings. FAQs generally don’t go through the notice and comment process, so this can be done quickly and easily.

The SEC’s traditional Form 13F guidance is a mistaken interpretation of the statute as well as of the more recent will of Congress. The statute speaks of “holdings” and requires reports for “each such equity security held.” Given a lack of an official statutory definition of “security held,” it is certainly within the Commissions interpretive power to interpret “holdings” as the contents of a portfolio, not just the long positions. This is indeed the common understanding of the phrase. For example, Investopedia defines holding as, “Holdings are the contents of an investment portfolio held by an individual or entity, such as a mutual fund or a pension fund.”²⁸ Short positions are clearly part of the contents of a portfolio.

Here is another example of how the word “hold” is commonly understood in the financial world. Interactive Brokers regularly sends me a list of insider purchases and sales in securities I hold. Here is an excerpt from a recent email they sent me:

²⁵ A manipulator who wanted to affect the outcome of a shareholder vote could go long in one account and then hedge the position either by short selling in another account or through derivatives. For example, a bad actor with a large position in one firm, could engage in empty voting to disrupt a competitor of that firm, such as through blocking a value-enhancing merger.

²⁶ The EU requires short positions greater than 0.1% to be reported to regulators and greater than 0.5% to be reported publicly. See <https://www.esma.europa.eu/regulation/trading/short-selling>.

²⁷ See for example, various petitions for rulemaking including <https://www.sec.gov/rules/petitions/2020/petn4-758.pdf>, <https://www.sec.gov/rules/petitions/2017/petn4-712.pdf>, <https://www.sec.gov/rules/petitions/2015/petn4-691.pdf>, and <https://www.sec.gov/rules/petitions/2015/petn4-689.pdf>. It is curious that the Commission has refused to act on these numerous reasonable pleas, while it is engaging in unnecessary and harmful rulemakings like this one.

²⁸ <https://www.investopedia.com/terms/h/holdings.asp>



FYI: Insider Purchases and Sales in Securities You Hold

Dear Client,

The following table summarizes recently published information regarding corporate insider purchases or sales for securities you hold in your account. This data is presented for informational purposes only and does not reflect any activity related to your account.

The table provided by Interactive Brokers includes insider purchases and sales in securities in which I hold a short position, **not just the securities in which I hold a long position**. The SEC should accept that the standard financial usage of the word “holdings” includes both long and short positions and modify the instructions to Form 13F to explicitly include short positions.

Here is yet another example. There is a class of mutual funds known as long-short funds that engage in short selling. Like most mutual funds, most of these mutual funds put out fact sheets that provide useful information about the funds. I did a search on mutualfund.com and identified 30 long-short funds with more than \$115 million in assets. Of these 30 long-short funds, 23 of them explicitly included short positions as “holdings” on their fact sheets or on their web sites. None of them posted only long positions as holdings, except for one fund which only posted its largest holdings which all happened to be long. Thus, it is a common usage in financial markets to include short positions as well as long positions when discussing holdings.

The SEC’s own instructions for Form N-Q also treat short positions as holdings.

The SEC’s directions to exclude short holdings from Form 13F is even more puzzling given that the instructions to Form N-Q (Quarterly Schedule of Portfolio Holdings of Registered Management Investment Company) call for the complete schedule of investments.²⁹ Thus, the SEC itself uses the common financial usage of “holdings” to refer to both long and short positions. The SEC should be consistent and revise the guidance for Form 13F to explicitly include short positions.

²⁹ <https://www.sec.gov/files/formn-q.pdf>

Option positions equivalent to short equity holdings are already included in 13F requirements.

Another reason to report short positions is that some short equity exposures are already included in Form 13F. Options are clearly included in the official list of 13F securities.³⁰ Indeed, here is a sample from the latest list as of this writing:

Run Date: 7/2/2020	** List of Section 13F Securities **		Page 1
Run Time: 10:15	Year: 2020	Qtr: 2	IVM001
CUSIP NO	ISSUER NAME	ISSUER DESCRIPTION	STATUS
B38564 10 8 *	EURONAV NV ANTWERPEN	SHS	
B38564 90 8	EURONAV NV ANTWERPEN	CALL	
B38564 95 8	EURONAV NV ANTWERPEN	PUT	
D18190 89 8 *	DEUTSCHE BANK A G	NAMEN AKT	
D18190 90 8	DEUTSCHE BANK A G	CALL	
D18190 95 8	DEUTSCHE BANK A G	PUT	
F21107 10 1 *	CONSTELLUM SE	CL A SHS	
F21107 90 1	CONSTELLUM SE	CALL	
F21107 95 1	CONSTELLUM SE	PUT	

It is well known from “European Put-Call Parity” that a long position in a put option has the same payoff and is economically equivalent to the payoff from a combination of shorting the stock and owning a call. It is common sense that, if one type of position is included in the disclosure, then an economically equivalent position should also be included. Thus, short equity positions should be included in 13F filings just as long put options are required. Similarly, short option positions should also be included in the disclosures.

Dodd-Frank expanded 13(f), so a reinterpretation is within the recent intent of the law.

Congress amended 13(f) in 2010 to include “purchase *or sale* of a security-based swap ” in defining the assets under management that would be counted for the \$100 million threshold. This indicates Congressional thinking that long and short positions, as well as derivatives, should be counted by its use of the words (*emphasis added*) “purchase *or sale*.” Even if the Commission’s overly narrow interpretation of 13(f) were somehow defensible prior to Dodd-Frank, it became less defensible after Congress added its intention to count long and short swap transactions. The Commission should update the instructions and FAQ to Form 13F as part of its Dodd-Frank housekeeping.

³⁰ <https://www.sec.gov/divisions/investment/13f/13flist2020q2.pdf>

Congress did NOT give the SEC authority to raise the reporting threshold.

