

MEMO# 31803

June 11, 2019

ICI Submits Comment Letter to SEC Recommending Ways to Improve the Fund Proxy System

[31803]

June 11, 2019 TO: ICI Members

Investment Company Directors SUBJECTS: Compliance

Disclosure

Fund Governance

Intermediary Oversight

Investment Advisers

Operations

Transfer Agency RE: ICI Submits Comment Letter to SEC Recommending Ways to Improve the Fund Proxy System

In 2018, the SEC returned its focus to proxy voting policy matters, hosting a Proxy Roundtable in November.^[1] In March, ICI submitted recommendations addressing topics discussed at the Proxy Roundtable, primarily from the vantage point of funds as institutional investors.^[2]

Today, ICI submitted the attached comment letter, offering additional recommendations for improving the proxy system for funds and their shareholders.^[3] As issuers, funds prepare proxy materials in connection with their shareholder meetings and experience all of the challenges that accompany that process. In many respects, however, funds' challenges are even more severe than those of other issuers, given their large and diverse retail shareholder population.

Summary of ICI's Comment Letter

The letter describes aspects of the proxy process that prove so costly and cumbersome for funds and their shareholders. We highlight the salient differences between funds and operating companies, present data from a 2018 ICI survey on funds' recent proxy campaigns and describe fund proxy solicitations.

We then recommend ways to better align the benefits and costs of funds' proxy requirements and facilitate funds' proxy solicitations. Specifically, we recommend that the SEC:

- Rationalize certain shareholder approval requirements in the Investment Company Act

to better reflect modern realities of the securities markets and funds' relationships with their shareholders;^[4]

- Create an additional way for funds to achieve a "majority vote" for applicable Investment Company Act items where an overwhelming majority of voting shareholders support an item;^[5] and
- Permit funds to deliver proxy materials to, and communicate with, their beneficial shareholders directly in connection with proxy proposals.

Finally, we recommend that the SEC:

- Permit funds to include a proxy card with the initial proxy notice (for those using the "notice and access" model for delivering proxy materials); and
- Permit funds to link, layer, and more easily incorporate information by reference in their proxy statements.

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[Attachment](#)

endnotes

^[1] U.S. Securities and Exchange Commission Roundtable on the Proxy Process Transcript (Nov. 15, 2018), available at www.sec.gov/files/proxy-round-table-transcript-111518.pdf.

^[2] We suggested improving communication among public companies, proxy advisory firms, and investors; reevaluating the resubmission thresholds for shareholder proposals; and leveraging technology to improve the mechanics of confirming proxy votes. See Letter from Paul Schott Stevens, President and CEO, ICI, to Ms. Vanessa Countryman, Acting Secretary, SEC, dated March 15, 2019, available at www.sec.gov/comments/4-725/4725-5124158-183336.pdf. See also Letter from Paul Schott Stevens, President and CEO, ICI, to Mr. Brent J. Fields, Secretary, SEC, dated November 14, 2018, available at www.sec.gov/comments/4-725/4725-4702049-176465.pdf.

^[3] SEC Commissioner Roisman recently recognized "the challenges that funds, as issuers themselves, face when they are required to seek shareholder proxies on certain matters, including the costs involved." *Remarks at SEC Speaks: Encouraging Smaller Entrants to Our Capital Markets*, Commissioner Elad L. Roisman (Apr. 8, 2019), available at www.sec.gov/news/speech/speech-roisman-040819.

^[4] Specifically, we recommend that the SEC consider replacing shareholder approval with the disclosure-oriented approach of Rule 35d-1 for changes to certain fundamental policies (e.g., those related to "security-based loans" and concentration policies where the fund wishes to change from being "industry concentrated" to non-concentrated). We also recommend that the SEC reconsider Section 15(a)'s shareholder approval requirement for sub-advisory agreements and suggest that the SEC could build on its "manager of

managers” exemptive work for a proposed new rule.

[5] We recommend that the SEC create a new way (in addition to the two statutory methods) for funds to achieve a “majority vote.” Specifically, this recommendation would permit proposed items to pass with unanimous board approval, support from at least three-quarters of the shares affirmatively voted, and a quorum of greater than one-third of outstanding voting shares.

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