

MEMO# 32092

December 10, 2019

ICI's Draft "Funds as Issuers" Proxy Report; Comments Requested by December 16

[32092]

December 10, 2019 TO: Chief Compliance Officer Committee
Closed-End Investment Company Committee
Operations Committee
Proxy Working Group
SEC Rules Committee
Small Funds Committee
Transfer Agent Advisory Committee RE: ICI's Draft "Funds as Issuers" Proxy Report;
Comments Requested by December 16

In June, ICI submitted a comment letter to the SEC on the fund proxy system and the unique challenges that funds as issuers face in seeking shareholder approvals.[\[1\]](#) In that letter, we recommended that the SEC:

- Reevaluate the 1940 Act's shareholder approval requirements, particularly for those 1940 Act items requiring a "majority vote" ("1940 Act Majority Items") where safeguards other than shareholder voting would protect investors' interests at a lower cost, including:
 - Fundamental policy changes (not all changes to fundamental policies should require shareholder approval, particularly where they are not material to a fund's investment strategies or risks, the fund's board has approved the change, and shareholders receive advance notice); and
 - Hiring sub-advisers (the SEC could build on its "manager of managers" exemptive relief in crafting a proposed rule);
- Use its exemptive authority to create a new third way—to complement the existing two statutory ways—for a fund to approve remaining 1940 Act Majority Items;[\[2\]](#) and
- Revise proxy disclosure requirements to permit greater use of layering and linking in proxy statements, which would make materials more readable and reduce printing and mailing costs for multi-fund proxy statements in particular.

The attached draft report summarizes the results from ICI's Fall 2019 member survey on funds' proxy campaigns over the past seven years (the "Report"), offering additional

support for ICI's prior recommendations. The Report provides more granular information about funds' 1940 Act Majority proposals; the costs of these proxy campaigns; and the anticipated effects of ICI's Supermajority Recommendation. Most notably, the Report shows that:

- Funds are experiencing significant costs and challenges when seeking shareholder approvals.
- The high costs and challenges of the proxy process are disproportionately affecting decisions related to fund policies, governance, and operations.
- ICI's Supermajority Recommendation would meaningfully reduce fund shareholders' costs.
- *Voting* shareholders overwhelmingly support funds' proxy proposals, underscoring that the fund proxy system itself—not the nature of the proposals—drives these costs and challenges for funds.

Please review the attached materials and provide any comments to me (matt.thornton@ici.org) by **Monday, December 16, COB**. There are a few places (bracketed) where we believe your insights and experiences could help bolster the final Report. Our goal is to submit this to the SEC before the holidays.

Matthew Thornton
Assistant General Counsel

[Attachment](#)

endnotes

[1] The letter is available at: www.sec.gov/comments/4-725/4725-5658296-185774.pdf.

[2] Compared to the "majority vote" requirements of Section 2(a)(42) of the 1940 Act, ICI's recommendation couples a lower quorum requirement (more than 33 1/3 percent) with a higher affirmative vote requirement (at least 75 percent) (the "Supermajority Recommendation").

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