

# Form SHO: Scope, Timing, and Reporting Requirements

## Background

On October 13, 2023, the Securities and Exchange Commission (“SEC”) passed Rule 13f-2 under the Exchange Act. Rule 13f-2 seeks to provide greater transparency on short selling by collecting and publishing short sale data. This rule applies to a broad number of market participants, who will now have to track short positions monthly and report on them when certain thresholds are met. January 2025 is the first month that must be monitored, and if thresholds are crossed, then the first Form SHO filing will be due February 14, 2025.

## The Scope of Rule 13f-2

The Rule requires confidential reporting on short sale activities by “institutional investment managers.” This term is broad and covers “any person, other than a natural person, investing in or buying and selling securities for its own account, and any person exercising investment discretion with respect to the account of any other person.”<sup>1</sup> This means all investment advisers regardless of their SEC registration status will have to monitor short selling and report on Form SHO when thresholds are crossed.

An adviser, along with any affiliate they control, will need to determine whether a Form SHO filing is required on a month-by-month basis. An adviser must file a Form SHO if it exceeds one of the thresholds described below during a given calendar month. The threshold is different for equity securities from reporting and non-reporting issuers. A “reporting company issuer” is one that either has a class of securities registered pursuant to Section 12 of the Exchange Act or for which the issuer is required to file reports pursuant to Section 15(d) of the Exchange Act. “Non-reporting company issuers” include all issuers of a class of equity securities that are not reporting company issuers.

**Equity Securities of reporting issuers** – An adviser must report each “gross short position” over which it and any person under the adviser’s control has investment discretion, where there is:

- A monthly average gross short position at the close of regular trading hours in the equity security of at least \$10 million; or
- A monthly average gross short position at the close of regular trading hours as a percentage of shares outstanding in the equity security of at least 2.5%.

**Equity Securities of non-reporting issuers** – An adviser, collectively with any person under the adviser’s control, must report on:

- Each gross short position with a value of \$500,000 or more at the close of regular trading hours on any settlement date during the calendar month.

“Gross short position” means the number of shares of the equity security that are held short, without inclusion of any offsetting long positions. Form SHO does not require information on these offsetting positions or whether any position is hedged. However, the total short position must be reported without any deductions.

1. <https://www.sec.gov/files/rules/final/2023/34-98738.p>

The gross short position calculation does not include equity derivatives. The SEC staff stated in the adopting release: “Managers do not have to account for economic exposure to an underlying equity security created through the use of equity derivatives when calculating the reporting thresholds for reporting short sales of that underlying equity security. However, once a Manager meets or exceeds a reporting threshold for an underlying equity security, the Manager will then be required to report certain short activity for each settlement date during the reporting calendar month, and that disclosure will take into account activity in options, tendered conversions, secondary offering transactions, and other equity derivatives or activity...”<sup>2</sup>

Commenters asked the SEC to exclude extraneous securities entirely, but they remain in Table 2 of Form SHO, where daily net activity, including the exercise or trading of options or other derivatives, affecting a gross short position over the threshold must be reported. The SEC has also refused to provide a list of applicable securities, like it does for Form 13F. Firms should prepare now with affiliates under their control to be ready to monitor gross short position thresholds in January.

## Form SHO Reporting

When a threshold is met or exceeded for an equity security, an adviser must file Form SHO within 14 calendar days after month end. Information must be reported on EDGAR in an eXtensible Markup Language (“XML”) that is custom to Form SHO. Form SHO filings are confidential, and the SEC will publish aggregated data three months after each filing deadline. The required information for advisers, and any institutional investment manager, includes:

Reporting Section	Requirements
Cover Page	<ul style="list-style-type: none"> <li>Information about the manager(s) filling out the Form SHO Report;</li> <li>Calendar month for the period being reported;</li> <li>Type of Form SHO Report being made; and</li> <li>If the filing is an amendment.</li> </ul>
Information Table 1	<ul style="list-style-type: none"> <li>Manager’s monthly gross short position in the equity security on which information is being reported;</li> <li>Certain identifying information about that security; and</li> <li>Certain identifying information about the issuer of the security.</li> </ul>
Information Table 2	<ul style="list-style-type: none"> <li>Daily net activity affecting a Manager’s gross short position during a calendar month reporting period (represented as a number of shares);</li> <li>Certain identifying information about that security; and</li> <li>Certain identifying information about the issuer of the security.</li> </ul>

Upon the discovery of any inaccurate information reported on Form SHO, an amendment must be filed within 10 calendar days.

## What does this mean for me?

Firms will need to develop ways of monitoring their daily short positions and related short selling activity to determine if a Form SHO must be filed. The scope of equity securities under Rule 13f-2 is much broader than Section 13f securities for Form 13F. Firms will have to monitor public and private companies based in the United States and companies that are only traded outside of the United States. For accurate threshold monitoring, the short selling activity of affiliates must be aggregated and reviewed for accurate reporting. January is around the corner. Review your readiness to monitor now, and take action to be prepared.

Still have questions? We can help. Contact us at [file@filepoint.com](mailto:file@filepoint.com).

[FilePoint.com](https://www.filepoint.com) ›

2. <https://www.sec.gov/files/rules/final/2023/34-98738.pdf>