

Investment Management Alert

Akin Gump
STRAUSS HAUER & FELD LLP

SEC Proposes to Increase 13F Threshold to \$3.5 Billion

July 14, 2020

On July 10, 2020, the Securities and Exchange Commission (SEC) proposed to increase the filing threshold for Form 13F to \$3.5 billion (35 times larger than the current \$100 million threshold), revise the requirements for being granted confidential treatment for information that would be contained in a Form 13F and make other minor changes to Form 13F.¹

Specifically, if adopted, the proposed changes would:

- Amend Rule 13f-1 under the Securities Exchange Act of 1934, as amended, to increase the threshold for the requirement to file a Form 13F to those institutional investment managers that have \$3.5 billion² in market value of 13(f) securities as of the last trading of any month in a year.³
- Revise the standard for receiving confidential treatment referenced in Form 13F to conform to the standards set forth in the recent Supreme Court Case, *Food Marketing Institute v. Argus Leader Media*, to require a showing that the information is actually and customarily kept private by the filer and that the release of the information would cause some harm (instead of “substantial competitive harm”) to the filer.⁴
- Make other minor changes to Form 13F.⁵

If the SEC were to adopt this amendment as proposed, the number of persons required to file a Form 13F would be reduced by almost 90 percent, but the amended Form 13F filing regime would still capture 90 percent of the aggregate value of the 13(f) securities captured by the current Form 13F filing regime. The proposed amendments are subject to a 60-day comment period following publication in the *Federal Register*.

¹ For further information, see <https://www.sec.gov/rules/proposed/2020/34-89290.pdf> (the “Proposing Release”).

² The Proposing Release states, “[t]he staff will conduct reviews of Form 13F reporting threshold every five years to determine whether the reporting threshold continues to be appropriate.” Proposing Release at Section IIB.

³ A manager that has exceeded the threshold must file a Form 13F report with the Commission within 45 days after the end of the calendar year and each of the first three calendar quarters of the subsequent year.

Contact Information

If you have any questions regarding this alert, please contact the Akin Gump lawyer with whom you usually work or

Jason M. Daniel

Partner

jdaniel@akingump.com

Dallas

+1 214.969.4209

Jeffrey Lazar Kochian

Partner

jkochian@akingump.com

New York

+1 212.872.8069

Douglas A. Rappaport

Partner

darappaport@akingump.com

New York

+1 212.872.7412

⁴ For further information regarding *Food Marketing Institute v. Argus Leader Media*, 139 S.Ct. 2356 (2019), see <https://www.akingump.com/en/news-insights/confidential-commercial-or-financial-information-is-exempt-from.html>.

⁵ The minor changes would (i) require filers that are investment advisers include their FINRA CRD number and SEC file number and, for managers reporting on Form 13F-NT, report the CRD and SEC file number for the institutional investment manager that is reporting the holdings; (ii) eliminate the truncation of thousands from the value of securities (i.e., requiring the entire value, rounded to the nearest dollar, to be reported); and (iii) eliminate the ability of filers to omit reporting certain holdings as *de minimis*.

[akingump.com](https://www.akingump.com)