



September 28, 2020

**VIA ELECTRONIC SUBMISSION**

Vanessa Countryman  
Secretary  
U.S. Securities and Exchange Commission  
100 F St., NE  
Washington, DC 20549-1090  
File No S7-08-20; RIN: 3235-AM65

**Re: Release No. 34-89290; File No. S7-08-20 Proposed Rule on Reporting Threshold for Institutional Managers**

Dear Ms. Countryman:

The Securities and Exchange Commission (“SEC” or “Commission”) is requesting comment on a proposal to update the reporting threshold for Form 13F reports by institutional investment managers from \$100 million to \$3.5 billion (the “Proposal”).<sup>1</sup> As a publicly-traded company, Cboe Global Markets, Inc. (“Cboe”)(Cboe: CBOE) appreciates the opportunity to provide feedback on the Proposal. Cboe understands that the overarching objectives of the Proposal are to update the reporting threshold to proportionally reflect the same market value of U.S. equities that \$100 million represented in 1975 and to reduce the cost burden for smaller managers who are subject to 13F reporting. With those objectives in mind, Cboe’s comments are focused on the perspective of a public company that utilizes 13F reporting.

Cboe’s stock is listed on Cboe’s BZX Equities Exchange and is also available for trading on NYSE and Nasdaq. Cboe is one of the world’s largest exchange holding companies and its subsidiaries operate four U.S. options exchanges (Cboe Options, C2 Options, BZX Options, and EDGX Options); a futures exchange (CFE); four U.S. stock exchanges (BYX Equities, BZX Equities, EDGA Equities, and EDGX Equities); one of the largest pan-European stock exchanges (Cboe Europe Equities); and, a foreign exchange-trading platform (Cboe FX).

**Summary**

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<sup>1</sup> Reporting Threshold for Institutional Investment Managers, Securities Exchange Act Release No. 89290 (July 8, 2020), 85 FR 46016 (July 31, 2020).

- **The Proposal greatly reduces financial market transparency for companies and investors. Cboe urges the Commission to craft the final rule in a way that does not hinder the financial decisions of investors and companies who currently rely on 13F information.**
- **In addition to reducing essential visibility into financial markets, the Proposal fails to address the crucial issues currently existing in the 13F reporting system.**
- **Finally, the Proposal obstructs public companies' ability to obtain meaningful and timely information for shareholder engagement.**

### **Cboe's Concerns and Recommendations**

- The proposed amendments to 13F reporting negatively impact investors and companies by reducing transparency needed to make informed financial decisions, oversee company stock, and assist smaller asset managers and retail investors.*

13F reporting guidelines were adopted in 1975 to enhance investor confidence in securities markets by mandating certain disclosures from institutional investors<sup>2</sup>. Over the past 45 years, the information acquired from 13F reports has served as an invaluable source for investors and public companies who utilize the data to make informed financial decisions. The Proposal, which seeks to increase the 13F reporting threshold 35 times from \$100 million to \$3.5 billion, would severely limit available information. Cboe believes the Proposal would hinder both investors' and public companies' access to the critical information they have consistently relied on to identify key shareholders and track changes in stock ownership.

Increased transparency of financial markets is beneficial not only to companies whose stock is being reported through the 13F reporting system, but also to the investing public. Publicly available 13F reports increase transparency and contribute to the public having a deeper sense of trust in the financial markets. Without this publicly available information, there will be less transparency into financial markets which can lead to reduced investor confidence. Additionally, information generated in 13F reports is widely used by researchers and academics whom provide a benefit to the investing public. As a result, greatly reducing the scope of this valuable publicly available information would negatively impact a wide range of financial market participants.

The amount of available information eliminated by the Proposal is significant. By raising the reporting threshold to the proposed level, the vast majority of currently reporting investment managers will be exempted from the 13F filing requirements and their represented assets will go unreported. This drastic reduction in transparency affects public companies that rely on this publicly available information. Specifically, the number of filing investment managers Cboe follows would fall from 505 to 276, based on data from the second quarter of 2020.

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<sup>2</sup> Pub. L. No. 94-29, 89 Stat. 97 (1975).

The proposed loss of transparency will make it harder for public companies, of all sizes, to accurately oversee the ownership of their stock. With less 13F reporting information available, it will be more difficult for companies to monitor hedge fund positions and increasingly easier for activists to secretly acquire large positions in company stock. Such activists present specific dangers to a public company's long-term strategies and investor goals. This result is particularly troubling.

