



September 29, 2020

The Honorable Jay Clayton, Chairman  
Vanessa A. Countryman, Secretary  
U.S. Securities and Exchange Commission  
100 F. Street, N.E.  
Washington, D.C. 20549

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

Dear Commissioner Clayton and Ms. Countryman,

The Energy Infrastructure Council (“*EIC*”) is a non-profit trade association of companies that develop and operate energy infrastructure, including traditional and renewable energy infrastructure companies, service providers and other businesses and individuals that operate in and around the energy industry. The EIC appreciates the opportunity to comment on the U.S. Securities and Exchange Commission’s (“*Commission*” or “*SEC*”) proposed amendments to Form 13F under the Securities and Exchange Act of 1934 (“*Exchange Act*”).

While the EIC supports the Commission’s efforts to modernize rules and regulations appropriately in order to promote the efficiency and fairness of the securities markets, we believe that the proposed amendments included in the SEC’s July 10, 2020 proposing release (the “*Proposing Release*”) would significantly reduce the transparency of the markets and undermine a company’s ability to engage directly with their investors. In addition, we believe that while the Commission’s proposed amendments consider the time that has passed since the original threshold was adopted, the amendments do not fully take into account how the markets have structurally changed over time. Given these considerations, and after due deliberation, the EIC respectfully submits this comment letter requesting that the Commission reconsider its proposal.

The EIC believes that open and timely communication between companies and their investors is critical to the success of the modern company. Since the Commission’s Form 13F rules were adopted more than 40 years ago, there has been a dramatic increase in engagement between institutional investors and the public companies with whom they invest. Investors have become more active in engaging with companies on matters of importance to them, and companies have increasingly sought to enhance their disclosures and engage with investors year-round. Many of our EIC members engage with their investors through formal investor outreach and engagement programs that include members of their boards. Because of the complexity of the securities markets and the methods by which investors hold their interests, companies

rely heavily on the quarterly ownership information in 13F filings to determine with whom they need to engage.

It is our view that the proposed amendments would significantly reduce the transparency of the securities markets, curtailing companies' understanding of their investor base and engagement with those investors. As described in the Proposing Release, the proposed threshold would eliminate 13F filings for nearly 90% of institutional investment managers. For many companies, particularly smaller companies, the proposed threshold would effectively eliminate much if not all of the usefulness of 13F filings. We are in agreement with Commissioner Lee who suggested in her July 10, 2020 public statement that the cost of losing transparency warrants greater analysis than that included in the Proposing Release and that it is possible that greater transparency, not less, is warranted given the strategic importance for companies, particularly smaller companies, in understanding their investor base.

We are also of the view that the Commission's proposed amendments fail to account for the many ways in which the securities market has become more complex since the Form 13F rules were originally adopted. In that time, the landscape of both passive and active investing has changed significantly, as has the concentration of capital among larger investment managers (which may, nevertheless, hold less than \$3.5 billion on a long-term basis) and public companies. We are concerned that the Commission's reliance on this simplified metric of the change in market size, without considering participant behavior, may have unintended consequences for policymaking in this and other arenas.

Finally, we are concerned that effectively limiting Form 13F reporting to passive investors would leave both companies and investors with an incomplete view of the securities market and significantly decrease the overall usefulness of the information. By limiting disclosure to the approximately 550 largest investment managers, many investors, including large investors, whose trading activities have significant repercussions for companies and investors alike would be free from quarterly disclosure obligations. It is our view that this result contravenes both the original purpose of Section 13(f) of the Exchange Act and many of the Commission's other recent efforts to increase marketplace transparency.

For these reasons, we believe the Commission should refocus on previously advanced proposals to implement reforms aimed at improving market transparency and fostering effective engagement between companies and their investors. Specifically, we believe that, rather than significantly reduce 13F transparency, the Commission should withdraw the proposed amendments and consider reducing the current 45-day reporting period, requiring 13F filers to disclose short positions and supporting legislation to provide for monthly disclosure.<sup>1</sup>

Thank you for considering our comments. We would be happy to discuss our comments or any other matters that you believe would be helpful. Please contact me at 202-747-6570 or lori@eic.energy if you have questions or wish to discuss our comments.

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<sup>1</sup> See NYSE Group, the National Investor Relations Institute (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>.

Sincerely,



Lori E. L. Ziebart  
President & CEO  
Energy and Infrastructure Council

Cheniere Energy, Inc.

DCP Midstream Partners, LP

Enable Midstream Partners LP

EnLink Midstream LLC

GasLog Partners LP

Holly Energy Partners LP

Magellan Midstream Partners, LP

Martin Midstream Partners LP

Plains All American Pipeline, LP

Plains GP Holdings, LP

Teekay Corporation

Teekay LNG Partners LP

Teekay Tankers Ltd.

Williams Companies, Inc.