

MEMO# 24572

October 4, 2010

Draft ICI Comment Letter on SEC Concept Release on Proxy System; Comments Requested by October 12th

[24572]

October 4, 2010

TO: SEC RULES COMMITTEE No. 39-10

CLOSED-END INVESTMENT COMPANY COMMITTEE No. 19-10

SMALL FUNDS COMMITTEE No. 13-10 RE: DRAFT ICI COMMENT LETTER ON SEC CONCEPT
RELEASE ON PROXY SYSTEM; COMMENTS REQUESTED BY OCTOBER 12TH

As you may recall, in July, the Securities and Exchange Commission issued a concept release requesting comment on various aspects of the U.S. proxy system. [\[1\]](#) Subsequent to its publication, the Institute held a conference call to solicit our members' views on the variety of issues raised in the concept release. Based on members' views, the Institute has put together a draft comment letter, which is attached and briefly summarized below.

Comments are due to the Commission no later than October 20th. Accordingly, please provide any comments on the draft by phone or email no later than Tuesday, October 12th to either Dorothy Donohue [(202) 218-3563; ddonohue@ici.org], Tami Salmon [(202) 326-5825; tamara@ici.org], or Frances Stadler [(202) 326-5822; frances@ici.org].

The draft letter supports the Commission undertaking a comprehensive review of the complex system of proxy voting and notes that proxy voting is important to investment companies in their dual roles as institutional investors and issuers. As such, ICI's members have a strong interest in a well-functioning and cost-efficient proxy system.

Our letter includes the following recommendations in connection with the Commission's review of the current proxy system:

- The SEC's rules should:
 - Permit issuers to directly communicate with their shareholders by eliminating the regulatory categories of "objecting" beneficial owners ("OBOs") who object

to having their names and addresses provided to an issuer, and “non-objecting” beneficial owners who do not so object (“NOBOs”). As part of this change, SEC rules should permit investors who choose to remain anonymous to appoint a nominee who could be contacted by issuers.

- Impose a standardized method that shareholders may use to confirm votes. Such rules should require issuers to bear the cost of confirmation and prohibit confirming a shareholder’s vote to any person other than the shareholder or his or her designated agent.
- Permit—but not require—issuers to disclose matters to be voted upon in advance of the record date.
- Require all institutional investors subject to the Commission’s jurisdiction to disclose how they voted their proxies.
- The SEC should:
 - Not revise Form N-PX to impose additional disclosure requirements on funds.
 - Take steps to reduce costs and increase competition related to the distribution of proxy material and other issuer-prepared materials to beneficial shareholders.
 - Permit client-directed voting with a view toward increasing voting participation rates by retail shareholders.
 - Permit issuers that wish to rely on the “notice and access” model for distributing proxy materials to include a proxy card in the same mailing with the Notice of Internet Availability of Proxy Materials (“Notice”).
 - Not impose data tagging requirements on proxy statement or voting information forms unless it can establish that expected benefits to investors would justify the associated costs.
 - Modify the current regulatory scheme for proxy advisory firms.
 - Accommodate issuers’ use of dual record dates.

Dorothy M. Donohue
Senior Associate Counsel

[Attachment](#)

endnotes

[1] See [Memorandum](#) to SEC Rules Committee No. 30-10, Closed-End Investment Company Committee No. 13-10, ETF Advisory Committee No. 32-10, Small Funds Committee No. 9-10, Transfer Agent Advisory Committee No. 40-10, and Broker-Dealer Advisory Committee No. 29-10, dated July 27, 2010.