

MEMO# 15414

December 6, 2002

INSTITUTE COMMENT LETTER ON SEC PROPOSALS RELATING TO PROXY VOTING

[15414] December 6, 2002 TO: BOARD OF GOVERNORS No. 40-02 DIRECTOR SERVICES COMMITTEE No. 11-02 CLOSED-END INVESTMENT COMPANY MEMBERS No. 64-02 INVESTMENT ADVISER MEMBERS No. 53-02 INVESTMENT ADVISER ASSOCIATE MEMBERS No. 35-02 SEC RULES MEMBERS No. 109-02 SMALL FUNDS MEMBERS No. 54-02 RE: INSTITUTE COMMENT LETTER ON SEC PROPOSALS RELATING TO PROXY VOTING Attached is a copy of the Institute's comment letter, which was filed today, on the SEC's proposals relating to proxy voting by investment companies and investment advisers.¹ The letter expresses support for most aspects of the Commission's proposals. In particular, the letter supports: (1) requiring investment advisers to funds to adopt written policies and procedures designed to ensure that proxies are voted in the interest of fund shareholders; (2) requiring those policies and procedures to address potential conflict of interest situations; (3) requiring funds to make disclosures to shareholders regarding their proxy voting policies and procedures; and (4) requiring advisers to funds to maintain records regarding proxy voting. The letter emphasizes that the Commission's objectives and potential benefits to fund investors could be achieved by adopting these aspects of the proposals and requiring fund directors to approve proxy voting policies and procedures and to oversee the implementation of those policies and procedures. The letter strongly opposes the Commission's proposals to require public disclosure of proxy votes and votes that are "inconsistent" with proxy voting policies and procedures. The letter argues that there is no evidence of any need that would justify the adoption of rules that would impose significant harms on funds and their shareholders. The letter asserts that the requirement to disclose votes cast would impose significant costs on funds (and ultimately their shareholders), cause funds to lose their ability to vote confidentially, and politicize the proxy voting process. The letter also objects to the Commission's intended purpose of using mutual funds as an instrument to effect changes for the benefit of all investors. Moreover, the letter

¹ See Memorandum to Closed-End Investment Company Members No. 44-02, Investment Adviser Members No. 39-02, SEC Rules Members No. 79-02, and Small Funds Members No. 37-02 (Sept. 24, 2002) (summarizing SEC proposals relating to proxy voting).

² states that disclosure of "inconsistent" votes in shareholder reports will incorrectly suggest that such votes are problematic and result in encouraging funds to adopt general guidelines or to apply their guidelines in a rigid and mechanical fashion. Craig S. Tyle General Counsel Note: Not all recipients receive the attachment. To obtain a copy of the attachment, please visit our members website (<http://members.ici.org>) and search for memo 15414, or call the ICI Library at (202) 326-8304 and request the attachment for memo 15414. Attachment (in .pdf format)

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