As Commissioner Lee made clear in her eloquent statement, the enabling statute “provides no support for increasing the threshold.”³¹ You should listen to her. She is right. The plain text is clear: Congress set a threshold of “at least \$100,000,000 or such lesser amount (but in no case less than \$10,000,000)”. The text does not say “or such other amount” or “or such greater amount.”

When Senator Williams introduced Senate Bill 249 that would become the 1975 amendments that established 13(f), he stated that the SEC would indeed have authority to raise or lower the limit. In his words, “The SEC would have rulemaking authority to raise or lower the \$100 million jurisdictional amount...”³² Here are his remarks from the Congressional Record:

A. The jurisdiction tests and reporting requirements

Every institutional investment manager which uses any means of interstate commerce in the course of its business and which exercises investment discretion, as defined, with respect to accounts holding at least \$100 million of equity securities registered under the Act or issued by an insurance company or closed-end investment company (collectively referred to as “section 13(d)(1) securities”) would be required to file disclosure reports with the SEC. The SEC would have rulemaking authority to raise or lower the \$100 million jurisdictional amount, but in no event could it require reports from persons exercising investment discretion over less than \$10 million of section 13(d)(1) securities.

Institutional investment managers satisfying the jurisdictional tests would be required to disclose their holdings of section 13(d)(1) securities. In addition, the SEC could require such institutional investment managers to

The original language in S249 did in fact contain the phrase “or such other amount.” Again, here is the submission of the original S249 in the Congressional Record:

³¹ <https://www.sec.gov/news/public-statement/lee-13f-reporting-2020-07-10>

³² Congressional Record, January 17, 1975 S437

“(f)(1) Every institutional investment manager which uses the mails, or any means or instrumentality of interstate commerce, or any facility of a national securities exchange, directly or indirectly, in the course of its business as an institutional investment manager and which exercises investment discretion with respect to accounts holding equity securities of a class described in section 13(d)(1) of this title having an aggregate fair market value on the last trading day in any of the preceding twelve months of at least \$100,000,000 or such other amount (but in no case less than \$10,000,000) as the Commission, by rule, may determine, shall file reports with the Commission in such form, for such periods, and at such times after the end of such periods as the Commission, by rule, may prescribe, but in no event shall such reports be filed for periods longer than one year or shorter than one quarter. Such reports shall include for each such equity security held on the last day of the reporting period by accounts (in aggregate or by type as the Commission, by rule, may prescribe) with respect to which the

However, the final law that was passed did not include the phrase “or such other amount.” Congressman Staggers’ amendment in the House contained the language “such lesser amount”, which was the language chosen for the final law.

This amendment process is clear evidence that Congress intentionally and thoughtfully chose whether or not to give the SEC statutory authority to raise the threshold. Congress intentionally gave the SEC the authority to lower but not to raise the threshold.

It remains to be seen how broadly the exemptive authority found in §13(f)(3) and §36(a)(1) applies in this case when Congress clearly decided to withhold authority to increase the threshold. The Commission would have to demonstrate that such “such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.”³³ This will be hard to do as this proposal seriously weakens the protection of investors. It is neither necessary nor appropriate in the public interest. Removing transparency from 90% of the previously required filers with such dubious justification is arbitrary and capricious.

The current proposal to increase the threshold by a factor of 35 will not withstand a court challenge. A 34,000% increase in the reporting threshold is not in the public interest or consistent with the intent of the section. Indeed, it clearly goes against Congress conscious decision not to give the SEC authority to raise the limit.

³³ Securities Exchange Act §36(a)(1)

Congress chose not change the threshold in 2010.

Additional evidence against raising the threshold comes from the fact that Congress effectively reaffirmed the \$100 million threshold in 2010 when it passed Dodd-Frank. At that time, Congress amended the exact sentence that contains the threshold to include equity positions based on the purchase or sale of securities based swaps. Given that Congress amended that very sentence in 2010, it stands to reason that Congress considered the entire sentence and consciously chose not to change the “\$100,000,000 or such lesser amount” threshold.

The correct base year, if any, is 2010, not 1975.

Unlike many other areas in Dodd-Frank, Congress did NOT see fit to add an inflation escalation clause to the threshold. In Dodd-Frank, Congress added several inflation escalation clauses include for the definition of an exempt commercial purchase, SIPC protection, expedited funds availability, Truth in Lending Act, and the qualified client definition.³⁴ Congress could have added an inflation escalation clause when they amended that sentence but chose not to.

Once again, Congress examined and edited the sentence establishing the threshold in 2010. This means that the year 2010 was the year that Congress last examined and approved the \$100 million figure. For that reason, the correct base year for any escalation, assuming, contrary to fact, that the SEC has statutory authority to raise the threshold, should be 2010, not 1975. For the record, over this period the CPI rose 17.65% and the S&P500 155%. This would imply thresholds of \$118 or \$255 million, respectively.

There are better ways to reduce reporting burdens.

SEC should examine other means of reducing burdens. In particular, the information on Form 13F is mostly redundant to the material in Form NPORT-P. Exempting all NPORT-P filers would remove from them this redundant filing obligation. The SEC and the data vendors who utilize 13(f) data can easily grab the data off of NPORT-P filings which are in XML.

Summary

REDUCING TRANSPARENCY IS A BAD IDEA. JUST SAY NO. BETTER YET, INCREASE TRANSPARENCY BY INCLUDING SHORT HOLDINGS AND OTC STOCKS.

We should increase, not decrease, transparency in the market by requiring the reporting of short holdings and by expanding the 13F list to include OTC stocks.

³⁴ See Dodd Frank sections 527, 929H, 1086, 1100E, 418,

Respectfully submitted,

James J. Angel, Ph.D., CFP®, CFA
Georgetown University