

**MEMO# 33934**

December 2, 2021

# **SEC Proposes Electronic Filing Requirements and Amendments to Certain Forms and Processes (Form 13F, Form 13F CTR, Form ADV-NR, EDGAR filings, among others) - Your Comments Requested by Wednesday, December 8.**

[33934]

December 2, 2021

TO: Accounting/Treasurers Committee  
Investment Advisers Committee

SEC Rules Committee RE: SEC Proposes Electronic Filing Requirements and Amendments to Certain Forms and Processes (Form 13F, Form 13F CTR, Form ADV-NR, EDGAR filings, among others) - Your Comments Requested by Wednesday, December 8.

On November 4, the Securities and Exchange Commission issued two proposals<sup>[1]</sup> that would require certain forms to be filed electronically and update certain other forms and processes. The first proposal ("Electronic Submission Proposal") would provide electronic filing for Form 13F Confidential Treatment Requests ("Form 13F CTRs") and applications under the Investment Advisers Act (IAA). The second proposal ("EDGAR proposal") would mandate electronic filing on EDGAR for most documents that are currently permitted the option of electronic filing, including documents filed pursuant to Section 33 of the Investment Company Act (ICA).

Comments on the Electronic Submission Proposal are due on December 20, and comments on the EDGAR proposal are due December 22.

ICI has prepared the attached draft comment letter in response to certain issues addressed by the proposals. Please provide your written comments on the letter to Nicolas Valderrama at [nvalderrama@ici.org](mailto:nvalderrama@ici.org) by Wednesday, December 8.

The proposals and ICI's draft comment letters are summarized below.

## **Electronic Submission Proposal**

The Commission proposes several rule amendments to promote electronic filing for Form 13F CTRs, exemptive relief applications under the Investment Advisers Act, and Form ADV-NR as well as other technical amendments.

### ***Exchange Act Section 13(f) and Form 13F [2]***

Currently, investment managers seeking confidential treatment of the information they submit on Form 13F must, among other filings,[\[3\]](#) file a 13(f) Confidential Treatment Request on paper with the Commission. The Commission proposes to amend Form 13F and related rules under the Exchange Act and Regulation S-T to require the electronic submission via EDGAR for Form 13F CTRs. The Commission also proposes technical amendments to the instructions to Form 13F to implement the electronic filing of confidential treatment requests.

In addition, the Commission proposes several other amendments to Form 13F and related rules, including:

- Amending the instructions for Form 13F CTR to require filers to state that the information they seek to keep confidential is information they customarily and actually keep private and that failure to do so would cause harm. These changes are in response to a recent US Supreme Court decision;[\[4\]](#)
- Amending Form 13F to require managers to provide their CRD and SEC file numbers; and
- Modernizing the structure of data reporting by simplifying the rounding conventions to the nearest dollar, removing the requirement to omit "000" in reporting dollar values, and removing the character limits on the cover page, summary page, and information table.

The SEC explicitly notes that it is not re-proposing to raise the reporting thresholds for Form 13F, as it did in a 2020 Form 13F Proposal that was never adopted, and which ICI opposed.

### ***Investment Advisers Act [5]***

The Commission proposes to amend Regulation S-T and IAA Rule 0-4 to harmonize the requirements for the submission of applications for orders under the IAA and the ICA by:

- Requiring that exemptive applications under the IAA be filed electronically on EDGAR instead of on paper (as currently required);
- Making temporary hardship exemptions from electronic filing unavailable for orders under the IAA but allowing the submission of continuing hardship exemptions from electronic filing, as is consistent with the treatment of applications under the ICA; and
- Amending IAA Rule 0-4 to eliminate requirements for verifications of applications and for the submission of proposed notices as exhibits for applications under the IAA.

The SEC also proposes to amend IAA Rule 203-1 to require the electronic submission of Form ADV-NR.[\[6\]](#) Form ADV-NR is a mandatory submission for non-resident general partners and non-resident managing agents of investment advisers that must be submitted in connection with the adviser's initial Form ADV. Additionally, the SEC proposes to require that Form ADV-NR be updated within 30 days of any information on the form becoming inaccurate.

### ***Edgar Filing Requirements [7]***

The SEC also proposes mandating the electronic submission of documents that are currently permitted electronic submissions under Regulation S-T. These documents include filings under Section 33 of the ICA, which requires a fund and its affiliates to file with the SEC documents relating to civil actions, such as a copy of any legal action brought against the fund. Current rules allow the fund to make these filings in paper or electronically through EDGAR.

### **ICI Comment Letter Draft**

ICI's attached draft letter focuses on the SEC's proposed changes to Form 13F and the Advisers Act rules in the Electronic Submission Proposal. We welcome the proposed electronic filing requirements and provide recommendations for the SEC to further streamline Form 13F reporting, reduce filing burdens, facilitate the SEC's processing of certain filings, and promote operational readiness. Specifically, we:

- Support the SEC's proposed electronic submission requirement for Form 13F CTRs;
- Recommend further streamlining Form 13F reporting by publishing the 13F security list in the form of a table or spreadsheet, rather than a PDF, providing the International Securities Identification Number (ISIN) for each security included on the list, and adding a bulk upload feature in the EDGAR filing system for Form 13F-NT;
- Support the proposed electronic filing requirement for exemptive relief applications under the IAA and recommend further alignment of the application process for exemptive relief under the IAA and ICA;
- Recommend that the SEC identify other rules that continue to require burdensome paper submissions; and
- Recommend that the SEC update the ability of funds to use electronic delivery (e-delivery) to communicate with their investors.

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### **endnotes**

[1] Electronic Submission of Applications for Orders under the Advisers Act and the Investment Company Act, Confidential Treatment Requests for Filings on Form 13F, and Form ADV-NR; Amendments to Form 13F, SEC Release No. 34-93518; IA-5903; IC-34415 (Nov. 4, 2021) ("Electronic Submission Proposal"), available at <https://www.sec.gov/rules/proposed/2021/34-93518.pdf>; and Updating EDGAR Filing Requirements, Securities, SEC Release Nos. 33-11005; 34-93519 (Nov. 4, 2021) ("EDGAR Proposal"), available at, <https://www.sec.gov/rules/proposed/2021/33-11005.pdf>.

[2] Electronic Submission Proposal at 22-35.

[3] See Electronic Submission Proposal at 26 for an explanation of the current steps for a manager seeking confidential treatment.

[4] See Food Marketing Institute v. Argus Leader Media, 139 S.Ct. 2356 (2019).

[5] Electronic Submission Proposal at 7-19.

[6] Form ADV-NR must be filed by non-resident general partners (NR GP) and non-resident managing partners (NR MP) of investment advisers in connection with the adviser's initial Form ADV submission, to confirm that the NR GP or the NR MP appointed an agent for service of process in the US

[7] EDGAR Proposal at 9-13.

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