It is important to note that large public companies are not the only market participants that will be negatively impacted by the lack of transparency associated with the Proposal. Retail investors and small asset managers utilize publicly available 13F data to make important investment decisions. Many of these smaller participants are unable to afford the exorbitant costs associated with stock surveillance, and without the publicly available information provided by 13F reports, retail investors and small asset managers will lose visibility into large portions of the financial markets. Without this information, their ability to make accurate and complete investment decisions will be hindered. As a result, Cboe urges the Commission to withdraw the Proposal and instead issue a new proposal that does not reduce publicly available information and hinder the ability of public companies and investors to make informed decisions as discussed in more detail below.

- b. The Proposal creates further challenges for investors and companies and moves in the opposite direction of the SEC's goal to improve transparency in public markets and protect investors. The 13F reporting system should instead be withdrawn and a new proposal should be issued to address the lengthy, infrequent reporting timeline and the incomplete disclosure requirements.*

The proposed, lower reporting threshold in the Proposal not only moves in the opposite direction of the SEC's goals, but also no longer addresses the original intent Congress had when first adopting Section 13(F) in 1975. As previously mentioned, the intent was to "stimulate a higher degree of confidence among all investors in the integrity of the [the U.S.] securities markets."<sup>3</sup> With less overall transparency into stock ownership and a reduction in company engagement with shareholders, the Proposal is unlikely to improve investor confidence.

As such, Cboe recommends that the Commission withdraw its proposed amendments to the 13F reporting system and instead pursue the reforms detailed in the rulemaking petitions previously submitted by National Investor Relations Institute, the NYSE Group, the Society for Corporate Governance, and Nasdaq.<sup>4</sup> Specifically, Cboe believes that the current 13F reporting system should be

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<sup>3</sup> Report of Senate Comm. on Banking, Housing and Urban Affairs, S. Rep. No. 94-75 at 78 (1975), reprinted in 1975 U.S.C.C.A.N. 179, 261.

<sup>4</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

amended to address the unnecessarily long 45-day delay period and infrequent quarterly disclosure requirements that result in important yet outdated data. To be sure, shortening the delay period to 2 days, and mandating monthly disclosures, would meaningfully reform 13F reporting. Additionally, the lack of requirements mandating investment managers to disclose their short derivatives positions forms incomplete information and needs to be addressed. Cboe recommends that the final version of any amendment to the 13F reporting system should significantly reduce the delay period and require short derivatives positions to be disclosed while also keeping the 13F reporting threshold at \$100 million.

*c. In addition, the Proposal dramatically reduces the amount of meaningful engagement between public companies and their shareholders.*

For years, 13F data has allowed companies to engage with their shareholders and institutional investors in a manner that is both efficient and meaningful. Shareholder engagement is a limited resource public companies must prioritize as executives and senior management only have a finite amount of available time. As a result, it is important for well-functioning companies to allocate time to speak with their largest investors, fund managers notably engaged in activism, and smaller shareholders who are interested in increasing their company holdings. Without the crucial information provided by 13F reports, public companies will be forced to apportion shareholder time at an ad hoc basis and speculate as to who owns their shares.

With institutional investor ownership consistently rising, shareholders' desire to engage in corporate governance has made the information provided by 13F filings increasingly important for companies. Commonly, companies are relying on shareholder consultations when making decisions. This important line of communication is impossible without the ability for companies to identify key shareholders. Consequently, the Proposal greatly reduces the ability for a company to efficiently and effectively engage its shareholders in a meaningful way. Therefore, Cboe cannot support the Proposal and recommends that the Commission withdraw it and instead issue a new proposal to amend the 13F reporting system that preserves transparency and allows public companies of all sizes to continue their valuable engagement with shareholders.

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Cboe appreciates the opportunity to share its views on the Proposal. Cboe believes that the Proposal greatly reduces important transparency for companies and investors as well as the amount of meaningful engagement that public companies can have with key shareholders. In addition to these concerns, the Proposal also fails to address the crucial issues currently existing in the 13F reporting system. As a result, Cboe recommends that the Commission withdraw the Proposal and instead pursue the reforms detailed in the previously submitted rulemaking petitions on this topic, including reducing the reporting delay period from 45 days, requiring short derivatives positions to be disclosed, and

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No. 4-691, December 7, 2015, available at <https://www.sec.gov/rules/petitions/2015/petn4-691.pdf>.

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supporting legislation to provide for monthly disclosure. Cboe welcomes the opportunity to discuss these comments further.

Sincerely,

A handwritten signature in black ink that reads "Angelo Evangelou". The signature is written in a cursive style with a large initial 'A'.

Angelo Evangelou  
Chief Policy Officer  
Cboe Global Markets, Inc.