

**MEMO# 27006**

February 12, 2013

## **NYSE Euronext Petition for Rulemaking to Shorten Reporting Deadline Under Section 13(f) of the Exchange Act**

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TO: SEC RULES MEMBERS No. 23-13  
COMPLIANCE MEMBERS No. 12-13  
EQUITY MARKETS ADVISORY COMMITTEE No. 5-13  
CLOSED-END INVESTMENT COMPANY MEMBERS No. 20-13  
SMALL FUNDS MEMBERS No. 15-13 RE: NYSE EURONEXT PETITION FOR RULEMAKING TO SHORTEN REPORTING DEADLINE UNDER SECTION 13(F) OF THE EXCHANGE ACT

NYSE Euronext, along with the Society of Corporate Secretaries and Governance Professionals and the National Investor Relations Institute, have submitted a petition for rulemaking to the SEC requesting that the beneficial ownership reporting rules under Section 13(f) of the Securities Exchange Act of 1934 be amended to shorten the current reporting deadline. [\[1\]](#) Specifically, the petition requests that the current requirement of filing reports on Form 13F with the SEC within 45 days after the last day of each calendar quarter be reduced to two days. [\[2\]](#)

The petition sets forth several arguments why the reporting deadline should be shortened. First, the petition states that the length of the current reporting period keeps material information from reaching investors and public companies on a timely basis. Specifically, the petition argues that investors are denied the ability to track institutional investor holdings in their investments because by the time the reporting deadline occurs, investors would have no way of knowing whether the information reported in the Form 13F remains current. The petition further states that for public companies, the 45-day delay period impedes their ability to identify shareholders in a timely manner; as a result, the 45-day delay hampers public companies' ability to identify and engage with their shareholders, including their ability to consult with shareholders regarding "say on pay," proxy access and other key corporate governance issues.

Second, the petition argues that the objectives underlying Section 13(f) support reducing the delay period. The petition states that the original reason the SEC cited for providing institutional investment managers with 45 days after a calendar quarter to report is no longer valid, i.e., a shorter time requirement would have created an undue burden.

According to the petition, a shorter reporting time period can only improve the quality of information available to the SEC, investors and public companies and because of the risk that the data included in a Form 13F will be stale before the existing filing deadline, the excessive length of the deadline can itself have a negative impact on the quality of information available to the market.

Third, the petition states that the arguments in support of retaining a 45-day delay period are unpersuasive. The petition notes that some institutional investment managers may believe that a 45-day delay continues to be warranted in that having to disclose their holdings more quickly would tip their hand to the market, driving the price of the security up (or down) and potentially impeding their investment strategy and, ultimately, reducing their rate of return. The petition states that this argument appears to support the concerns that the 45-day delay period works to the advantage of institutional investment managers at the cost of other investors.

Finally, the petition states that a substantial reduction in the 45-day delay period would align Rule 13f-1 with public company governance best practices. The petition argues that a number of commentators have stressed the importance of engaging with shareholders directly, obtaining more information about them, encouraging their involvement, soliciting their input and regularly communicating with them about a company's affairs. According to the petition, the 45-day reporting delay imposed by Rule 13f-1 inhibits effective communications between a public company and its shareholders, i.e., it is difficult to communicate with shareholders if their identities are obscured by outdated reporting requirements.

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#### **endnotes**

[1] The petition can be found on the SEC's website at <http://www.sec.gov/rules/petitions/2013/petn4-659.pdf>.

[2] While the petition is focused on addressing the length of the delay under Rule 13f-1, the petition notes that the request is made in the context of the SEC's existing authority under Section 13(f), which provides that long-position reporting may not be required for periods shorter than one quarter. The petition, however, encourages the SEC to raise with appropriate Congressional oversight committees the possibility of increasing the frequency of Form 13F reporting, such as requiring no later than monthly reporting of long positions.