

MEMO# 30457

December 6, 2016

Draft ICI Comment Letter to SEC on Proposed Universal Proxy Requirements - Your Comments Requested by December 13

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TO: Closed-End Investment Company Committee
SEC Rules Committee

Small Funds Committee RE: Draft ICI Comment Letter to SEC on Proposed Universal Proxy Requirements - Your Comments Requested by December 13

As you know, the SEC recently issued proposed amendments to the federal proxy rules that would mandate the use of universal proxy cards in contested elections at annual meetings.^[1] The proposal aims to align the manner in which shareholders vote by proxy with how shareholders vote in person at a shareholder meeting. Although the SEC proposes to exempt registered investment companies and business development companies from the universal proxy requirements, the SEC requests comment on a number of items related to the proposed exemption.

ICI's draft comment letter is attached for your review and summarized briefly below. If you have any comments on the draft comment letter, please send them to Linda French at linda.french@ici.org by close of business on December 13.

ICI's draft comment letter analyzes the proposal from two perspectives—funds as issuers with their own directors and shareholders, and funds as shareholders of the companies in which they invest.

From the perspective of funds as issuers, the letter supports the SEC's appropriate exclusion of funds from the proposed universal proxy requirements, in recognition of the many differences between funds and operating companies. In particular, the letter highlights four significant differences between fund and operating companies as follows:

- 1) Funds are subject to Investment Company Act of 1940 requirements that supplement state law and provide specific rights to shareholders to approve fundamental features of a fund;
- 2) Funds' governance structures, which differ from those of typical operating companies,

would be disrupted by split-ticket voting;

3) Funds typically have a different shareholder base than operating companies that would cause them to incur greater solicitation costs from contested elections than operating companies; and

4) Fund investors have little or no reason to call for split-ticket voting.

From the perspective of funds as institutional investors, the letter asserts that funds would find value in the proposal's alignment of voting options, whether by proxy or in person. The letter notes that this alignment would allow funds to vote more easily for a mix of both management and dissident nominees, while still requiring a dissident shareholder to clear an appropriately high threshold to receive access to a company's universal proxy.

Dorothy M. Donohue
Deputy General Counsel - Securities Regulation

Kenneth Fang
Assistant General Counsel

Linda French
Counsel

[Attachment](#)

endnotes

[1] See ICI Memorandum No. 30372 (Nov. 1, 2016), available at https://www.ici.org/my_ici/memorandum/memo30372.