

**MEMO# 35960**

December 16, 2024

# **ICI Submits Comment Letter in Response to SEC Orders Instituting Proceedings on NYSE and CBOE Proposed Rule Changes to Exempt Closed-End Funds From Annual Shareholder Meeting Requirement**

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TO: ICI Members

Closed-End Investment Company Committee SUBJECTS: Closed-End Funds RE: ICI Submits Comment Letter in Response to SEC Orders Instituting Proceedings on NYSE and CBOE Proposed Rule Changes to Exempt Closed-End Funds From Annual Shareholder Meeting Requirement

The Securities and Exchange Commission (SEC) issued orders instituting proceedings to determine whether to approve or disapprove proposed rule changes by the New York Stock Exchange ("NYSE")[\[1\]](#) and Cboe BZX Exchange, Inc. ("CBOE")[\[2\]](#) that would exempt listed closed-end funds (CEFs) from holding an annual meeting. In the orders, the SEC stated it had questions related to whether the proposed rule amendments[\[3\]](#) were consistent with Section 6(b)(5) of the Securities Exchange Act of 1934 ("Exchange Act") and its requirement that the rules of a national securities exchange be designed "to protect investors and the public interest."

ICI previously submitted letters in response to the proposed amendments thoroughly addressing how removing the annual meeting would protect investors and the public interest.[\[4\]](#) ICI submitted second letters in response to the orders as well as to provide further data highlighting the harm that predatory activists are causing to both long-term retail shareholders and the market as a whole.[\[5\]](#) These letters address the specific concerns raised by the SEC, such as whether the fact that listed CEF shares may trade at a discount to net asset value (NAV) would raise any investor protection concerns with eliminating the annual shareholder meeting requirement, and the extent to which listed CEF investors participate in, and benefit from, annual shareholder meetings.

Section 1 clarifies certain aspects of listed CEFs to address the misconception that exiting at NAV is: (i) an expectation of retail investors; or (ii) promoted and/or asserted by listed CEFs. Section 2 summarizes retail investor voting data collected from contested proxy campaigns to demonstrate the limited benefit that annual meetings bring to retail investors. Section 3 provides further data analysis visualizing the harm to market integrity and retail shareholders that predatory activists are causing. Removing the annual meeting would prevent these harms from occurring and "promote just and equitable principles of trade, . . . remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, . . . protect investors and the public interest" consistent with the requirements of Section 6(b)(5) of the Exchange Act.

Kevin Ercoline  
Assistant General Counsel

#### Notes

[1] Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend Section 302.00 of the NYSE Listed Company Manual To Exempt Closed-End Funds Registered Under the Investment Company Act of 1940 From the Requirement To Hold Annual Shareholder Meetings, Exchange Act Release No. 101257, 89 Fed. Reg. 82277 (Oct. 10, 2024), available at [www.govinfo.gov/content/pkg/FR-2024-10-10/pdf/2024-23417.pdf](https://www.govinfo.gov/content/pkg/FR-2024-10-10/pdf/2024-23417.pdf)

[2] Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, To Exempt Closed-End Management Investment Companies Registered Under the Investment Company Act of 1940 From the Annual Meeting of Shareholders Requirement Set Forth in Exchange Rule 14.10(f), Exchange Act Release No. 101322, 89 Fed. Reg. 83724 (Oct. 17, 2024), available at <https://www.govinfo.gov/content/pkg/FR-2024-10-17/pdf/2024-23979.pdf>.

[3] Notice of Filing of Proposed Rule Change Amending Section 302.00 of the NYSE Listed Company Manual to Exempt Closed-End Funds Registered Under the Investment Company Act of 1940 From the Requirement to Hold Annual Shareholder Meetings, Exchange Act Release No. 100460, 89 Fed. Reg. 56447 (July 9, 2024), available at [www.govinfo.gov/content/pkg/FR-2024-07-09/pdf/2024-15037.pdf](https://www.govinfo.gov/content/pkg/FR-2024-07-09/pdf/2024-15037.pdf); Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 1, To Exempt Closed-End Management Investment Companies Registered Under the Investment Company Act of 1940 From the Annual Meeting of Shareholders Requirement Set Forth in Exchange Rule 14.10(f), Exchange Act Release No. 100473, 89 Fed. Reg. 57491 (July 15, 2024), available at <https://www.govinfo.gov/content/pkg/FR-2024-07-15/pdf/2024-15404.pdf>.

[4] Letter from Paul G. Cellupica, General Counsel, and Kevin Ercoline, Assistant General Counsel, ICI, to Vanessa Countryman, Secretary, SEC (July 30, 2024), available at <https://www.sec.gov/comments/sr-nyse-2024-35/srnyse202435-502415-1467842.pdf>; Letter from Paul G. Cellupica, General Counsel, and Kevin Ercoline, Assistant General Counsel, ICI, to Vanessa Countryman, Secretary, SEC (Aug. 2, 2024), available at <https://www.sec.gov/comments/sr-cboebzx-2024-055/srcboebzx2024055-503595-1466622.pdf>.

[5] Letter from Paul G. Cellupica, General Counsel, and Kevin Ercoline, Assistant General

Counsel, ICI, to Vanessa Countryman, Secretary, SEC (Oct. 31, 2024), available at <https://www.sec.gov/comments/sr-nyse-2024-35/srnyse202435-536435-1537902.pdf>; Letter from Paul G. Cellupica, General Counsel, and Kevin Ercoline, Assistant General Counsel, ICI, to Vanessa Countryman, Secretary, SEC (Nov. 5, 2024), available at <https://www.sec.gov/comments/sr-cboebzx-2024-055/srcboebzx2024055-537995-1541842.pdf>.

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